

Planning Committee

Date: **7 August 2024**

Time: **11am**

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

1 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.

2 MINUTES OF THE PREVIOUS MEETING

7 - 18

Minutes of the meetings held on 5 June 2024.

3 CHAIR'S COMMUNICATIONS

4 PUBLIC QUESTIONS

Written Questions: to receive any questions submitted by the due date of 12 noon on 1 August 2024.

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

6 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).

MAJOR APPLICATIONS

A	BH2023/02835 - Royal Pavilion Gardens, Pavilion Buildings, Brighton - Full Planning	19 - 52
B	BH2023/02836 - Royal Pavilion Gardens, Pavilion Buildings, Brighton - Listed Building Consent	53 - 76
C	BH2023/02790 - Windlesham House, 123 Windlesham Close, Portslade - Full Planning	77 - 106
D	BH2024/00904 - Sussex County Cricket Ground, Eaton Road, Hove - Reserved Matters	107 - 124
E	BH2023/03361 - Southern Projects Ltd, Southern House, Lewes Road, Falmer, Brighton - Full Planning	125 - 140

MINOR APPLICATIONS

F	BH2024/01297 - 120 Holland Avenue, Hove - Full Planning	141 - 154
G	BH2023/03393 - 45 Norfolk Road, Brighton - Householder Planning Consent	155 - 168

H	BH2024/00692 - 7 Saxon Close, Saltdean, Brighton - Removal or Variation of Condition	169 - 186
I	BH2024/00984 - Land to Rear of 28 Medina Villas (fronting Albany Villas), Hove - Householder Planning Consent	187 - 198
J	BH2024/00872 - 47 Eastbrook Road, Portslade - Householder Planning Consent	199 - 208
K	BH2024/00443 - 18-20 Caburn Road, Hove - Full Planning	209 - 224
L	BH2024/00879 - 3 Surrenden Park, Brighton - Householder Planning Consent	225 - 236
M	BH2024/00825 - Patcham Nursing Home, Eastwick Close, Brighton - Full Planning	237 - 254
N	BH2024/00734 - Flat 2, 21 First Avenue, Hove - Full Planning	255 - 262
O	BH2024/00941 - 70A Clarendon Villas, Hove - Full Planning	263 - 270

INFORMATION ITEMS

7	LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE (copy attached).	271 - 272
8	INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES None for this meeting.	
9	APPEAL DECISIONS (copy attached).	273 - 278

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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Date of Publication - Tuesday, 30 July 2024

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 5 JUNE 2024

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Loughran (Chair), Allen (Deputy Chair), Earthey (Substitute), Galvin, Nann, Shanks, Sheard (Substitute) C Theobald, Thomson and Winder.

Officers in attendance: Jane Moseley (Planning Manager), Katie Kam (Lawyer), Steven Dover (Planning Officer), Sonia Gillam (Principal Planning Officer), Emily Stanbridge (Senior Planning Officer) and Shaun Hughes (Democratic Services Officer).

PART ONE

123 PROCEDURAL BUSINESS

a) Declarations of substitutes

123.1 Councillor Sheard substituted for Councillor Robinson. Councillor Earthey substituted for Councillor Fishleigh.

b) Declarations of interests

123.2 Councillor Galvin stated that they were on the board of Brighton Racecourse and would therefore take no part in the discussions or decision-making process for item D BH2023/03054: Racehill, Warren Road, Brighton. Councillor Thomson would be addressing the committee on items E and F, and therefore would not take part in the discussions or decision-making process for BH2023/03417 (PLA) and BH2023/03418 (LBC): 132 Kings Road, Brighton.

c) Exclusion of the press and public

123.3 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.

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

d) Use of mobile phones and tablets

- 123.5 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'.

124 MINUTES OF THE PREVIOUS MEETING

- 124.1 **RESOLVED:** The minutes of the meeting held on 8 May 2024 were agreed.

125 CHAIR'S COMMUNICATIONS

- 125.1 The Chair congratulated Nicola Hurley on being appointed Head of Planning.

The chair also noted that any interruptions to the committee meeting would result in the persons involved being asked to leave the chamber or removed if necessary, and depending on the situation an adjournment would be called.

126 PUBLIC QUESTIONS

- 126.1 There were none.

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

- 127.1 There no requests for site visits.

128 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

- 128.1 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 C: BH2024/00507: 62 Albion Hill, Brighton
- Item G: BH2024/00213: 7 Meadow Close, Hove
- Item H: BH2024/00154: Grange Court, 91 Payne Avenue, Hove

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

129 DEFERRED ITEMS

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

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

Speakers

2. Maude Casey addressed the committee as a resident and stated that they were a lifelong promoter of world peace and live in this city considered a 'sanctuary-on-sea'. If the application was granted this would polarise society. The equalities assessment

shows that ethnic groups would be affected. Minorities feel vulnerable. Neighbours have reported losing family members as a result of war. The council should support residents, as should the committee Members.

3. Ward Councillor Fowler addressed the committee and stated that they objected to the application, which was considered an overdevelopment of the site. The current permission granted in 2018, ran out in 2023, therefore the building should be removed, and the site made good. The media coverage has shown abhorrent actions from Palestine, and it needs to stop. Hate crimes across the city have increased. Harassment in the city needs to stop. Planning permission needs to be refused to stop the creation of arms. The committee were asked to vote against the application.

Answers to Committee Member Questions

4. Councillor Shanks was informed that the informal enforcement action was always attempted before formal enforcement action which can include seeking a planning application to regularise development which had happened in this case, hence the planning application under discussion.
5. Councillor Allen was informed that some external legal advice had been shared in in the officer report, to be transparent, and in providing the advice, it had considered the Officer Report and equalities impact assessment. Other advice had also been sought but this was legally privileged. It is the decision of the committee as to the weight given to the legal advice received from King's Counsel in the overall planning balance. The resident informed the councillor that they had contacted the Minister for Parliament and local councillors to request the removal of the factory in the community. The resident considered that a cross section of Brighton residents shared their thoughts.
6. Councillor Earthey was informed by the Chair that the social impact of the application could be considered.
7. Councillor Theobald was informed that the applicant requested planning permission after considering that they wished to retain the structure.
8. Councillor Nann was informed by the resident that children had not been included in the equalities assessment and they would be deeply affected by the war in Palestine and war components being made in the city. The Planning Manager noted that there was no evidence to show children would be disproportionately affected by the development. The resident considered there would be a disproportionate impact on certain parts of the community, with Jewish and Muslim city communities affected. The resident considered that the applicant was in breach of UK and European law.
9. Councillor Thomson was informed by Ward Councillor Fowler that they had read that the use was permitted for 5 years only, after which the land should be returned to original condition. The Planning Manager noted the applicant had suggested the five-year temporary permission in the original application, it had not been imposed by the local planning authority. An extension to the time would require planning permission.

10. Councillor Loughran was informed by the Planning Manager that it was not known if the development had been designed specifically for that space, however, it was subservient and considered an acceptable extension on an industrial estate under planning policy.

Debate

11. Councillor Shanks considered it was not a difficult decision as they did not want this in the city. The councillor was against the application.
12. Councillor Allen considered the impact on city cohesion, and the council needed to be the right side of justice. Human Rights affected all decisions, and this was damaging. The councillor was against the application.
13. Councillor Nann considered that voting for the application would create a rift in the community. The councillor was against the application.
14. Councillor Thomson stated they had looked at the application for a long time and if stripped away it would appear to be acceptable, however, the community will be affected, therefore the councillor was against the application.
15. Councillor Earthey stated they had read the King's Counsel report and they wanted to boost harmony in the city.
16. Councillor Winder considered the King's Counsel report to be weighty and must be considered. The councillor was against the application.
17. Councillor Galvin stated they were against the application.
18. Councillor Theobald noted the planning permission was temporary, however, the development did impact on the South Downs National Park. The councillor considered it was difficult to not get involved with the politics of the application.
19. Councillor Sheard considered to support the applicant would not be good or humane, and if voted against there may be costs, however, the King's Counsel report had weight and the councillor was against the application.
20. Councillor Loughran considered that the equalities assessment noted the impact on minority groups in the city, particularly the Jewish and Muslim groups, some 11,000 residents. It was noted hate crimes had increased and this was a significant concern. They noted the building was not in use for additional employment, however, the Planning Manager noted it was a loading bay so part of the wider site use.

Vote

21. A vote was taken, and the committee voted unanimously against the officer recommendation to approve the application.
22. A motion to refuse the application was proposed by Councillor Allen and seconded by Councillor Nann.

23. A recorded vote was taken and Councillors Allen, Earthey, Galvin, Nann, Shanks, Theobald, Thomson, Winder, Sheard and Loughran voted for the refusal.
24. **RESOLVED:** The planning committee agreed that planning permission be refused for the following reason, subject to final agreement with the proposer and seconder: The benefit of retaining the extension on a permanent basis would be outweighed by its impact on community cohesion and on the provision of safe, accessible spaces and would have a disproportionate impact on those with protected characteristics, increasing discrimination, harassment, and victimisation, to the detriment of fostering good relations between people of one race and another, or one religion and another, contrary to section 149(1) of the Equality Act 2010 and paragraph 135(f) of the NPPF, and Strategic Objectives 19 and 20 and Policy SS1 of the City Plan Part 1.
25. It was further agreed that if the application went to appeal that the Committee delegates resolving any conditions and obligations to the Head of Planning.

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

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

Answers to committee Member Questions

2. Councillor Galvin was informed that the existing community centre will be demolished, and the new centre will form part of the new buildings and will be smaller. It is considered that the centre will be better quality than the existing.
3. Councillor Theobald was informed that the users of the existing centre have been consulted and the new site will be more accessible, and the internal spaces can be arranged into different sizes. It was noted that other council owned buildings will be available for use of current hirers. The parking spaces to the north and west are for the centre users, with a total of 10.
4. Councillor Shanks was informed that the housing would be 100% affordable but that only a policy-compliant 40% can be secured through legal agreement. The opening times were suggested by the applicant, and these were covered by condition. The Estate Regeneration Project Manager noted that Nautical Training use the site currently and no end user had been identified. The centre will be let by the council to a management company and hirers will pay the management company.
5. Councillor Galvin was informed that the closing time of 10pm can be changed by the end user if they apply for a variation of the condition relating to opening times. The Planning Manager noted the quiet times were 11pm to 7am.
6. Councillor Loughran was informed that overlooking and loss of privacy had been considered by officers in assessing the application.
7. Councillor Winder was informed that each unit had outside space of either a balcony or patio, and there were also communal spaces.

Debate

8. Councillor Theobald considered the affordable housing to be good, as was the design. It was disappointing to reduce the size of the centre, however, they supported the application.
9. Councillor Allen considered the 100% affordable housing refreshing to see and considered the development sat well within the area. They considered Nautical Training to be a good group.
10. Councillor Shanks considered the location for housing to be good, however, it was a shame the centre was to be smaller.
11. Councillor Earthey considered it to be good that the development would be owned by the council and not privatised.
12. Councillor Loughran proposed a change to condition 4 regarding opening times to allow later opening if wanted.

Vote

13. A vote was taken on condition 4, and the committee agreed unanimously to update C4 to add 'Unless otherwise agreed in advance and in writing by the Local Planning Authority'.
14. A vote was taken on the application, and the committee agreed unanimously to grant planning permission.
15. **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, **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 the report.

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

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

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

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

Speakers

2. Neighbouring Ward Councillor Rowkins addressed the committee and stated that they represented the view of the local residents, who considered they were on the fringe of the city and there the application would result in one large car park on Racehill. There are existing parking areas, and this would add to total parking. Surface water is a

concern and the quote 'unlikely to be significant' is disputed. Any increase in surface water in the area would be an issue.

3. Matthew Pardoe addressed the committee as the agent acting on behalf of the applicant and stated that the site was allocated to park-and-ride in 2013, the scheme would therefore not be creating additional parking but had sealed the area. The park-and-ride included 700 parking spaces and parking was a lawful use with planning permission. The character and appearance of the site was as parking, and the scheme would improve the visual appearance. The drainage was deemed acceptable as the proposed aggregate would be better than the existing mud. The traffic management will be good. The committee were requested to support the application.

Answers to Committee Member Questions

4. Councillor Shanks was informed by the agent that the land was owned by the council and used as a park-and-ride for the football stadium and was suitable for parking.
5. Councillor Loughran was informed that there was no extra risk of flooding on the site.

Debate

6. Councillor Theobald considered it was better to have the ground treatment and native hedging than the existing situation. The councillor supported the application.
7. Councillor Winder considered the site as recreational open space, that the proposed hedging was acceptable. The current parking is haphazard in this area of biodiversity.
8. Councillor Allen considered the views from the site to be stunning and this site was always used for events. The councillor weighed up use and utility, with a lean towards parking. It was considered that the scheme could help the pressure on the roads.
9. Councillor Sheard supported the application noting the extreme pressure on the area next to the stadium. The proposals were considered to alleviate the pressure and to be a benefit to the city.

Vote

10. A vote was taken, and by 8 to 1 the committee agreed to grant planning permission. (Councillor Galvin took no part in the decision-making process or vote).
11. **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 BH2023/03417 - 132 Kings Road, Brighton - Full Planning

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

Speakers

2. Eleni Shiarlis addressed the committee as a resident and stated that they were part of the family run restaurant, with a loyal customer base, underneath the application site. The development is considered out of keeping with the existing building, with no consideration of the asset, as the scheme is visually jarring. It is considered that the plans are contrary to National Planning Policy Framework (NPPF) and the city plan policies and will have a harmful impact. The four mechanical vents would need to be moved as they would be too close to the development. The proposed lift shaft is an issue. The resident stated they would not agree to any part wall agreements.
3. Ward Councillor Thomson noted the application was not new for this property. The development was against the NPPF and although not listed was adjoining a grade II listed building. The heritage building neighbouring the site overlooks the property. The development is not in keeping with existing building. It is considered that the neighbouring windows will be obscured by the development. There are concerns that the 'bungaroosh' walls will not be able to support the structure. The committee were requested to reject the application.
4. Michael Wilson addressed the committee as the agent acting on behalf of the applicant and stated that the project was restoration and maintenance with a regency frontage. The rear of the property is in poor condition, and the proposed accommodation would cover the cost of maintaining the building. The development has a simple light weight design with a new parapet wall obscuring the structure from the street. The frame will be timber with glass windows. The existing walls will support the structure and would not overload them. The application has pre-application approval from Planning officers.

Answers to Committee Member Questions

5. Councillor Nann was informed that the due weight was given to the setback aspect of the development with consideration to the maintenance of the rest of the building. The agent stated that they had had no direct conversations with the neighbours, however, they had been notified.
6. Councillor Shanks was informed by the Principal Heritage Officer that the development would not be prominent as the balustrading would screen the structure. The agent stated that they were trying to match old photographs of the building and they had submitted the Listed Building Consent (LBC) application as the neighbouring property was listed. It was noted that the Conservation Advisory Group (CAG) comments had been taken into account, as well as the council heritage team comments.
7. Councillor Theobald was informed that the proposed lift would rise from the first floor to the top floor.
8. Councillor Allen was informed by the agent that they did not consult the neighbouring residents and they had not spoken to the Regency Society.
9. Councillor Loughran was informed by the agent that they were relying on the old photographs in the report for design and they had not contacted the Conservation Advisory Group (CAG).

10. Councillor Galvin was informed that the building was not listed. Any work to the adjoining walls of neighbouring listed building would require consent.

Debate

11. Councillor Nann objected to the development, which they considered to be shoved into the space. The councillor considered the project to be risky and expressed concern relating to the lack of consultation. The councillor was against the application. The Planning Manager noted that applicants were encouraged to consult, however, this could not be a reason to refuse the application.
12. Councillor Theobald noted there were eleven representations from residents objecting to the development. It was noted that the proposed balustrade would hide the proposed flat, and the building was not listed.
13. Councillor Allen expressed concerns at the lack of engagement. However, the councillor was generally disposed to building upwards instead of out.
14. Councillor Sheard expressed disappointment at the lack of community engagement. It was noted that the development would not be seen from street level, the property would not be a House of Multiple Occupancy (HMO) and the property was near to amenities.

Vote

15. A vote was taken, and by 4 to 5 the committee voted against the officer recommendation. (Councillor Thomson took no part in the decision-making process or the vote).
16. Councillor Nann proposed a motion to refuse the application, seconded by Councillor Earthey.
17. A recorded vote was taken, and Councillors Allen, Earthey, Galvin, Nann and Winder voted for the refusal. Councillors Shanks, Theobald, Sheard and Loughran voted against the refusal. (Councillor Thomson took no part in the decision-making process or the vote).
18. **RESOLVED:** The planning committee agreed that planning permission be refused for the following reasons, subject to final agreement with the proposer and seconder:
 1. The scheme would result in an unacceptable loss of light to neighbouring residents, contrary to Policy DM20 of City Plan Part 2.
 2. The appearance of the development, primarily the glass frontage, would result in harm to the conservation area and the setting of the adjacent listed and locally listed buildings, contrary to Policy CP15 of CPP1 and Policies DM26, DM27 and DM28 of City Plan Part 2.

1. The Planning Manager introduced the application to the committee.
2. The speakers, questions and discussion relating to the development are minuted for the planning permission application BH2023/03417.
3. A vote was taken, and by 4 to 5 the committee voted against the officer recommendation to approve the application. (Councillor Thomson took no part in the decision-making process or vote).
4. Councillor Allen proposed a motion to refuse the Listed Building Consent, which was seconded by Councillor Nann.
5. A recorded vote was taken, and the following Councillors voted to refuse the application: Allen, Earthey, Galvin, Nann and Winder. Councillors Shanks, Theobald, Sheard and Loughran voted against the refusal. (Councillor Thomson took no part in the decision-making process or vote).
6. **RESOVLED:** The Planning Committee has decided that the Listed Building Consent be refused for the following reasons: The scheme would cause harm to the heritage of the listed building, contrary to Policy CP15 of CPP1 and DM27 of the CPP2.

G BH2024/00213 – 7 Meadow Close, Hove – Householder Planning Consent

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

H BH2024/00154 – Grange Court, 91 Payne Avenue, Hove – Full Planning

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

I BH2024/00617 – 8 & 9 Lucraft Road, Brighton – Full Planning

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

Speakers

2. Ward Councillor Alexander addressed the committee and stated they had received emails from concerned residents. The councillor asked the committee to consider the look and character of the road and area. Parking in the area in football match days is very difficult as is parking in general. Losing two parking spaces and adding more cars would have a negative effect. The narrow home would change the appearance of the road. The committee were asked to refuse the application.
3. Simon Bareham addressed the committee as the agent acting on behalf of the applicant and stated that the development was identical to another application allowed at appeal in 2021. The main issue is visual impact and the inspector found this acceptable under CP12 of government guidance. The parking and appearance of the development are acceptable. It was noted that there was a housing crisis in the city, this was a brownfield

site, and the scheme was well designed. The committee were requested to grant planning permission.

Answers to Committee Member Questions

4. Councillor Earthey was informed by the agent that there were two garages to the rear of the existing properties, and these would be demolished.
5. Councillor Galvin was informed by the agent that the proposed development would not be a House of Multiple Occupancy (HMO) like the adjoining neighbours and converting the property to an HMO would require planning permission.
6. Councillor Sheard was informed by the agent that there was no policy to prevent a dwelling being 'sandwiched' between two HMO properties, only a new HMO 'sandwiching' a dwelling.
7. Councillor Thomson was informed that the terraced design was established in the streetscene by an existing terrace of properties. It was noted that there was 4m between the front doors of the properties.
8. Councillor Shanks was informed that the 2021 appeal was allowed and the applicant had 3 years in which to start works but that had elapsed, so the permission had expired.
9. Councillor Loughran was informed that the same architect was attached to the application and the appeal.

Debate

10. Councillor Allen considered the appeal decision added great weight to the application. It was noted that the Ward Councillor considered parking to be a major issue and the inspector did not.
11. Councillor Sheard expressed concerns that the development took away parking, which was an issue on football match days. The councillor considered that an application to turn the development into an HMO would be refused by the council. It was noted that the owner was prepared to lose the two garages, but not if the occupiers agreed. The councillor was concerned at the inspector's decision and how this reflected on City Plan policy.
12. Councillor Theobald expressed concerns that they did not feel they had much option. The councillor supported the application.
13. Councillor Earthey stated they would like to object, however, they felt they could not.
14. Councillor Thomson considered the development felt wrong and they would like to object.

Vote

15. A vote was taken, and by 8 to 2 the planning committee agreed 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.

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

130.1 There were none.

131 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

132 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

133 APPEAL DECISIONS

133.1 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 6.06pm

Signed

Chair

Dated this

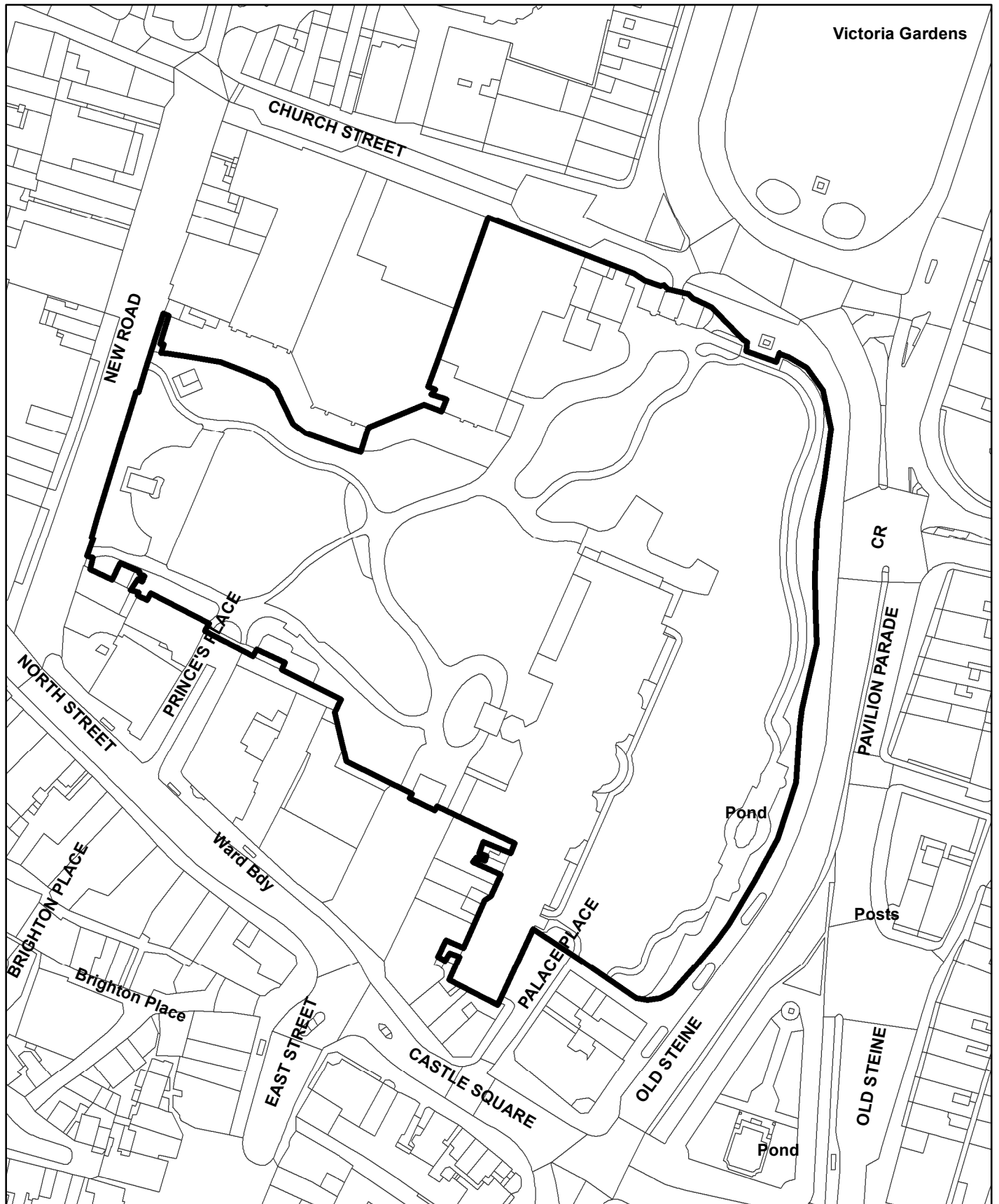
day of

ITEM A

**Royal Pavilion Gardens, Pavilion Buildings
BH2023/02835
Full Planning**

DATE OF COMMITTEE: 7th August 2024

BH2023 02835 - Royal Pavilion Gardens, Pavilion Buildings



N



Scale: 1:1,500

<u>No:</u>	BH2023/02835	<u>Ward:</u>	West Hill & North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Royal Pavilion Gardens Pavilion Buildings Brighton BN1 1EE		
<u>Proposal:</u>	Landscaping works to include the restoration and reinstatement of historic walls, metal railings and gates, restoration of existing 19C historic and existing modern replica lamp posts. Enhancement of planting, lawns, groundworks and removal of modern trees and hedging to the Western lawn and East/North East compartments to reinstate the Nash views. Alterations to existing paths, planting beds and fencing, improvements to drainage and irrigation systems. Remodelling of existing public WC block and installation of outdoor learning space with adjacent storage and hand wash area and any other associated ancillary development, including provision of public realm and landscaping improvements.		
<u>Officer:</u>	Steven Dover	<u>Valid Date:</u>	06.11.2023
<u>Con Area:</u>	Valley Gardens	<u>Expiry Date:</u>	05.02.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	14.08.2024
<u>Agent:</u>	Allen Scott Landscape Architects 44 Newton Road Tunbridge Wells TN1 1RU		
<u>Applicant:</u>	Brighton & Hove Museums Royal Pavilion Pavilion Buildings Brighton BN1 1EE		

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
Report/Statement	Preliminary Ecological Assessment	J21177 _REV B	23 October 2023
Report/Statement	Arboricultural Impact Assessment	J21177 _Arb_B	17 April 2024
Report/Statement	DEVELOPMENT STAGE DESIGN REPORT	725-501A	24 th June 2014
Proposed Drawing	725-104		24 June 2024
Proposed Drawing	725-101		24 June 2024

Proposed Drawing	725-102		24 June 2024
Proposed Drawing	725-103		24 June 2024
Proposed Drawing	725-100	B	24 June 2024
Proposed Drawing	725-105		24 June 2024
Proposed Drawing	725-202		24 June 2024
Proposed Drawing	725-205		24 June 2024
Proposed Drawing	725-204		24 June 2024
Proposed Drawing	725-207		24 June 2024
Proposed Drawing	725-213		23 October 2023
Proposed Drawing	725-211		23 October 2023
Proposed Drawing	725-214		23 October 2023
Proposed Drawing	725-212		23 October 2023
Proposed Drawing	725-354		23 October 2023
Proposed Drawing	725-209		24 June 2024
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2000 P1		23 October 2023
Proposed Drawing	725-357		24 June 2024
Proposed Drawing	725-210		24 June 2024
Proposed Drawing	725-367	B	18 March 2024
Proposed Drawing	725-358		24 June 2024
Proposed Drawing	725-351		24 June 2024
Proposed Drawing	725- 350		24 June 2024
Proposed Drawing	725-359		24 June 2024
Proposed Drawing	725-352		23 October 2023
Proposed Drawing	725-360		24 June 2024
Proposed Drawing	725-353		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2001 P1		23 October 2023
Proposed Drawing	725-361		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2004 P1		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2100 P1		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2200 P1		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-4000 P1		23 October 2023
Location Plan	725-001		23 October 2023
Location Plan			23 October 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. All ecological measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Greenspace Ecological Solutions, October 2023, ref. J21177_RevB) as already submitted

with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, and as required by paragraphs 180 and 186 of the National Planning Policy Framework 2023, Section 40 of the Natural Environment and Rural Communities Act 2006, as amended, Policy CP10 of the Brighton and Hove City Plan Part One and Policy DM37 of the City Plan Part Two.

4. No development shall take place until an Ecological Design, Management and Monitoring Strategy (EDMMS) for the provision of a minimum 10% biodiversity net gain within a 30-year period, to include the measures in the Preliminary Ecological Appraisal (Greenspace Ecological Solutions, October 2023, ref. J21177_Rev B) has been submitted to and approved in writing by the local planning authority. The EDMMS shall include the following parts:
 - a) Description and evaluation of habitat/features proposed (to include full updated Metric (using most current version) and details of condition assessments);
 - b) Identification of adequate baseline conditions (for management and monitoring purposes) prior to the start of works (to include full updated Metric (using most current version) and details of condition assessments);
 - c) Aims and objectives for the proposed works;
 - d) Site specific and wider ecological trends and constraints that might influence works;
 - e) Details of the body/organisation/person/s responsible for undertaking the works and lines of communication;
 - f) Details of the legal and funding mechanism(s) by which the implementation of the EDMMS will be secured by the developer with those responsible for its delivery;
 - g) Detailed design(s) and/or working method(s) to achieve stated objectives including type/source of materials, disposal of any wastes arising from works and appropriate scale plans showing location/area of proposed works;
 - h) Works Schedule aligned with any proposed phasing and including an annual work plan capable of being rolled forward over a five-year period;
 - i) Prescriptions for initial aftercare and long-term management that will ensure the aims/objectives are met; j) Details for on-going monitoring of BNG habitats in years 2, 5, 10, 15, 20, 25 and 30, and any other biodiversity features (where present), including:

Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the work can be measured;

 - Methods for data gathering and analysis;
 - Location, timing and duration of monitoring;
 - Review, and where appropriate, publication of results and outcomes, including when monitoring reports will be submitted to the local planning authority; and
 - How contingencies and/or remedial action will be identified, agreed with the local planning authority and implemented so that the original aims/objectives of the approved scheme are met.

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

Reason: In the interests of ensuring measurable net gains to biodiversity and in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, as amended, paragraphs 180 and 186 of the National Planning Policy Framework 2023, Policies CP10 of the Brighton and Hove City Plan Part One and DM37 of the Brighton and Hove City Plan Part Two, and BHCC's Interim Technical Advice Note on Biodiversity Net Gain (October 2022)

5. No development 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.

The archaeological work shall be carried out in accordance with the approved written scheme of investigation and a written record of all archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is agreed in writing with the Local Planning Authority.

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

6. Notwithstanding the approved plans, submitted Arboricultural reports and statements, no works shall take place to the tree annotated T42 on the approved proposed masterplan (ref:725-100 B received on the 24 June 2024), without written confirmation from the LPA prior to any works commencing.

Reason: To ensure a satisfactory appearance to the development and to comply with policies DM22 and DM30 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

7. No tree shown as retained on the approved drawings shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the local planning authority. 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, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development in compliance 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.

8. Prior to commencement 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 first use of the approved buildings. 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 and materials; and
- d) details of all mitigation/replacement trees for those removed.

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.

9. Notwithstanding the approved plans, prior to first use of the renovated toilet building, details of secure cycle parking facilities for the users of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first use of the approved buildings 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.

10. Notwithstanding the plans hereby permitted, the applicant is required to enter into a Section 278 agreement with the council as the Local Highway Authority and therefore no development shall commence until the scheme of all works on the public highway has been submitted to and approved in writing by the local planning authority. The works on Palace Place will include:

- New vehicular access and associated crossover
- Redesign of the footway

This scheme of works shall then form the basis for the detailed design to be included within the Section 278 agreement.

Reason: To ensure safe pedestrian, cyclist and vehicular access into, out of and passing by the site and road safety for all road users and to comply with CP7, CP9, CP11 and CP18 of the City Plan Part One and DM33 of City Plan Part 2.

11. Prior to the commencement of the development hereby approved, a Delivery & Service Management Plan, which includes details of:

- hours of access (restrictions),
- types of vehicles. This must include a swept path analysis, to ensure that any proposed vehicles can safely manoeuvre and access and egress the site in a forward gear, on
 - Princes Place,

- Palace Place (including the right turn in and left turn out from Castle Square).
- frequency of use
- how deliveries will take place

shall be submitted to and approved in writing by the Local Planning Authority. All deliveries shall thereafter be carried out in accordance with the approved plan.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policy DM33 and DM36 of the Brighton & Hove City Plan Two.

12. No development shall take place, including any works of demolition, until a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

The approved details shall thereafter be implemented in full throughout the construction of the development.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policy DM33 and DM36 of the Brighton & Hove City Plan Two.

13. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until a full construction method statement for all ground works within Root Protection Areas (RPA's) of retained trees, including materials and proposed protection measures in line with the submitted Arboricultural Impact Assessment and Method Statement received on the 17/04/2024 ref:J21177_Arb_B produced by Greenspace Ecological Solutions has been submitted to and agreed in writing. The approved methods shall be fully implemented for all works in the RPA's onsite during the proposed development.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part Two

14. Prior to installation of any railings or gates drawings at a scale of 1:5 with section details of all junctions at 1:1 of all railings and gates with full details of the proposed colour shall be submitted to and approved by the local planning authority. All railings and gates shall be painted the approved colour within one month of installation and shall be 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.

15. Notwithstanding the approved plans, the development hereby permitted shall not be commenced until the following details of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority:

- a) samples/details of brick, render and tiling (including details of the colour of render/paintwork to be used);
- b) samples/details of all cladding and roof finishes to be used, including details of their treatment to protect against weathering;
- c) samples/details of all hard surfacing materials;
- d) samples/details of stone plinth and walls to be used in boundary treatments;
- e) a schedule of all features to be removed, moved, replaced or reinstated, including photos/drawings/sections recording the features to be replicated along with 1:1 and/or 1:20 scale drawings of existing and proposed items;
- f) a method statement for the works of repair to the existing lampposts and masonry balustrades;
- g) full details, including 1:20 scale elevational drawings and sections of the proposed South Gate (India gate) and existing boundary walls and railings between 1-3 Pavilion Buildings and the Royal Pavilion building;
- h) full details, including 1:20 scale elevational drawings and sections of the proposed bin store structure, materials and finishes;
- i) full details, including 1:20 scale elevational drawings and sections of the proposed shed structures, materials and finishes; and
- j) full details, including 1:20 scale elevational drawings and sections and 1:2 scale sections of the new internal estate railings detailed as F7 and F8 on the approved plans.

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

Reason: To ensure a satisfactory appearance to the development and to comply with policies DM27 and DM30 of Brighton & Hove City Plan Part 2, and CP15 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 required to contact the Council's 'S278 team' initially by e-mail (s278@brighton-hove.gov.uk) for necessary highway approval from the Local

Highway Authority prior to any works commencing on the public highway to satisfy the requirements of condition. These works can only be agreed following submitted documents being accepted and approved as part of the DSMP condition requested.

2. SITE LOCATION

- 2.1. The application relates to the grounds of the Royal Pavilion Estate, a Registered Park and Garden of Special Historic Interest, Grade II. The site contains the Grade I Listed Royal Pavilion and is located within the Valley Gardens Conservation Area.
- 2.2. To the north of the application site is the Grade I Listed Dome Theatre and associated buildings. To the west is the predominantly pedestrianised New Road and the numerous Listed Buildings including the Grade II* Listed Theatre Royal. To the south the site abuts Prince's Place, Pavilion Buildings and Palace Place, which comprise numerous locally and Grade Listed Buildings. The Old Steine/Pavilion Parade, the main north-south vehicular route into the city, lies immediately to the east of the site.
- 2.3. The nearest residential properties are in Prince's Place, Pavilion Buildings and Palace Place to the south fronting North Street, and there are also flats on the opposite side of Pavilion Parade to the east and New Road to the west.

3. RELEVANT HISTORY

- 3.1. **BH2023/02836** Landscaping works to include the restoration and reinstatement of historic walls, metal railings and gates, restoration of existing 19C historic and existing modern replica lamp posts. Enhancement of planting, lawns, groundworks and removal of modern trees and hedging to the Western lawn and East/Northeast compartments to reinstate the Nash views. Alterations to existing paths, planting beds and fencing, improvements to drainage and irrigation systems. Remodelling of existing public WC block and installation of outdoor learning space with adjacent storage and hand wash area and any other associated ancillary development, including provision of public realm and landscaping improvements. (Listed Building Consent). Pending decision
- 3.2. **BH2023/01822** Temporary ice rink on Royal Pavilion Eastern Lawns annually during winter months. Structure to include ancillary buildings for box office, café/bar/restaurant, toilet facilities, skate exchange, learner's ice rink and associated plant and lighting. (2-year consent). Approved 21.09.2023.
- 3.3. **BH2017/00132** Installation of temporary event space in East/North lawns from 25th May to 5th June inclusive, with approximate two week set up and one-week dismantling period. Temporary structures include replica timber street scenes, food and drink outlets, toilet blocks, stage and performance space. Refused 26.04.2017.

- 3.4. **BH2013/01992** Temporary maze on Royal Pavilion Eastern lawns from 4th July to 3rd September 2013, with adjoining ticket office and props within maze (retrospective). Refused 21.08.2013.
- 3.5. **BH2009/01949** Installation of new wrought and cast iron secondary vehicular gates and gate piers with automated electronic control gear and removal of existing central roadway bollard. Re-surfacing of existing tarmac with second-hand yorkstone flags and granite setts. Installation of wrought iron pedestrian gates and rebuilding of boundary wall (LBC). Approved 12.01.2010.
- 3.6. **BH2009/01947** Installation of new wrought and cast iron secondary vehicular gates and gate piers with automated electronic control gear and removal of existing central roadway bollard. Re-surfacing of existing tarmac with second-hand yorkstone flags and granite setts. Installation of wrought iron pedestrian gates and rebuilding of boundary wall (Full Planning). Approved 25.11.2009.
- 3.7. **BH2004/03527/CD/FP** Replacement of existing bow top fencing (50cm high) with proposed bow top style fencing (1.35m high). (Full Planning). Approved 19.01.2005.
- 3.8. **95/0290/CD/FP** Installation of retractable traffic bollards at North Gate entrance and rising arm barrier at New Road exit. (Full Planning). Approved 16.05.1995.
- 3.9. **91/0756/LB** Restoration of the Nash Garden scheme in the Royal Pavilion grounds. (LBC) Approved 02.07.1991.
- 3.10. **91/0574/CD/FP** Restoration of the Nash Garden scheme in the Royal Pavilion grounds. (Full Planning) Approved 02.07.1991.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks approval for works to the Royal Gardens, including the restoration and reinstatement of historic walls, new metal railings internally and on the boundaries of the site, the restoration of historic lamp posts and installation of replicas, and the addition of new gates to the existing and proposed vehicular access points. A new vehicular access would also be created off Palace Place.
- 4.2. It is also proposed to enhance existing planting and lawns including the removal of some trees and hedges and replacement planting to facilitate improvement to the existing pathways/facilities, and in some cases to open up historic (Nash) views of the Royal Pavilion and surrounding Listed Buildings. Other alterations are proposed to the existing paths, planting beds and fencing with improvements to drainage and irrigation systems.
- 4.3. Remodelling of the existing public WC block is proposed with a changing places facility to be provided, along with storage areas and a multi-use kiosk. A new outdoor learning space with storage and handwashing facilities is proposed to the side of the Museum entrance.

- 4.4. The existing gardeners' compound would be replaced with new timber sheds, and the existing bin store would be reduced in size with a new access point and design.
- 4.5. Seating that lies within the site but faces onto New Road would be removed to facilitate new railing along the boundary.
- 4.6. Since submission of the application changes to the proposal were been made with regards to the proposed gardeners' shed in order to address concerns regarding the appropriateness of materials, with timber now proposed instead of metal.
- 4.7. In addition, one of the mature trees (T42, a lime) identified for removal, will now be retained as the loss was not considered justified purely on the basis of opening up views of the Pavilion.
- 4.8. The application was due to go before Planning Committee in May 2024 but was withdrawn from that meeting to allow further amendments in response to concerns that the scheme would reduce access to the site and its permeability. The amendments have lowered the height of railings in some areas and removed a previously-proposed pedestrian gates. An additional round of publicity and consultation was undertaken in June 2024 in response to the revised plans, as set out below.

5. REPRESENTATIONS

Prior to readvertising and consultation in June 2024:

- 5.1. Objections from **eighteen (18)** individuals have been received and from the following groups, **North Laine Community Association, The Brighton Society, Living Streets Group** and **The Regency Society**, raising the following issues:
 - Adverse impact on listed building
 - Adversely affects Conservation Area
 - Additional traffic and less convenient due to closure of gates
 - Inappropriate height of development (railings and gates)
 - Overdevelopment
 - Overshadowing
 - Overbearing
 - Poor design
 - Disabled access not increased - gates too narrow
 - No cycle storage details
 - Railings and enclosure of site, with potential closure of public access unacceptable
 - Lockable gates unacceptable
 - Reduction in site permeability
 - Restriction of views

- Cost and maintenance of railings and gates
- Narrowing of path and potential loss for areas of seating in front of the cafe
- Placement of bins nearer to Café
- Intention to close gardens more often for private events
- Loss of mature trees

5.2. Support from **thirty four (34)** individuals has been received raising the following issues:

- In keeping with Listed Building
- Respects and protects the Heritage assets for the future
- Cultural and tourism benefits from the enhancement of gardens
- Protection of the heritage assets will result, due to the proposed railings and gates.
- Beneficial to the wider city
- Enhancement of disabled access with changing place facilities and improved pathways
- Good design
- Gates and railings will reduce crime in the area, particularly at night when locked
- Enhancement and protection of the gardens will create a 'Jewel in the Crown' for Brighton and Hove
- A forward thinking city must embrace world class attractions in its centre
- Similar gardens in London close at night and appropriate for the Royal Pavilion Gardens
- Council has an obligation to ensure the garden is safe for users when it is open to the public, the development would help achieve this
- Educational spaces would enhance the garden offering
- Enhanced and revised toilet facilities
- Development would create a more attractive garden and improve the neighbourhood

5.3. Comment from **two (2)** individuals was received, raising the following issues:

- Renewed toilet provision is welcome
- Protection and replanting of areas welcome
- Cooperation between BHCC and the Trust welcome
- Security vs 24/7 access - how is this resolved?
- Extension of lawn to encompass areas that serve the café - not the ideal solution
- Loss of mature trees
- Should ensure accessibility at all hours and for disabled access

After readvertising and re-consultation in June 2024:

5.4. Further objections from **twelve (12)** individuals have been received and from the following groups, **North Laine Community Association**, raising the following issues;

- Loss of lockable gates since submission – ignores advice from security experts regarding health and safety of the public and buildings/gardens of

the Royal Pavilion. What rationale was used to conclude 24-hour access would be the safer option? Will result in anti-social behaviour at night continuing

- Adverse impact on listed building
- Adversely affects Conservation Area
- Residential amenity
- Inappropriate height of development (railings and gates)
- Restriction of view
- Overdevelopment
- Poor design
- Railings and enclosure of site, with potential closure of public access unacceptable
- Whilst gates have been omitted from proposal, once railings and piers are installed, it will be easy to impose gates at a later date and prevent 24-hour access
- Restriction of views
- Cost and maintenance of railings and gates
- Placement of bins nearer to Café
- Intention to close gardens more often for private events
- Alterations to height of railings from uniform 2.1 to 1.8 - 2.1
- Loss of security likely to affect the funding from English Heritage
- Loss of trees
- Installation of an outdoor learning space with adjacent storage is not appropriate in a public green space. Good provision for learning already exists and can be enhanced within the existing Royal Pavilion buildings

5.5. Further support from **three (3)** individuals have been received, raising the following issues;

- In keeping with Listed Building, will enhance and greatly improve the gardens of the Royal Pavilion
- Respects and protects the Heritage assets for the future
- Cultural and tourism benefits from the enhancement of gardens
- Protection of the heritage assets will result, due to the proposed railings and gates.
- Gates and railings will reduce crime in the area, particularly at night when locked
- Similar gardens close at night and appropriate for the Royal Pavilion Gardens
- good design

5.6. Further comment from **six (6)** individuals was received, raising the following issues:

- Strongly supported the original application for a proposal for railings and lockable gates, but do not support amendments which omits the lockable gates
- Would like to understand why the advice and feedback from the Police and Security experts, re safeguarding historic palaces and gardens seem to have been ignored, as was proposed in original submission

- The Pavilion and Gardens are on the at-risk register and need protecting
- There are no other Historic Gardens that are open 24 hours as day
- Shame to invest lots of money with no way of protecting the gardens from night time anti-social behaviour – no one has listened to the people that actually work in the gardens who have to clear up mess/damage
- Loss of security likely to affect the funding from English Heritage, would be a great loss if the lack of gates meant the whole programme had to be abandoned
- The notion of taking the site back 200 years is not taking into account how the gardens in particular are used now, not only by the Residents of Brighton/Hove but also the tourists. The trees and garden in general have become just as important and desirable to be among as the buildings, the removal of trees isn't a good thing
- Loss of wildlife

5.7. **Living Streets Brighton and Hove** – further comment received raising the following issues;

- Delighted that the original plans for gates to be installed on all entrances to the gardens have been removed in the last revisions, vital change to ensure continues easy constant access for pedestrians throughout the gardens, but
- Continue to object strongly to the proposals for very tall perimeter railings around the entire boundary of the Gardens – will highly damage public perceptions of the gardens as a welcoming, much needed and highly valued open public green space in the middle of the city. Now gates have been removed, there is no security justification for the tall railings to be installed at great expense now and in the future due to high maintenance costs. Railings alone will not provide security. Need to guarantee 24-hour access for 7 days a week
- There are many aspects of the proposals for the improvement of Pavilion Gardens which we warmly support, and which we believe will make pedestrian access easier as well as enhance public use and enjoyment of the Gardens, including wider entrances and pathways and improved walking surfaces. We hope those will not be threatened by unpopular, unnecessary and very costly tall railings which will undermine the desired welcome to visitors to the Gardens.

5.8. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

Internal:

- 6.1. **Arboricultural:** Support subject to conditions
BHCC Arboriculture initially objected in principle to the removal of healthy trees to improve sightlines / views, however we are pleased to now note the retention of T42 Tilia X europaea [lime], which is of good shape and form and highly prominent. The other proposed removals, although regretted, are either for sound arboricultural reasons or to improve current landscaping. BHCC Arboriculture raise no objection to those works, subject to conditions securing a

full construction method statement for all ground works within Root Protection Areas of retained trees, including materials and proposed protection measures in line with the submitted arboricultural specification, this to be agreed in writing by the local authority prior to commencement. We would also wish to see the standard landscaping condition attached to consent.

- 6.2. Arboricultural Impact Assessment Drawing remains hard to interpret due to similarity of keys for the various protection measures and needs to be clearer.
- 6.3. **Heritage:** Updated Comments July 2024: No objection subject to conditions
The amendments to the are minor in respect to the impact on historic significance so there is no in principle objection to any of the details. The amendments to the internal railings are an improvement to that was earlier proposed as the character of the “estate railings” appears more consistent with what was previously used on the gardens. However, it would still be beneficial to have detail drawings secured by condition. The boundary wall and details of the entrance on the west side of the site are also a considerable improvement. Other changes do not have a substantial impact on the heritage significance so there are no further objections on conservation grounds.
- Initial Comment: No objection subject to conditions
- 6.4. No objection to the majority of the proposed railings and gates, but amendments needed in respect of certain railings (F7/F8). Details of works to lampposts to be provided. Method statements for works to the masonry required and can be conditioned. Initial concern over gardeners’ shed but overcome with updated details.
- 6.5. Design of toilet block acceptable. The addition and removal of trees is not extensive and should not significantly alter views of the historic building, but acceptability should be considered by the tree officer.
- 6.6. **Planning Policy:** No comment
- 6.7. **Sustainability:** No objection
The proposal to renovate the public toilets are welcomed improving efficiency and heating, meeting the councils aspirations for a circular economy. A BREEAM assessment is not required. Provision of an external electrical supply should be considered from this building for outdoor events/use, to avoid the need for diesel generators.
- 6.8. **Sustainable Transport:** No objection subject to conditions
- No further comments regarding removal of pedestrian gates.
 - New Road benches - We have been advised by the council's Project Manager of the proposed scheme that these works will not be undertaken by the applicant. It has also been confirmed that alternatives benches shall be provided by BHCC (date and funding to be confirmed).
 - Bollards amendments - We have received the amended plans (15/04/2024) and these indicate acceptable location for the bollards as required and are within the site boundary.

- 6.9. As the LPA does not wish to request a Section 106 obligation on this occasion, it is agreed that it is still necessary to secure a S278 agreement and via a condition is acceptable.
- 6.10. **Economic Development:** No Comment to make on the application
- External:
- 6.11. **Conservation Advisory Group:** Recommend Approval
- 6.12. **County Ecologist:** No objection subject to conditions
The proposed development is unlikely to have significant impacts on biodiversity and/or any risks can be mitigated to acceptable levels by the application of planning conditions. It is considered likely that the biodiversity objective of at least 10% biodiversity net gain will be met.
- 6.13. Conditions requested in respect of compliance with the submitted biodiversity method statement, and a pre commencement condition for an Ecological Design, Management and Monitoring Strategy (EDMMS) to be submitted and approved by the LPA.
- 6.14. **County Archaeologist:** No objection subject to conditions
The information provided is now satisfactory and identifies that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of planning conditions in relation to a written scheme of investigation to be submitted to the LPA prior to commencement of development for approval, and then to be implemented in accordance with. A written record of all works undertaken shall be submitted to the LPA with 3 months of completion.
- 6.15. **East Sussex Fire and Rescue Service:** No objection
The means of escape appears to satisfy requirements. Access for fire appliances and firefighting is satisfactory.
- 6.16. **The Gardens Trust:** Support - on the basis the garden is secured and closed overnight
Support the design and development of the Gardens with enhanced security of the site. Internally support the hard and soft landscaping and revised 'Changing Places' toilet block, learning space, redesigned bin store and gardener's compound and new vehicular entrance off Palace Place.
- 6.17. Concur with the views of the Sussex Garden Trust (SGT) in respect of the security of the site and that overnight closure is required to ensure reductions in crime. Examples are given of vandalism to listed structures which have received lottery funding. They strongly urge the site is secured at night.
- 6.18. **Historic England:** Support:
Updated Comments July 2024:
Previously, considered the proposals for secure new boundary railings and gates around the Gardens would be desirable for public safety reasons and protection of the listed buildings. This position was based on the findings of 'The

Royal Pavilion Gardens Heritage Crime Assessment Report', which advised that the serious night-time crime risks would be significantly reduced by the installation of secure railings and gates around the boundaries.

- 6.19. HE considers the revised proposals, which propose to retain 24-hour access to the garden, while beneficial for access, are likely to be less effective in addressing the serious night-time crime risk and potential vandalism and arson risks to the historic buildings. However, they will still enable the site to be more easily protected when large scale public events take place nearby in Brighton.
- 6.20. Importantly, the amended proposals would deliver a higher quality and more coherent boundary and would help to re-establish a sense of arrival and a single Royal Estate identity.
- 6.21. Furthermore, they would also cause less harm to the India Gate than the previous proposals would have done, would deliver improvements to the appearance of the Gardens, and would provide welcome new facilities.
- 6.22. Also welcome proposals for new planting, restoration of the path network, construction of a new outdoor learning area, re-design of the existing public toilets to provide a new Changing Places toilet and public W/Cs; relocation of the bin store, re-design of the gardener's utility space, all which would help address some of the issues that cause risk to the heritage significance of the gardens.

Initial Comments: Support

- 6.23. Historic England supports the proposals for new boundary railings, walls and gates subject to a more bespoke design for the India Gate. We are supportive of the other infrastructure and landscape improvements subject to the reconsideration of the removal of the Category B Lime Trees.
- 6.24. The Heritage Crime Risk Assessment Report has highlighted the seriousness of the crime and the high level of anti-social behaviour that takes place in the Gardens; that the site is a terrorism risk and that the internationally important listed buildings are at risk of vandalism or arson.
- 6.25. Therefore, while we note that new railings and gates would cause some relatively low-level harm to heritage significance and that there are concerns about public access, we are supportive of the new boundary proposals.
- 6.26. This is because they would significantly help to address the serious crime problems and high levels of antisocial behaviour which have led to a degraded environment and which place the Royal Pavilion Estate at serious risk of vandalism, arson and/or misuse.
- 6.27. Consider that improvements to the design of the proposals for the India Gate could be achieved. We think a better approach would be a more bespoke design in consultation with the Indian community that still provides sufficient security.

- 6.28. Also do not consider that the removal of the two Category B Lime Trees is justified to help restore 'Nash views', as these views are already compromised by other interventions and trees and while some more of the buildings' facades may be revealed, the historic view will not be truly restored.
- 6.29. Historic England is supportive of the other proposals that will help to remove the Gardens from our Heritage at Risk Register.
- 6.30. **Southern Water:** No objection subject to details of the proposed means of foul sewerage and surface water disposal.
- 6.31. **Sussex Gardens Trust:** Updated Comment July 2024: Object
One of the important points made in earlier comments was the need for night closure to ensure this unique garden is given the highest possible level of protection. Pleased the see a comprehensive and authoritative Heritage Crime Risk Assessment (HCRA) report has not been submitted. The HCRA report identified three options, The preferred option (option 2) involves a secure fence and gate perimeter. The revised plans exclude most of the gates which were included in the earlier plans. All the gates should be included in the proposals as originally planned and they should routinely be closed at night. If the application is approved without the gates, the recommendation for night closures included in the HCRA cannot be implemented as part of the project. Worse still, the exclusion of the gates mean night closure can never be implemented, even if the security situation deteriorate further. Nor would the physical layout provide the ability to dynamically escalate or de-escalate boundary security to respond to public events (nearby or within the Estate) or as in response to other threats that may arise from time to time.
- Initial Comment: Support - on the basis the garden is secured and closed overnight
- 6.32. Support the design and development of the Gardens and have been consulted during the development process towards the application.
- 6.33. Support security of the site with railings and gates to protect the Heritage assets. Internally support the hard and soft landscaping and revised 'Changing Places' toilet block, learning space, redesigned bin store and gardener's compound and new vehicular entrance off Palace Place.
- 6.34. Surprised and concerned that Brighton and Hove City Council (BHCC) and Brighton and Hove Museums (B&HM) have committed to maintain 24 hours access to the garden, as are not convinced that the garden will be sufficiently protected and secured without overnight closure to prevent vandalism and antisocial behaviour. State the unique garden deserves the highest possible level of protection.
- 6.35. **Sussex Police:**
Updated Comment July 2024: No objection
Note the addition of new documents as submitted which have been reviewed and have no further comments to make from a crime prevention perspective and refer the LPA to previous comments.

Initial Comment: No objection

- 6.36. Given the high levels of both criminal & anti-social behaviour reported within the Pavilion Gardens pleased to see the application of perimeter fencing and gates - with supporting letters provided from the Neighbourhood Policy Team Inspector, which were sent to Chloe Tapping (Brighton & Hove Museums).
- 6.37. Crime prevention measures suggested in respect of CCTV, WC Bloc, Kiosk, Storage areas, Gardeners Compound, Cycle stands, Planting and Construction sites.
- 6.38. Full details of representations received can be found online on the planning register.

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:

SA2	Central Brighton
SS1	Presumption in Favour of Sustainable Development
CP2	Sustainable economic development
CP5	Culture and tourism
CP8	Sustainable Buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP16	Open space

CP17	Sports provision
CP18	Healthy city

Brighton & Hove City Plan Part Two:

DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM26	Conservation Areas
DM27	Listed Buildings
DM29	The Setting of Heritage Assets
DM30	Registered Parks and Gardens
DM32	The Royal Pavilion Estate
DM33	Safe, sustainable and active travel
DM36	Parking and servicing
DM37	Green Infrastructure and Nature Conservation
DM43	Sustainable Drainage
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM44	Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPD16	Sustainable Drainage
SPD17	Urban Design Framework

Valley Gardens Conservation Area Study

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, design appearance and heritage impacts, impacts on sustainable transport, and on arboriculture.

Statement Of Significance

- 9.2. The Royal Pavilion is a Grade I listed building of international significance for its architectural, historic and artistic interest as a royal palace in an idiosyncratic largely Indian style (reflecting the Regency period's interest in Orientalism) and designed by the leading Regency architect, John Nash. Due to its location, scale and design it is an extremely prominent building and its roofline of bulbous onion domes, pagoda roofed pavilions and minarets is synonymous with Brighton. Whilst its entrance is on the west elevation facing the popular Pavilion Gardens it is the more formal east elevation which is most impressive, and which is most photographed. The gardens also affect the setting of important listed building around it, including the Grade I Dome Theatre, the Grade II India Gate, the Grade II* King William IV Gate, and the listed lampposts within the gardens and

other buildings that are not directly associated with the pavilion but are visible from it.

- 9.3. The gardens of the Royal Pavilion are a registered park and garden of special historic interest, Grade II. The eastern lawns are a much simpler and more formal space than the livelier gardens to the west. They form an integral and highly important part of the setting of the building, inviting views of the building itself and allowing the drama of the building's east elevation and roofline to unfold in views from the east and north-east.
- 9.4. The Pavilion Estate Gardens form a part of the linear ribbon of historic green spaces that form the heart of the Valley Gardens Conservation area. The pattern of development and the prevailing architecture are contemporary with the Royal Pavilion and form part of its wider context. This proposal would have an impact on the setting of all the listed buildings but particularly the Royal Pavilion; the character of the registered park and garden; and the character and appearance of the Valley Gardens conservation area.

Principle of development

- 9.5. The gardens were originally established and laid out between 1816 and 1825 during the construction of the Royal Pavilion, following a design by John Nash, which reworked some of an earlier scheme by Samuel Lapidge. The gardens were renovated in 1981/1982 in conjunction with refurbishment of the Royal Pavilion, and again updated in 1991. These later iterations sought to reinstate and recover the original scheme by John Nash.
- 9.6. The present scheme would again seek to restore and improve the Gardens while maintaining their use for outdoor recreation so in principle is considered acceptable.

Design, Appearance and Heritage Impacts:

- 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. As already noted, the Royal Pavilion grounds are Grade II listed and a designated Registered Park and Garden of Special Historic Interest. The Royal Pavilion is a Grade I listed building. The site lies within the Valley Gardens Conservation Area. The setting of the Pavilion is an essential part of its character as the gardens have been laid out to complement its design.

- 9.10. The siting, scale and appearance of the proposal is similar to previous permissions in that it seeks to reconnect and better conserve and better integrate the existing historic buildings and the surrounding landscaped areas. This is to be achieved through the following:
- The restoration and enhancement/replacement of the existing entrances to the garden;
 - The restoration and enhancement/replacement of the existing historic walls, iron railings, gates and perimeter buildings to the garden;
 - Restoration of the 19th century historic lamp posts and installation of matching new lighting;
 - Restoration of the Nash views into the western lawn and east lawn, through enhancement of exiting planting and removal of existing trees and hedged areas that currently impede these views;
 - Amendments to the existing path network which predominantly makes wider and would give improved drainage;
 - A new outdoor learning space with storage and handwashing facilities;
 - Renovation of the existing toilet block with a new changing places facility, storage areas and multi-use kiosk area;
 - A revised gardener's compound and sheds;
 - Enhanced drainage and garden irrigation;
 - Changes to the internal fencing, predominantly around the garden beds; and
 - A new utilities areas (bin store).

Perimeter Works.

New Road (Western Perimeter):

- 9.11. The existing open western vehicular entrance (abutting The Corn Exchange) would be secured with a new metal vehicular sliding gate, comprising natural stone piers to either side and a metal gate of circa 2.1m in height in a design to match the other proposed external railings (black with pointed detailed vertical bars and low and high level horizontal supporting bars). A new pedestrian gate would be created to the side (north) which would have matching material and details. A timber wall/bench on the opposite side (south) would be replaced with a 0.6m high stone wall with black metal railings over to produce a total height of 1.8m - 2.1m to match the proposed pedestrian and vehicular gates. The two existing pedestrian entrances of New Road would also be revised and enlarged with piers to match these and central bollards.
- 9.12. The replacement of the solid timber wall with railings would open up views into the Pavilion Gardens from New Road which is considered to be positive. It is noted that the revised perimeter would bring visual changes to the New Road streetscene with the loss of the existing benches and relatively 'soft' timber fence, but it is not considered to bring any visual harm. The loss of the amenity provided by the existing seating would be offset by the provision of new benching in New Road (which the Council is to provide at a later date) which would be set back from the new boundary to ensure that it does become a climbing aid to the new railings. The new boundary would increase the security of the site and the setting of the heritage assets within.

- 9.13. The new gates and railings to New Road are considered to be of appropriate designs and to have a material palette which complements the status of the garden and the heritage assets that surround it, causing no significant harm and bringing benefits in respect of site security, sense of arrival, and views.

Prince's Place (Southern Perimeter):

- 9.14. Similar to New Road, the existing open entrance on Prince's Place would be partially enclosed with natural stone piers/low wall and railings to 2.1m with a design to match the other proposed external railings (black with pointed detailed vertical bars and a low and high level horizontal supporting bar). Two pedestrian entrances would form part of the enhanced boundary. An existing small wall and areas of low hooped railing would be replaced by the same.
- 9.15. This is considered to bring improvements as the existing arrangement is a poor mixture of designs and street furniture that detracts from the public realm. The new boundary would increase the security of the site and the heritage assets within.
- 9.16. The design of the new gates and railings to Prince's Place are considered to be of appropriate designs and material palette which complements the status of the garden and the heritage assets that surround it, causing no significant harm, and bringing benefits in respect of site security, sense of arrival, and appearance.

South Gate (India Gate) (Southern Perimeter):

- 9.17. Previously the proposal included the addition of gates to the two existing pedestrian entrances, which would have matched the railings and the design of other pedestrian gates, and the main gate within India Gate was proposed to have a matching design. However, due to concerns raised by officers and Historic England the gates have been omitted from the proposal.
- 9.18. The proposed perimeter works would see the existing walls retained, but with the addition of a new pointed railings applied to the western half of the wall, which would create a combined railing and wall with a height ranging between 1.8m and 2.1m. The design of the railings would match the other proposed railings onsite (black with pointed detailed vertical bars and horizontal supporting bars).
- 9.19. Following receipt of amended plans, the main India Gate itself would remain unaltered in design, with the existing walls and gates all retained and refurbished. The exact details of the form of refurbishment will be secured by condition to ensure the final appearance is acceptable to the Local Planning Authority (LPA).
- 9.20. The principle of alterations to the existing boundary, incorporating refurbishment of the India Gate to increase the security of the site and the setting of the heritage assets within, is acceptable, but the final appearance is to be secured by condition and agreed with the LPA, prior to any works commencing on the India Gate boundary.

Palace Place (Southern Perimeter):

- 9.21. The proposed perimeter works would see a majority of the existing pointed railings (F1) retained but with the addition of a new gates to allow the creation of a new vehicular entrance which would improve access to the Royal Pavilion and gardens for servicing, and when events are in situ (such as the winter ice rink). The design of the gate would match the existing railings and other proposed railings onsite (black with pointed detailed vertical bars and horizontal supporting bar).
- 9.22. The new access would be subject to a S278 agreement and a Delivery and Service Management Plan to be agreed prior to commencement of any works on highways land, to ensure that proposed works can be constructed and utilised in a safe manner.
- 9.23. The design of the new gates and replacement railings to Palace Place are considered to be appropriate designs and material palette which complement the status of the garden and the heritage assets that surround it, causing no harm. The new boundary and gates would increase the security of the site and the setting of the heritage assets within and allow for another vehicular access point that would help service the existing Royal Pavilion Estate.

Old Steine (Eastern Perimeter):

- 9.24. The proposed perimeter works would see the existing 1.4m high hooped railings removed and replaced with new pointed railings applied to the top of a new natural stone bottom plinth, creating a combined railing with a height of circa 1.8m - 2.1m. The design of the railings would match the other proposed railings onsite (black with pointed detailed vertical bars and horizontal supporting bar).
- 9.25. The existing Maclaren wall, piers and gates, located to the west of the replacement railings, would be refurbished and retained. The exact details of the refurbishment are to be agreed with Heritage Officers and a condition would be attached to ensure this occurs. The gap between the replacement railings and the Maclaren wall would be managed as meadow to help increase biodiversity, in place of the existing short mown grass. No new public access would be provided on this boundary with the Old Steine.
- 9.26. The design of the replacement railings to Old Stiene are considered to be appropriate designs and material palette which complement the status of the garden and the heritage assets that surround it, causing no harm. The new boundary would increase the security of the site and the setting of the heritage assets within. In particular on this elevation the changes are considered to create a more coherent and higher quality boundary, which reinforces the identity of the Royal Pavilion Estate and sense of arrival. The renovation of the Maclaren wall is welcomed.

North Gate (King William IV Gate) (Northern Perimeter):

- 9.27. The proposed perimeter works would see the existing relatively open area to the east of the North Gate secured with new pointed railings applied to the top of a new natural stone bottom plinth, which would create a combined railing with a height of circa 1.8m to 2.1m, which would extend from the eastern boundary facing the Old Stiene. The existing gates and railings incorporated into the North

Gate and to the west would be retained and refurbished. The existing Maclaren wall, piers and gates, which remain located to the south of the proposed new railings, would be refurbished and remain.

- 9.28. The design of the new railings to the North Gate area are considered to be appropriate designs and material palette which complements the North Gate with a railing design that mirrors the current heritage gate installed. The existing status of the garden and the heritage assets that surround it would suffer no harm.
- 9.29. It is noted that the revised perimeter will bring visual changes to the North Gate streetscene with the loss of the existing relatively open aspect to the east of North Gate, but it is not considered to bring any visual harm. The new boundary would increase the security of the site and the heritage assets within. As with the Old Stiene boundary the changes are considered to create a more coherent and higher quality boundary, which reinforces the identity of the Royal Pavilion Estate and sense of arrival at the William IV Gate. The renovation of the Maclaren wall is welcomed.

Landscaping and widening of existing paths:

- 9.30. Careful consideration has been given to the proposed removal of trees assessed as being of moderate quality and value (grade B). This is proposed to allow for the revised footpath (T27 & T17) and boundary treatments (T27) which on balance is considered to be justified, taking into account the wider benefits provided as part of the overall development and the security/accessibility improvements. Replacement/mitigation planting is required and would be secured by condition.
- 9.31. The removal of a grade B mature tree in the west lawn (T42) was initially proposed but was not considered by the LPA to be justified purely on the basis of reinstating or enhancing the 'Nash Views' of the Royal Pavilion. The possibility of relocating the tree within the garden was discussed but the likelihood of success considered low. The plans have been amended to show T42 as being retained and a condition would be attached this effect.
- 9.32. The removal of existing planting and trees as part of this plan to enable the improvements to the layout and existing paths is therefore supported, subject to a condition for replacement and mitigation planting, with suitable specimens to be agreed. The majority of trees removed being have been assessed as being of relatively low quality and value so their loss is not opposed.
- 9.33. A majority of the enlarged/revised pathways follow the existing, but with the significant change occurring to the area to the north of India (South) Gate, which would enlarge the existing grassed oval and extend the surrounding pathway. To the west, opposite the existing Café, the grassed area would also increase, and the pathway would decrease in width. The degree of change is not considered to bring any harm and partially mitigates the loss of grassed areas generally to allow the increased path widths elsewhere. It is noted that objection has been raised in reduction to the amount of hard stand area that tables and chairs associated with the Café would be able to utilise, but the wider benefits

are considered to outweigh the loss, with an increased grassed area opposite the Café for customers and visitors to utilise.

- 9.34. The proposed improvement to the existing landscaping and widening of the existing pathways are considered acceptable in principle but will be subject to a condition requiring a full hard and soft landscaping plan to be submitted the LPA for assessment and approval.
- 9.35. The new internal railings to the lawned areas proposed (Design F7 and F8) are considered acceptable in general design, but the supplied details are not considered sufficient, and a condition would be attached to ensure the final detailed design is acceptable to the LPA prior to installation.

Works to toilet blocks

- 9.36. The proposed works to refurbish the existing (currently closed) toilet block would retain the existing footprint but revise the internal floorspace and elevations. These works will introduce a new 'changing places' facility which would increase the accessibility and use of the gardens for those with mobility and other challenges, with a space which allows full access to toilets for mobility scooters, motorised wheelchairs and carers, and onsite changing and shower facilities. New unisex WCs and a baby change suitable stall would be accessed from the front of the refurbished toilet block. To the western side of the block a new multifunctional kiosk/information centre is proposed which would have storage to the rear with an incorporated plant room. Further new storage would be created to the rear of the unisex toilets.
- 9.37. The design and elevations of the refurbished block are considered acceptable with the majority of the existing structure retained, but with new bronzed metal canopies to the front, steel doors for the WCs and new timber door and bifold timber windows to the proposed kiosk. Some elements are considered utilitarian, but this is the case with the existing structure and overall, the elevational changes would bring improvement to its appearance. Changes would also occur to the rooflights, which would be removed and replaced with a new timber and ply structure, finished with new thermal insulation that would carry across the rest of the roof, and increase the thermal capacity and sustainability of the refurbished building.
- 9.38. The design and use of the toilet block building is considered appropriate and would provide an updated public amenity that increases the quality of WCs for all and in particular those who may have difficulties using traditional WCs. The new kiosk would provide a flexible space that would contribute to the public and private uses proposed within the garden. The existing status of the garden and the heritage assets that surround it would suffer no harm.

Outdoor Learning Space

- 9.39. A new outdoor learning space would be located to the east of the Brighton Museum, adjacent to the existing learning building and formed of stone seating walls surrounding a new permeable membrane positioned around an existing tree. To the north would be located new storage facilities in front of an existing elevational wall, with new handwashing area to the side. The design is

considered acceptable and would enhance the existing public offering from the garden in relation to education. No harm would be caused to the existing listed structures.

Gardeners' Compound

- 9.40. The proposed changes to the gardeners' compound are considered acceptable with a design for the new fencing and gates (set behind new hedge planting) with new low public seating walls which cascade onto the revised pathways within the gardens. The design would be in keeping with other proposed works to the garden. Revised plans showing timber sheds have been submitted which are considered acceptable.

New Bin Store:

- 9.41. The existing structure and size is identified as bringing harm to the garden currently. The proposed scheme would see a reduction in size of the bin store and reorientation to be mainly serviced from the existing vehicular access on New Road, adjacent to the Brighton Dome. This would reduce the existing negative impact and allow for greater soft landscaping to replace the footprint removed, both of which would have positive effects on the gardens and surrounding heritage assets. The final details of the revised bin store in relation to finish and materials are to be agreed and a condition would be attached to ensure suitability by the LPA.

Security of site and impact on heritage assets:

- 9.42. The proposed railings, walls and gates would enhance the security of the existing perimeter of the garden, which currently has a relatively permeable boundary with multiple points of access and egress to many parts of the Gardens.
- 9.43. Significant work has been carried out by Historic England and external consultants, in conjunction with the local and national police, to produce a security report in relation to the gardens. The executive summary of that report forms part of the supporting documentation for the application and informs Historic England's (HE) support for securing of the site with new boundary railings and gates, due to the wider public benefits that would accrue in relation to general crime reduction in the area and potential damage to the heritage assets from vandalism. They identify that although relatively low-level harm would be caused by the railings and gates to the heritage assets, and that concerns exist in relation to public access, any harm is identified as less than significant and outweighed by the wider public benefits, with the preservation and enhancement of significance for existing heritage assets.
- 9.44. This view is shared by the LPA, and with the benefits identified, it is considered that any harm to the setting of the listed buildings, to the character of the registered park and garden itself and to the appearance of the conservation area, has been mitigated as far as possible (subject to conditions). The harm is 'less than substantial' under the terms of the NPPF and there is significant heritage, cultural, security and preservation benefits that may be weighed against that harm under paragraph 208 of the National Planning Policy Framework (NPPF) and in line with paragraph 212.

- 9.45. *NPPF Paragraph 208 states: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*
- 9.46. *NPPF Paragraph 212 states: Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.*

Sustainable Transport:

- 9.47. Given the nature of the proposals and similarity to the existing situation, the majority of additional person trips will be linked journeys associated with visits to Brighton city centre. As such the proposed development would be unlikely to result in increased impacts on the highway and transportation networks or on the demand for parking.
- 9.48. New cycle parking stands are being provided to the north by the King William IV (North) Gate, with the exact amount and design will be secured by condition.
- 9.49. Various off-site works are proposed, and a new vehicular access is to be provided at Palace Place. As these works would take place on highway land and/or create additional vehicular movements Transport Officers require a Delivery and Service Management Plan (DSMP) and that the applicant enter into a S278 agreement to ensure the impacts are fully assessed and acceptable. These elements will be secured by suitably worded conditions.
- 9.50. With regard to emergency vehicle access, the Pavilion has existing procedures in place. Vehicles can access the site via the William IV Gate to the north of the site, the Indian Gate to the south, and North Road to the west, and via the Palace Place gate to the south once the new access is created. East Sussex Fire Service has confirmed that the access arrangements are appropriate and the means of escape in case of fire would be satisfactory.

Arboriculture

- 9.51. Because it is important that vegetation and trees within the Pavilion Gardens, which form a key part of the setting of the Royal Pavilion and its listing, is protected during development, details of tree protection measures have been provided with the application and would be secured by condition. As previously noted, the loss of some existing trees is considered to be justified by the wider benefits of the scheme, but Arboricultural Officers are opposed to the removal of any mature trees to allow the reinstatement/enhancement of views, so this element has been removed from the proposal.
- 9.52. Full details of the landscaping and mitigation planting would be secured by condition to offset harm caused through the loss of existing trees.

Other Matters:

- 9.53. The proposed redevelopment of the garden is considered acceptable in terms of impact upon residential amenity, with no increase in noise, overlooking, overshadowing or overbearing effects on surrounding residents arising as a result of the proposed works, in excess of the existing situation. As noted earlier the alterations to the gardens are considered to bring significant improvements to the accessibility and security of the site which would benefit all users and surrounding residents. The loss of the existing seating onto new road and the public amenity it provides will be mitigated through the new benches are intended to be installed.
- 9.54. The proposal to renovate the public toilets would improve efficiency and heating, meeting the Council's aspirations for a circular economy with the reuse of an existing building to a more efficient standard. Provision of an external electrical supply would be explored as part of the overall landscaping scheme for the site to be secured by condition.
- 9.55. The applicant has demonstrated that a biodiversity net gain in excess of 10% would be delivered through the scheme, which would be secured through the provision of an Ecological Design, Management and Monitoring Strategy by condition.
- 9.56. The proposed development would pose some risk of damage to archaeological remains but with a suitably worded condition attached which would require a scheme of investigation to be agreed by the LPA and implemented, the risk of damage is mitigated to an acceptable level, such to prevent refusal.

Conclusion and Planning Balance:

- 9.57. The harm from the proposed boundary railings and gates, and loss of mature trees upon the Conservation Area, the Historic Park and Garden, and the setting of the Grade I Listed Royal Pavilion is acknowledged. The harm is 'less than substantial' under the terms of the NPPF and there are heritage and other significant public benefits that may be weighed against that harm as per the NPPF.
- 9.58. The development would generate increased accessibility and use of the gardens, particularly for those with protected characteristics such as reduced mobility. The works would increase the significance of the heritage assets (the setting and views of the Royal Pavilion) while helping to preserve and enhance for future generations the existing heritage assets. The development increases the public amenity benefits and education that the site currently provides through provision of more flexible buildings and an outdoor education space. Enhanced servicing access to the Royal Pavilion is provided with new access from Palace Place, increasing opportunities for the use of the gardens for special events to raise additional income in the support of the upkeep of the Royal Pavilion Estate.
- 9.59. Overall, it is considered that any harm to the setting of the listed buildings, to the historic character of the registered park and garden itself and to the appearance of the conservation area, has been mitigated as far as possible and the positive impacts are numerous. Given the above and that the development will enhance

the cultural and tourism offering of the City, it is considered that the positive effects of the development outweigh the harm that the loss of some mature trees and proposed railings and gates would cause, and the development is in accordance with policies DM18, DM20, DM22, DM26, DM27, DM29, DM30, DM32, DM33, DM37, DM43 and CP5 CP12 and CP15

9.60. The application is therefore recommended for approval.

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.

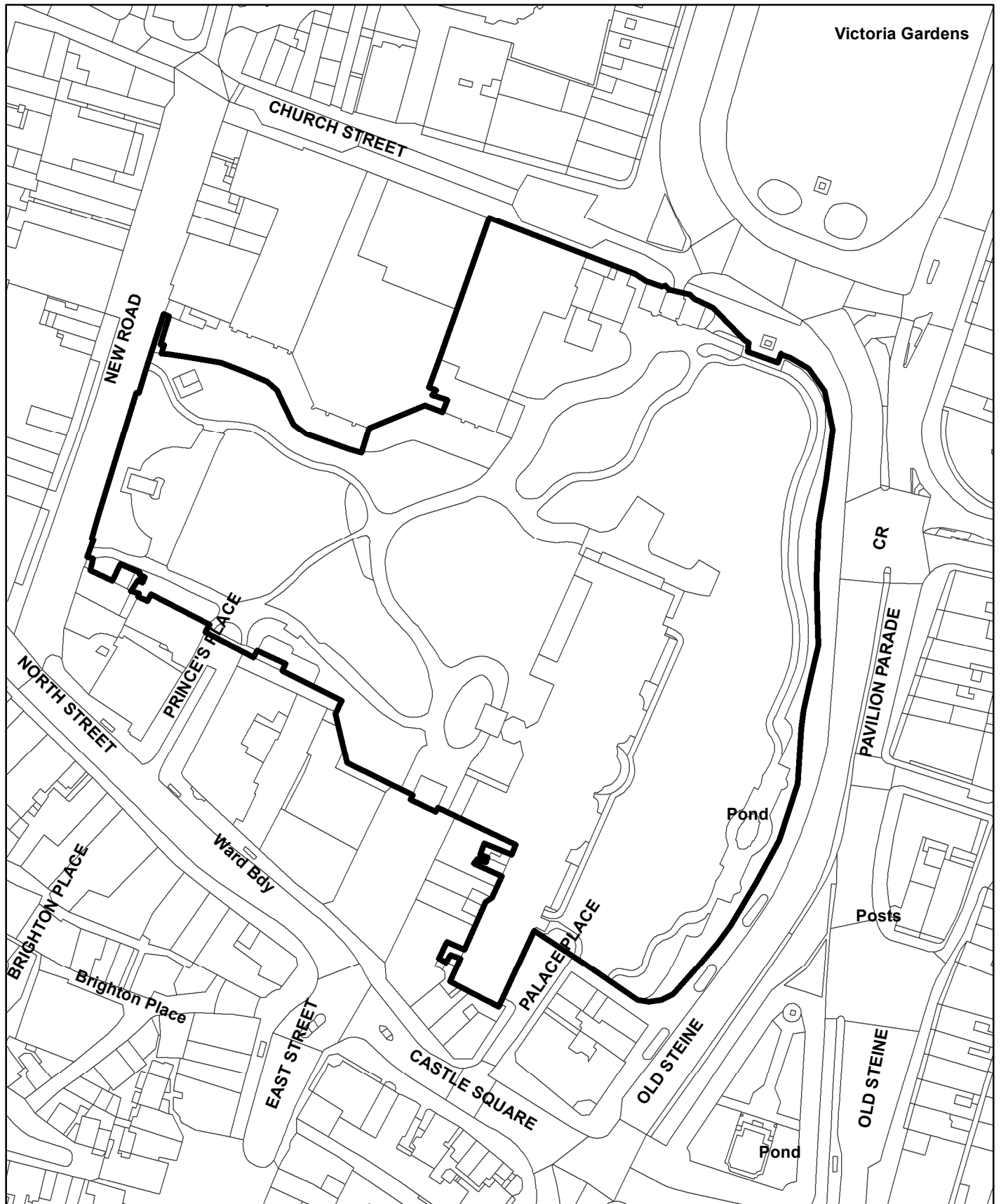
10.3. The proposed development will enhance the existing pathways increasing access for those with visual or mobility impairments. A changing rooms facility and baby change facilities are also being provided to the refurbished toilet block building, all of which would enhance accessibility and use of the gardens, increasing equality of use.

ITEM B

**Royal Pavilion Gardens, Pavilion Buildings
BH2023/02836
Listed Building Consent**

DATE OF COMMITTEE: 7th August 2024

BH2023 02836 - Royal Pavilion Gardens, Pavilion Buildings



N



Scale: 1:1,500

<u>No:</u>	BH2023/02836	<u>Ward:</u>	West Hill & North Laine Ward
<u>App Type:</u>	Listed Building Consent		
<u>Address:</u>	Royal Pavilion Gardens Pavilion Buildings Brighton BN1 1EE		
<u>Proposal:</u>	Landscaping works to include the restoration and reinstatement of historic walls, metal railings and gates, restoration of existing 19C historic and existing modern replica lamp posts. Enhancement of planting, lawns, groundworks and removal of modern trees and hedging to the Western lawn and East/North East compartments to reinstate the Nash views. Alterations to existing paths, planting beds and fencing, improvements to drainage and irrigation systems. Remodelling of existing public WC block and installation of outdoor learning space with adjacent storage and hand wash area and any other associated ancillary development, including provision of public realm and landscaping improvements.		
<u>Officer:</u>	Steven Dover, tel:	<u>Valid Date:</u>	23.10.2023
<u>Con Area:</u>		<u>Expiry Date:</u>	18.12.2023
<u>Listed Building Grade:</u>			
<u>Agent:</u>	Allen Scott Landscape Architects 44 Newton Road Tunbridge Wells TN1 1RU		
<u>Applicant:</u>	Brighton & Hove Museums Royal Pavilion Pavilion Buildings Brighton BN1 1EE		

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** Listed Building Consent subject to the following Conditions and Informatives.
 1. 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.
 2. Notwithstanding the approved plans, submitted Arboricultural reports and statements, no works shall take place to the tree annotated T42 on the approved proposed masterplan (ref:725-100 B received on the 24 June 2024), without written confirmation from the LPA prior to any works commencing.
Reason: To ensure a satisfactory appearance to the development and to comply with policies DM22 and DM30 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.
 3. Prior to installation of any railings or gates hereby approved, drawings at a scale of 1:5 with section details of all junctions at 1:1 of all railings and gates with full details of the proposed colour shall be submitted to and approved by the local

planning authority. All railings and gates shall be painted the approved colour within one month of installation and shall be 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.

4. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until a full construction method statement for all ground works within Root Protection Areas (RPA's) of retained trees, including materials and proposed protection measures in line with the submitted Arboricultural Impact Assessment and Method Statement received on the 17/04/2024 ref:J21177_Arb_B produced by Greenspace Ecological Solutions has been submitted to and agreed in writing. The approved methods shall be fully implemented for all works in the RPA's onsite during the proposed development.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part Two

5. Prior to commencement 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 first use of the approved buildings. 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 and materials;
 - d. details of all mitigation/replacement trees for those removed.

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 Two.

6. Notwithstanding the approved plans, the development hereby permitted shall not be commenced until the following details of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority:
 - a) samples/details of brick, render and tiling (including details of the colour of render/paintwork to be used);
 - b) samples/details of all cladding and roof finishes to be used, including details of their treatment to protect against weathering;
 - c) samples/details of all hard surfacing materials;

- d) samples/details of stone plinth and walls to be used in boundary treatments;
- e) A schedule of all features to be removed, moved, replaced or reinstated, including photos/drawings/sections recording the features to be replicated along with 1:1 and/or 1:20 scale drawings of existing and proposed items;
- f) a method statement for the works of repair to the existing lampposts and masonry balustrades;
- g) full details, including 1:20 scale elevational drawings and sections of the proposed South Gate (India gate) and existing boundary walls and railings between 1-3 Pavilion Buildings and the Royal Pavilion building;
- h) full details, including 1:20 scale elevational drawings and sections of the proposed bin store structure, materials and finishes;
- i) full details, including 1:20 scale elevational drawings and sections of the proposed shed structures, materials and finishes; and
- j) full details, including 1:20 scale elevational drawings and sections and 1:2 scale sections of the new internal estate railings detailed as F7 and F8 on the approved plans.

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

Reason: To ensure a satisfactory appearance to the development and to comply with policies DM27 and DM30 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

Informatives:

1. This decision is based on the drawings listed below:

Plan Type	Reference	Version	Date Received
Report/Statement	DEVELOPMENT STAGE DESIGN REPORT	725-501 B	24 June 2024
Proposed Drawing	725-101		24 June 2024
Proposed Drawing	725-102		24 June 2024
Proposed Drawing	725-103		24 June 2024
Proposed Drawing	725-104		24 June 2024
Proposed Drawing	725-105		24 June 2024
Report/Statement	Preliminary Ecological Assessment	J21177_Rev B	23 October 2024
Report/Statement	Arboricultural Impact Assessment	J21177_Arb_ B	17 April 2024
Proposed Drawing	725-205		24 June 2024
Proposed Drawing	725-100	B	24 June 2024
Proposed Drawing	725-207		24 June 2024
Proposed Drawing	725-214		23 October 2023
Proposed Drawing	725-202		24 June 2024
Proposed Drawing	725-209		24 June 2024
Proposed Drawing	725-210		24 June 2024
Proposed Drawing	725-204		24 June 2024
Proposed Drawing	725-211		23 October 2023
Proposed Drawing	725-361		23 October 2023

Proposed Drawing	P1154-RHP-TB-XX-DR-A-2000 P1		23 October 2023
Proposed Drawing	725-212		23 October 2023
Proposed Drawing	725-350		24 June 2024
Proposed Drawing	725-213		23 October 2023
Proposed Drawing	725-351		24 June 2024
Proposed Drawing	P1154-RHP-LS-XX-DR-A-2004 P1		23 October 2023
Proposed Drawing	725-352		23 October 2023
Proposed Drawing	725-357		24 June 2024
Proposed Drawing	725-353		23 October 2023
Proposed Drawing	725-358		24 June 2024
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2200 P1		23 October 2023
Proposed Drawing	725-354		23 October 2023
Proposed Drawing	725-360		24 June 2024
Proposed Drawing	725-359		24 June 2024
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2100 P1		23 October 2023
Proposed Drawing	725-367	B	18 March 2024
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2001 P1		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-4000 P1		23 October 2023
Location Plan	725-001		23 October 2023
Location Plan			23 October 2023

2. SITE LOCATION

- 2.1. The application site relates to the grounds of the Royal Pavilion Estate, a Registered Park and Garden of Special Historic Interest, Grade II. The site contains the Grade I Listed Royal Pavilion and is located within the Valley Gardens Conservation Area.
- 2.2. To the north of the application site is the Grade I Listed Dome Theatre and associated buildings. To the west is the predominantly pedestrianised New Road and the numerous Listed Buildings including the Grade II* Listed Theatre Royal. To the south the site abuts Prince's Place, Pavilion Buildings and Palace Place, which comprise numerous locally and Grade Listed Buildings. The Old Steine/Pavilion Parade, the main north-south vehicular route into the city, lies immediately to the east of the site.

- 2.3. The nearest residential properties are in Prince's Place, Pavilion Buildings and Palace Place to the south fronting North Street, and there are also flats on the opposite side of Pavilion Parade to the east and New Road to the west.

3. RELEVANT HISTORY

- 3.1. **BH2023/02836** Landscaping works to include the restoration and reinstatement of historic walls, metal railings and gates, restoration of existing 19C historic and existing modern replica lamp posts. Enhancement of planting, lawns, groundworks and removal of modern trees and hedging to the Western lawn and East/North-East compartments to reinstate the Nash views. Alterations to existing paths, planting beds and fencing, improvements to drainage and irrigation systems. Remodelling of existing public WC block and installation of outdoor learning space with adjacent storage and hand wash area and any other associated ancillary development, including provision of public realm and landscaping improvements. (associated Listed Building Consent). Pending decision
- 3.2. **BH2023/01822** Temporary ice rink on Royal Pavilion Eastern Lawns annually during winter months. Structure to include ancillary buildings for box office, café/bar/restaurant, toilet facilities, skate exchange, learner's ice rink and associated plant and lighting. (2-year consent). Approved 21.09.2023.
- 3.3. **BH2017/00132** Installation of temporary event space in East/North lawns from 25th May to 5th June inclusive, with approximate two week set up and one week dismantling period. Temporary structures include replica timber street scenes, food and drink outlets, toilet blocks, stage and performance space. Refused 26.04.2017.
- 3.4. **BH2013/01992** Temporary maze on Royal Pavilion Eastern lawns from 4th July to 3rd September 2013, with adjoining ticket office and props within maze (retrospective). Refused 21.08.2013.
- 3.5. **BH2009/01949** Installation of new wrought and cast iron secondary vehicular gates and gate piers with automated electronic control gear and removal of existing central roadway bollard. Re-surfacing of existing tarmac with second-hand yorkstone flags and granite setts. Installation of wrought iron pedestrian gates and rebuilding of boundary wall (LBC). Approved 12.01.2010.
- 3.6. **BH2009/01947** Installation of new wrought and cast iron secondary vehicular gates and gate piers with automated electronic control gear and removal of existing central roadway bollard. Re-surfacing of existing tarmac with second-hand yorkstone flags and granite setts. Installation of wrought iron pedestrian gates and rebuilding of boundary wall (Full Planning). Approved 25.11.2009.
- 3.7. **BH2004/03527/CD/FP** Replacement of existing bow top fencing (50cm high) with proposed bow top style fencing (1.35m high). (Full Planning). Approved 19.01.2005.

- 3.8. **95/0290/CD/FP** Installation of retractable traffic bollards at North Gate entrance and rising arm barrier at New Road exit. (Full Planning). Approved 16.05.1995.
- 3.9. **91/0756/LB** Restoration of the Nash Garden scheme in the Royal Pavilion grounds. (LBC) Approved 02.07.1991.
- 3.10. **91/0574/CD/FP** Restoration of the Nash Garden scheme in the Royal Pavilion grounds. (Full Planning) Approved 02.07.1991.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks approval for works to the Royal Gardens, including the restoration and reinstatement of historic walls, new metal railings internally and on the boundaries of the site, the restoration of historic lamp posts and installation of replicas, and the addition of new gates to the existing and proposed vehicular access points. A new vehicular access would also be created off Palace Place.
- 4.2. It is also proposed to enhance existing planting and lawns including the removal of some trees and hedges and replacement planting to facilitate improvement to the existing pathways/facilities, and in some cases to open up historic (Nash) views of the Royal Pavilion and surrounding Listed Buildings. Other alterations are proposed to the existing paths, planting beds and fencing with improvements to drainage and irrigation systems.
- 4.3. Remodelling of the existing public WC block is proposed with a changing places facility to be provided, along with storage areas and a multi-use kiosk. A new outdoor learning space with storage and handwashing facilities is proposed to the side of the Museum entrance.
- 4.4. The existing gardeners' compound would be replaced with new timber sheds, and the existing bin store would be reduced in size with a new access point and design.
- 4.5. Seating that lies within the site but faces onto New Road would be removed to facilitate new railing along the boundary.
- 4.6. Since submission of the application, changes to the proposal have been made with regards to the proposed gardeners' shed in order to address concerns regarding the appropriateness of materials, with timber now proposed instead of metal.
- 4.7. In addition, one of the mature trees (T42) identified for removal, will now be retained as the loss was not considered justified purely on the basis of opening up views of the Pavilion.
- 4.8. The application was due to go before Planning Committee in May 2024 but was withdrawn from that meeting to allow further amendments in response to concerns that the scheme would reduce access to the site and its permeability.

The amendments have lowered the height of railings in some areas and removed a previously-proposed pedestrian gates. An additional round of publicity and consultation was undertaken in June 2024 in response to the revised plans, as set out below.

5. REPRESENTATIONS

Prior to readvertising and consultation in June 2024:

- 5.1. An objection from **two (2)** individuals has been received and from the following groups, **North Laine Community Association, The Brighton Society, Living Streets Group and The Regency Society**, raising the following issues:

- Adverse impact on listed buildings
- Adversely affects Conservation Area
- Inappropriate height of development (railings and gates)
- Poor design
- Loss of existing WC's
- Railings and enclosure of site, with potential closure of public access unacceptable
- Lockable gates unacceptable
- Reduction in site permeability
- Restriction of views
- Narrowing of path and potential loss for areas of seating in front of the cafe
- Intention to close gardens more often for private events
- Loss of mature trees

- 5.2. **One (1)** letter of support stating;

- Good design,
- In keeping with Listed Building
- Fully support both the installation and design of the railings and the retention/redesign and reopening of the toilet block, as very much needed

After readvertising and re-consultation in June 2024:

- 5.3. **One (1)** further letter of comment was received following the advertisement of the revised application stating that they;

- Support proposal to upgrade the landscaping, fencing, paths and toilets and install a community learning centre as this would improve the gardens but,
- Object that the proposal now fails to commit to installing gates for the Pavilion Gardens to be securely closed at night.

- 5.4. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

Internal:

- 6.1. **Arboricultural:** Support subject to conditions

BHCC Arboriculture initially objected in principle to the removal of healthy trees to improve sightlines / views, however we are pleased to now note the retention of T42 Tilia X europaea [lime], which is of good shape and form and highly prominent. The other proposed removals, although regretted, are either for sound arboricultural reasons or to improve current landscaping. BHCC Arboriculture raise no objection to those works, subject to conditions securing a full construction method statement for all ground works within Root Protection Areas of retained trees, including materials and proposed protection measures in line with the submitted arboricultural specification, this to be agreed in writing by the local authority prior to commencement. We would also wish to see the standard landscaping condition attached to consent.

- 6.2. Arboricultural Impact Assessment Drawing remains hard to interpret due to similarity of keys for the various protection measures and needs to be clearer.

Heritage:

Updated Comments July 2024: No objection subject to conditions

- 6.3. The amendments to the are minor in respect to the impact on historic significance so there is no in principle objection to any of the details. The amendments to the internal railings are an improvement to that was earlier proposed as the character of the “estate railings” appears more consistent with what was previously used on the gardens. However, it would still be beneficial to have detail drawings secured by condition. The boundary wall and details of the entrance on the west side of the site are also a considerable improvement. Other changes do not have a substantial impact on the heritage significance so there are no further objections on conservation grounds.

Initial Comment: No objection subject to conditions

- 6.4. No objection to the majority of the proposed railings and gates, but amendments needed in respect of certain railings (F7/F8). Details of works to lampposts to be provided. Method statements for works to the masonry required and can be conditioned. Initial concern over gardeners’ shed but overcome with updated details.
- 6.5. Design of toilet block acceptable. The addition and removal of trees is not extensive and should not significantly alter views of the historic building, but acceptability should be considered by the tree officer.

External:

- 6.6. **Conservation Advisory Group:** Recommend Approval

6.7. The Gardens Trust:

Support - on the basis the garden is secured and closed overnight

Support the design and development of the Gardens with enhanced security of the site.

- 6.8. Internally support the hard and soft landscaping and revised 'Changing Places' toilet block, learning space, redesigned bin store and gardener's compound and new vehicular entrance off Palace Place.

- 6.9. Concur with the views of the Sussex Garden Trust (SGT) in respect of the security of the site and that overnight closure is required to ensure reductions in crime. Examples are given of vandalism to listed structures which have received lottery funding. They strongly urge the site is secured at night.
- 6.10. **Historic England: Support:**
- Updated Comments July 2024:
- 6.11. Previously, considered the proposals for secure new boundary railings and gates around the Gardens would be desirable for public safety reasons and protection of the listed buildings. This position was based on the findings of 'The Royal Pavilion Gardens Heritage Crime Assessment Report', which advised that the serious night-time crime risks would be significantly reduced by the installation of secure railings and gates around the boundaries.
- 6.12. HE considers the revised proposals, which propose to retain 24-hour access to the garden, while beneficial for access, are likely to be less effective in addressing the serious night-time crime risk and potential vandalism and arson risks to the historic buildings. However, they will still enable the site to be more easily protected when large scale public events take place nearby in Brighton.
- 6.13. Importantly, the amended proposals would deliver a higher quality and more coherent boundary and would help to re-establish a sense of arrival and a single Royal Estate identity.
- 6.14. Furthermore, they would also cause less harm to the India Gate than the previous proposals would have done, would deliver improvements to the appearance of the Gardens, and would provide welcome new facilities.
- 6.15. Also welcome proposals for new planting, restoration of the path network, construction of a new outdoor learning area, re-design of the existing public toilets to provide a new Changing Places toilet and public W/Cs; relocation of the bin store, re-design of the gardener's utility space, all which would help address some of the issues that cause risk to the heritage significance of the gardens.
- Initial Comments: Support
- 6.16. Historic England supports the proposals for new boundary railings, walls and gates subject to a more bespoke design for the India Gate. We are supportive of the other infrastructure and landscape improvements subject to the reconsideration of the removal of the Category B Lime Trees.
- 6.17. The Heritage Crime Risk Assessment Report has highlighted the seriousness of the crime and the high level of anti-social behaviour that takes place in the Gardens; that the site is a terrorism risk and that the internationally important listed buildings are at risk of vandalism or arson.
- 6.18. Therefore, while we note that new railings and gates would cause some relatively low-level harm to heritage significance and that there are concerns about public access, we are supportive of the new boundary proposals.

- 6.19. This is because they would significantly help to address the serious crime problems and high levels of antisocial behaviour which have led to a degraded environment and which place the Royal Pavilion Estate at serious risk of vandalism, arson and/or misuse.
- 6.20. Consider that improvements to the design of the proposals for the India Gate could be achieved. We think a better approach would be a more bespoke design in consultation with the Indian community that still provides sufficient security.
- 6.21. Also do not consider that the removal of the two Category B Lime Trees is justified to help restore 'Nash views', as these views are already compromised by other interventions and trees and while some more of the buildings' facades may be revealed, the historic view will not be truly restored.
- 6.22. Historic England is supportive of the other proposals that will help to remove the Gardens from our Heritage at Risk Register.

Sussex Gardens Trust:

Updated Comment July 2024: Object

- 6.23. One of the important points made in earlier comments was the need for night closure to ensure this unique garden is given the highest possible level of protection. Pleased the see a comprehensive and authoritative Heritage Crime Risk Assessment (HCRA) report has not been submitted. The HCRA report identified three options, The preferred option (option 2) involves a secure fence and gate perimeter. The revised plans exclude most of the gates which were included in the earlier plans. All the gates should be included in the proposals as originally planned and they should routinely be closed at night. If the application is approved without the gates, the recommendation for night closures included in the HCRA cannot be implemented as part of the project. Worse still, the exclusion of the gates mean night closure can never be implemented, even if the security situation deteriorate further. Nor would the physical layout provide the ability to dynamically escalate or de-escalate boundary security to respond to public events (nearby or within the Estate) or as in response to other threats that may arise from time to time.

Initial Comment: Support - on the basis the garden is secured and closed overnight

- 6.24. Support the design and development of the Gardens and have been consulted during the development process towards the application.
- 6.25. Support security of the site with railings and gates to protect the Heritage assets. Internally support the hard and soft landscaping and revised 'Changing Places' toilet block, learning space, redesigned bin store and gardener's compound and new vehicular entrance off Palace Place.
- 6.26. Surprised and concerned that Brighton and Hove City Council (BHCC) and Brighton and Hove Museums (B&HM) have committed to maintain 24 hours access to the garden, as are not convinced that the garden will be sufficiently protected and secured without overnight closure to prevent vandalism and antis

social behaviour. State the unique garden deserves the highest possible level of protection.

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
CP15	Heritage

Brighton & Hove City Plan Part Two:

DM26	Conservation Areas
DM27	Listed Buildings
DM29	The Setting of Heritage Assets
DM30	Registered Parks and Gardens
DM32	The Royal Pavilion Estate

Supplementary Planning Documents:

SPD09	Architectural Features
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Valley Gardens Conservation Area Study

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, design appearance and heritage impacts.

Statement Of Significance

- 9.2. The Royal Pavilion is a Grade I Listed Building of international significance for its architectural, historic and artistic interest as a Royal Palace in an idiosyncratic largely Indian style (reflecting the Regency period's interest in Orientalism) and designed by the leading Regency architect, John Nash. Due to its location, scale and design it is an extremely prominent building and its roofline of bulbous onion domes, pagoda roofed pavilions and minarets is synonymous with Brighton. Whilst its entrance is on the west elevation facing the popular Pavilion Gardens, it is the more formal east elevation which is most impressive, and which is most photographed. The gardens also affect the setting of important Listed Building around it, including the Grade I Dome Theatre, the Grade II India Gate, the Grade II* King William IV Gate, and the listed lampposts within the gardens and other buildings that are not directly associated with the pavilion but are visible from it.
- 9.3. The gardens of the Royal Pavilion are a registered park and garden of special historic interest, Grade II. The eastern lawns are a much simpler and more formal space than the livelier gardens to the west. They form an integral and highly important part of the setting of the building, inviting views of the building itself and allowing the drama of the building's east elevation and roofline to unfold in views from the east and north-east.
- 9.4. The Pavilion Estate Gardens form a part of the linear ribbon of historic green spaces that form the heart of the Valley Gardens Conservation area. The pattern of development and the prevailing architecture are contemporary with the Royal Pavilion and form part of its wider context. This proposal would have an impact on the setting of all the listed buildings but particularly the Royal Pavilion; the character of the registered park and garden; and the character and appearance of the Valley Gardens conservation area.

Principle of development

- 9.5. The gardens were originally established and laid out between 1816 and 1825 during the construction of the Royal Pavilion, following a design by John Nash, which reworked some of an earlier scheme by Samuel Lapidge. The gardens were renovated in 1981/1982 in conjunction with refurbishment of the Royal Pavilion, and again updated in 1991. These later iterations sought to reinstate and recover the original scheme by John Nash.
- 9.6. The present scheme would again seek to restore and improve the Gardens while maintaining their use for outdoor recreation so in principle is considered acceptable.

Design, Appearance and Heritage impacts:

- 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. As already noted, the Royal Pavilion grounds are Grade II Listed and a designated Registered Park and Garden of Special Historic Interest. The Royal Pavilion is a Grade I Listed Building. The site lies within the Valley Gardens Conservation Area. The setting of the Pavilion is an essential part of its character as the gardens have been laid out to complement its design.
- 9.10. The siting, scale and appearance of the proposal is similar to previous permissions in that it seeks to reconnect and better conserve and better integrate the existing historic buildings and the surrounding landscaped areas. This is to be achieved through the following:
- The restoration and enhancement/replacement of the existing entrances to the garden;
 - The restoration and enhancement/replacement of the existing historic walls, iron railings, gates and perimeter buildings to the garden;
 - Restoration of the 19th century historic lamp posts and installation of matching new lighting;
 - Restoration of the Nash views into the western lawn and east lawn, through enhancement of exiting planting and removal of existing trees and hedged areas that currently impede these views;
 - Amendments to the existing path network which predominantly makes wider and would give improved drainage;
 - A new outdoor learning space with storage and handwashing facilities;
 - Renovation of the existing toilet block with a new changing places facility, storage areas and multi-use kiosk area;
 - A revised gardener's compound and sheds;
 - Enhanced drainage and garden irrigation;
 - Changes to the internal fencing, predominantly around the garden beds; and
 - A new utilities areas (bin store).

Perimeter Works.

New Road (Western Perimeter):

- 9.11. The existing open western vehicular entrance (abutting The Corn Exchange) would be secured with a new metal vehicular sliding gate, comprising natural stone piers to either side and a metal gate of circa 2.1m in height in a design to match the other proposed external railings (black with pointed detailed vertical bars and low and high level horizontal supporting bars). A new pedestrian gate would be created to the side (north) which would have matching material and details. A timber wall/bench on the opposite side (south) would be replaced with a 0.6m high stone wall with black metal railings over to produce a total height of 1.8m - 2.1m to match the proposed pedestrian and vehicular gates. The two existing pedestrian entrances of New Road would also be revised and enlarged with piers to match these and central bollards.

- 9.12. The replacement of the solid timber wall with railings would open up views into the Pavilion Gardens from New Road which is considered to be positive. It is noted that the revised perimeter would bring visual changes to the New Road streetscene with the loss of the existing benches and relatively 'soft' timber fence, but it is not considered to bring any visual harm. The loss of the amenity provided by the existing seating would be offset by the provision of new benching in New Road (which the Council is to provide at a later date) which would be set back from the new boundary to ensure that it does become a climbing aid to the new railings. The new boundary would increase the security of the site and the setting of the heritage assets within.
- 9.13. The design of the new gates and railings to New Road are considered to be appropriate designs and material palette which complements the status of the garden and the heritage assets that surround it, causing no significant harm and bringing benefits in respect of site security, sense of arrival, and views.
- Prince's Place (Southern Perimeter):
- 9.14. Similar to New Road, the existing open entrance on Prince's Place would be partially enclosed with natural stone piers/low wall and railings to 2.1m with a design to match the other proposed external railings (black with pointed detailed vertical bars and a low and high level horizontal supporting bar). Two pedestrian entrances would form part of the enhanced boundary. An existing small wall and areas of low hooped railing would be replaced by the same.
- 9.15. This is considered to bring improvements as the existing arrangement is a poor mixture of designs and street furniture that detracts from the public realm. The new boundary would increase the security of the site and the heritage assets within.
- 9.16. The design of the new gates and railings to Prince's Place are considered to be appropriate designs and material palette which complements the status of the garden and the heritage assets that surround it, causing no significant harm, and bringing benefits in respect of site security, sense of arrival, and appearance.
- South Gate (India Gate) (Southern Perimeter):
- 9.17. Previously the proposal included the addition of gates to the two existing pedestrian entrances, which would have matched the railings and the design of other pedestrian gates, and the main gate within India Gate was proposed to have a matching design. However, due to concerns raised by officers and Historic England the gates have been omitted from the proposal.
- 9.18. The proposed perimeter works would see the existing walls retained, but with the addition of a new pointed railings applied to the western half of the wall, which would create a combined railing and wall with a height ranging between 1.8m and 2.1m. The design of the railings would match the other proposed railings onsite (black with pointed detailed vertical bars and horizontal supporting bars).
- 9.19. Following receipt of amended plans, the main India Gate itself would remain unaltered in design, with the existing walls and gates all retained and

refurbished. The exact details of the form of refurbishment will be secured by condition to ensure the final appearance is acceptable to the Local Planning Authority (LPA).

- 9.20. The principle of alterations to the existing boundary, incorporating refurbishment of the India Gate to increase the security of the site and the setting of the heritage assets within, is acceptable, but the final appearance is to be secured by condition and agreed with the LPA, prior to any works commencing on the India Gate boundary.

Palace Place (Southern Perimeter):

- 9.21. The proposed perimeter works would see the majority of the existing pointed railings (F1) retained but with the addition of a new gates to allow the creation of a new vehicular entrance which would improve access to the Royal Pavilion and gardens for servicing, and when events are in situ (such as the winter ice rink). The design of the gate would match the existing railings and other proposed railings onsite (black with pointed detailed vertical bars and horizontal supporting bar).
- 9.22. The new access would be subject to a S278 agreement and a Delivery and Service Management Plan to be agreed prior to commencement of any works on highways land, to ensure that proposed works can be constructed and utilised in a safe manner.
- 9.23. The design of the new gates and replacement railings to Palace Place are considered to be of an appropriate design and material palette which complement the status of the garden and the heritage assets that surround it, causing no harm. The new boundary and gates would increase the security of the site and the setting of the heritage assets within and allow for another vehicular access point that would help service the existing Royal Pavilion Estate.

Old Steine (Eastern Perimeter):

- 9.24. The proposed perimeter works would see the existing 1.4m high hooped railings removed and replaced with new pointed railings applied to the top of a new natural stone bottom plinth, creating a combined railing with a height of circa 1.8m - 2.1m. The design of the railings would match the other proposed railings onsite (black with pointed detailed vertical bars and horizontal supporting bar).
- 9.25. The existing Maclaren wall, piers and gates, located to the west of the replacement railings, would be refurbished and retained. The exact details of the refurbishment are to be agreed with Heritage Officers and a condition would be attached to ensure this occurs. The gap between the replacement railings and the Maclaren wall would be managed as meadow to help increase biodiversity, in place of the existing short mown grass. No new public access would be provided on this boundary with the Old Steine.
- 9.26. The design of the replacement railings to Old Stiene are considered to be appropriate designs and material palette which complement the status of the garden and the heritage assets that surround it, causing no harm. The new boundary would increase the security of the site and the setting of the heritage

assets within. In particular on this elevation the changes are considered to create a more coherent and higher quality boundary, which reinforces the identity of the Royal Pavilion Estate and sense of arrival. The renovation of the Maclaren wall is welcomed.

North Gate (King William IV Gate) (Northern Perimeter):

- 9.27. The proposed perimeter works would see the existing relatively open area to the east of the North Gate secured with new pointed railings applied to the top of a new natural stone bottom plinth, which would create a combined railing with a height of circa 1.8m to 2.1m, which would extend from the eastern boundary facing the Old Stiene. The existing gates and railings incorporated into the North Gate and to the west would be retained and refurbished. The existing Maclaren wall, piers and gates, which remain located to the south of the proposed new railings, would be refurbished and remain.
- 9.28. The design of the new gates and railings to the North Gate area are considered to be appropriate designs and material palette which complements the North Gate with a railing design that mirrors the current heritage gate installed. The existing status of the garden and the heritage assets that surround it would suffer no harm.
- 9.29. It is noted that the revised perimeter will bring visual changes to the North Gate streetscene with the loss of the existing relatively open aspect to the east of North Gate, but it is not considered to bring any visual harm. The new boundary would increase the security of the site and the heritage assets within. As with the Old Stiene boundary the changes are considered to create a more coherent and higher quality boundary, which reinforces the identity of the Royal Pavilion Estate and sense of arrival at the William IV Gate. The renovation of the Maclaren wall is welcomed.

Landscaping and widening of existing paths:

- 9.30. Careful consideration has been given to the proposed removal of trees assessed as being of moderate quality and value (grade B). This is proposed to allow for the revised footpath (T27 & T17) and boundary treatments (T27) which on balance is considered to be justified, taking into account the wider benefits provided as part of the overall development and the security/accessibility improvements. Replacement/mitigation planting is required and would be secured by condition.
- 9.31. The removal of a grade B mature tree in the west lawn (T42) was initially proposed but was not considered by the LPA to be justified purely on the basis of reinstating or enhancing the 'Nash Views' of the Royal Pavilion. The possibility of relocating the tree within the garden was discussed but the likelihood of success considered low. The plans have been amended to show T42 as being retained and a condition would be attached to this effect.
- 9.32. The removal of existing planting and trees as part of this plan to enable the improvements to the layout and existing paths is therefore supported, subject to a condition for replacement and mitigation planting, with suitable specimens to

be agreed. The majority of trees removed being have been assessed as being of relatively low quality and value so their loss is not opposed.

- 9.33. A majority of the enlarged/revised pathways follow the existing, but with the significant change occurring to the area to the north of India (South) Gate, which would enlarge the existing grassed oval and extend the surrounding pathway. To the west, opposite the existing Café, the grassed area would also increase, and the pathway would decrease in width. The degree of change is not considered to bring any harm and partially mitigates the loss of grassed areas generally to allow the increased path widths elsewhere. It is noted that objection has been raised in reduction to the amount of hard stand area that tables and chairs associated with the Café would be able to utilise, but the wider benefits are considered to outweigh the loss, with an increased grassed area opposite the Café for customers and visitors to utilise.
- 9.34. The proposed improvement to the existing landscaping and widening of the existing pathways are considered acceptable in principle but will be subject to a condition requiring a full hard and soft landscaping plan to be submitted the LPA for assessment and approval.
- 9.35. The new internal railings to the lawned areas proposed (Design F7 and F8) are considered acceptable in general design, but the supplied details are not considered sufficient, and a condition would be attached to ensure the final detailed design is acceptable to the LPA prior to installation.

Works to toilet blocks

- 9.36. The proposed works to refurbish the existing (currently closed) toilet block would retain the existing footprint but revise the internal floorspace and elevations. These works will introduce a new 'changing places' facility which would increase the accessibility and use of the gardens for those with mobility and other challenges, with a space which allows full access to toilets for mobility scooters, motorised wheelchairs and carers, and onsite changing and shower facilities. New unisex WCs and a baby change suitable stall would be accessed from the front of the refurbished toilet block. To the western side of the block a new multifunctional kiosk/information centre is proposed which would have storage to the rear with an incorporated plant room. Further new storage would be created to the rear of the unisex toilets.
- 9.37. The design and elevations of the refurbished block are considered acceptable with a majority of the existing structure retained, but with new bronzed metal canopies to the front, steel doors for the WCs and new timber door and bifold timber windows to the proposed kiosk. Some elements are considered utilitarian, but this is the case with the existing structure and overall, the elevational changes would bring improvement to its appearance. Changes would also occur to the rooflights, which would be removed and replaced with a new timber and ply structure, finished with new thermal insulation that would carry across the rest of the roof, and increase the thermal capacity and sustainability of the refurbished building.

- 9.38. The design and use of the toilet block building is considered appropriate and would provide an updated public amenity that increases the quality of WCs for all and in particular those who may have difficulties using traditional WCs. The new kiosk would provide a flexible space that would contribute to the public and private uses proposed within the garden. The existing status of the garden and the heritage assets that surround it would suffer no harm.

Outdoor Learning Space

- 9.39. A new outdoor learning space would be located to the east of the Brighton Museum, adjacent to the existing learning building and formed of stone seating walls surrounding a new permeable membrane positioned around an existing tree. To the north would be located new storage facilities in front of an existing elevational wall, with new handwashing area to the side. The design is considered acceptable and would enhance the existing public offering from the garden in relation to education. No harm would be caused to the existing listed structures.

Gardeners Compound

- 9.40. The proposed changes to the gardener's compound are considered acceptable with a design for the new fencing and gates (set behind new hedge planting) with new low public seating walls which cascade onto the revised pathways within the gardens. The design would be in keeping with other proposed works to the garden. Revised plans showing timber sheds have been submitted which are considered acceptable.

New Bin Store:

- 9.41. The existing structure and size is identified as bringing harm to the garden currently. The proposed scheme would see a reduction in size of the bin store and reorientation to be mainly serviced from the existing vehicular access on New Road, adjacent to the Brighton Dome. This would reduce the existing negative impact and allow for greater soft landscaping to replace the footprint removed, both of which would have positive effects on the gardens and surrounding heritage assets. The final details of the revised bin store in relation to finish and materials are to be agreed and a condition would be attached to ensure suitability by the LPA.

Security of site and impact on heritage assets:

- 9.42. The proposed railings, walls and gates would enhance the security of the existing perimeter of the garden, which currently has a relatively permeable boundary with multiple points of access and egress to many parts of the Gardens.
- 9.43. Significant work has been carried out by Historic England and external consultants, in conjunction with the local and national police, to produce a security report in relation to the gardens. The executive summary of that report forms part of the supporting documentation for the application and informs Historic England's (HE) support for securing of the site with new boundary railings and gates, due to the wider public benefits that would accrue in relation to general crime reduction in the area and potential damage to the heritage assets from vandalism. They identify that although relatively low-level harm

would be caused by the railings and gates to the heritage assets, and that concerns exist in relation to public access, any harm is identified as less than significant and outweighed by the wider public benefits, with the preservation and enhancement of significance for existing heritage assets.

- 9.44. This view is shared by the LPA, and with the benefits identified, it is considered that any harm to the setting of the Listed Buildings, to the character of the registered park and garden itself and to the appearance of the conservation area, has been mitigated as far as possible (subject to conditions). The harm is 'less than substantial' under the terms of the NPPF and there is significant heritage, cultural, security and preservation benefits that may be weighed against that harm under paragraph 208 of the National Planning Policy Framework (NPPF) and in line with paragraph 212.
- 9.45. *NPPF Paragraph 208 states: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*
- 9.46. *NPPF Paragraph 212 states: Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.*

Arboriculture

- 9.47. Because it is important that vegetation and trees within the Pavilion Gardens, which form a key part of the setting of the Royal Pavilion and its Listing, is protected during development, details of tree protection measures have been provided with the application and would be secured by condition. As previously noted, the loss of some existing trees is considered to be justified by the wider benefits of the scheme, but Arboricultural Officers are opposed to the removal of any mature trees to allow the reinstatement/enhancement of views, so this element has been removed from the proposal.
- 9.48. Full details of the landscaping and mitigation planting would be secured by condition to offset harm caused through the loss of existing trees.

Conclusion and Planning Balance:

- 9.49. The harm from the proposed boundary railings and gates, and loss of mature trees upon the Conservation Area, the Historic Park and Garden, and the setting of the Grade I Listed Royal Pavilion is acknowledged. The harm is 'less than substantial' under the terms of the NPPF and there are heritage and other significant public benefits that may be weighed against that harm as per the NPPF.
- 9.50. The development would generate increased accessibility and use of the gardens, particularly for those with protected characteristics such as reduced mobility. The works would increase the significance of the heritage assets (the

setting and views of the Royal Pavilion) while helping to preserve and enhance for future generations the existing heritage assets. The development increases the public amenity benefits and education that the site currently provides through provision of more flexible buildings and an outdoor education space. Enhanced servicing access to the Royal Pavilion is provided with new access from Palace Place, increasing opportunities for the use of the gardens for special events to raise additional income in the support of the upkeep of the Royal Pavilion Estate.

- 9.51. Overall, it is considered that any harm to the setting of the Listed Buildings, to the historic character of the registered park and garden itself and to the appearance of the conservation area, has been mitigated as far as possible and the positive impacts are numerous. Given the above and that the development will enhance the cultural and tourism offering of the City, it is considered that the positive effects of the development outweigh the harm that the loss of some mature trees and proposed railings and gates would cause, and the development is in accordance with policies, DM26, DM27, DM29, DM30 and DM32 of City Plan Part Two and CP15 of City Plan Part One
- 9.52. The application is therefore recommended for approval.

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.
- 10.3. The proposed development would enhance the existing pathways increasing access for those with visual or mobility impairments. A changing rooms facility and baby change facilities are also being provided to the refurbished toilet block building, all of which would enhance accessibility and use of the gardens, increasing equality of use.

ITEM C

**Windlesham House, 123 Windlesham Close
BH2023/02790
Full Planning**

DATE OF COMMITTEE: 7th August 2024

[illegible]

Scale: 1:1,250

<u>No:</u>	BH2023/02790	<u>Ward:</u>	South Portslade Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Windlesham House 123 Windlesham Close Portslade BN41 2AB		
<u>Proposal:</u>	Demolition of existing Community Centre (F2) and erection of a three-storey residential block comprising 15no. flats (C3). Associated amenity, soft landscaping, car and cycle parking. (amended plans received 1st March 2024)		
<u>Officer:</u>	Michael Tucker, tel: 292359	<u>Valid Date:</u>	31.10.2023
<u>Con Area:</u>		<u>Expiry Date:</u>	30.01.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	12.04.2024
<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 7th November 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 Terms:

- A minimum of 40% Affordable Housing
- A financial contribution of £11,000 towards the review of long-term monitoring of Biodiversity Net Gain
- An Employment & Training Strategy and a financial contribution of £4,500 towards the Council's Local Employment Scheme.
- A s278 legal agreement to secure the addition of tactile paving at the junction of Locks Crescent and Windlesham Close, and additional yellow lines on Locks Crescent.

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	D48967/JB/A		17 October 2023
Proposed Drawing	NN025-HTC-XXXX-XXXX-DR-O-000001		17 October 2023

Proposed Drawing	NN025-MBA-ZZZZ-ZZZZ-SK-A-000016	P03	29 May 2024
Proposed Drawing	NN025-MBA-ZZZZ-ZZZZ-SK-A-000017	P03	29 May 2024
Proposed Drawing	NN025-MBA-ZZZZ-ZZZZ-SK-A-000018	P01	17 October 2023
Proposed Drawing	NN025-MBA-ZZZZ-ZZZZ-SK-A-000023	P03	29 May 2024
Proposed Drawing	NN025-MBA-ZZZZ-ZZZZ-SK-A-000046	P02	1 March 2024
Proposed Drawing	NN025-RCO-XXXX-0000-PL-L-000001	P04	29 May 2024
Proposed Drawing	RCO433/01	02	29 May 2024
Block Plan	NN025-MBA-ZZZZ-0000-DR-A-001001		31 October 2023
Location Plan	NN025-MBA-ZZZZ-0000-DR-A-001002		31 October 2023
Report/Statement	Archaeological Desk Based Assessment		17 October 2023
Report/Statement	Biodiversity Net Gain Assessment		14 June 2024
Report/Statement	Daylight and Sunlight Assessment		17 October 2023
Report/Statement	Ecological Walkover Survey		17 October 2023
Report/Statement	Energy Statement		17 October 2023
Report/Statement	Flood Risk and Drainage Assessment		17 October 2023
Report/Statement	Land Contamination Assessment		17 October 2023
Report/Statement	Landscape Strategy		17 October 2023
Report/Statement	Landscaping Details		17 October 2023
Report/Statement	Overheating Assessment		17 October 2023
Report/Statement	Phase 1 Contaminated Land Assessment		17 October 2023
Report/Statement	Sustainability Statement		17 October 2023
Report/Statement	Transport Assessment		17 October 2023
Report/Statement	Tree Survey		17 October 2023
Report/Statement	Whole Life Carbon Statement		17 October 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. 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) Details of the types of brick to be used
 - b) Details of the proposed window, door and balcony treatments
 - c) 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 and DM21 of Brighton & Hove City Plan Part 2 and CP12 of Brighton & Hove City Plan Part 1.
4. The west-facing windows serving the bedrooms in units E.02, E.05 and E.08 hereby permitted shall be obscure glazed and non-opening, unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.
- Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with Policies DM20 and DM21 of Brighton & Hove City Plan Part 2.
5. 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.
6. No tree shown as retained on the approved drawings shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the local planning authority. 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, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development in compliance 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.
7. The landscaping detailed on drawing no. NN025-RCO-XXXX-0000-PL-L-000001 P04 received on 29th May 2024, and detailed in supporting documents

“Landscape Strategy” and “Landscape Details” both received 17th October 2023, shall be carried out in the first planting and seeding season following the first occupation of the building hereby permitted or the completion of the development, whichever is the sooner. 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.

8. 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 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.

9. The accessible vehicle parking space shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles belonging to the occupants of and visitors to the wheelchair accessible M4(3) dwelling hereby approved. This vehicle parking space shall be made available for use prior to first occupation of this unit and shall be maintained so as to ensure its availability for such use at all times.

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

10. The development hereby permitted shall not be occupied until the new crossover and access has been constructed, and until the redundant vehicle crossovers to the northern and western frontages have been converted back to a footway by raising the existing kerb and footway.

Reason: In the interests of highway safety and to comply with policies DM33 of Brighton & Hove City Plan Part 2, and CP9 of the Brighton & Hove City Plan Part One.

11. The wheelchair accessible / adaptable dwelling hereby permitted as detailed on drawing no. NN025-MBA-ZZZZ-ZZZZ-SK-A-000016 received on 29th May 2024 shall be completed in accordance with Building Regulations Optional Requirement M4(3)(2a) (wheelchair user dwellings – ‘adaptable’) prior to first occupation and shall be retained as such thereafter.

All other dwellings hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter,

unless otherwise agreed in advance and in writing by the Local Planning Authority. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to provide an overall mix of units, to comply with policy DM1 of Brighton & Hove City Plan Part 2 and CP19 of the Brighton and Hove City Plan Part 1.

12. No development, including 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) Timescales for the Proposed Development including the forecasted completion date;
 - (ii) Details 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) Measures to minimise disturbance to neighbours regarding issues such as noise and dust management, vibration, site traffic, and deliveries to and from the site;
 - (iv) Measures to prevent mud/dust from tracking onto the highway;
 - (v) Details of hours of construction including all associated vehicular movements
 - (vi) Details of the construction compound including plant and material storage and manoeuvring areas;
 - (vii) A plan showing construction traffic routes

The construction of the development shall be carried out in full compliance with the approved CEMP.

Reason: In the interests of amenity and road safety and to comply with policies CP9 of the City Plan Part One and DM33 of the City Plan Part Two.

13. 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 and enhance sustainability, to comply with policies DM44 of the Brighton & Hove City Plan Part Two and CP8 of the Brighton & Hove City Plan Part One.

14. 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.

15. Prior to first occupation of the development hereby approved, details of the proposed 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 the Brighton & Hove City Plan Part Two.

16. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:
- (1) 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 (Phase 1 Land Contamination Assessment, HOP, received 17th October 2023) 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,
 - (2) 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. The works shall thereafter be undertaken in accordance with the approved details.

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policies DM20 and DM41 of City Plan Part 2.

17. The development hereby permitted shall not be first occupied until details of the hours of operation and maintenance of the external lighting indicated on drawing D48967/JB/A received 17th October 2023 have been submitted to and approved in writing by the Local Planning Authority.
The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.

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.

18. All ecological measures and/or works shall be carried out in accordance with the details contained in the Ecological Walkover Survey Technical Note (Urban Edge Environmental Consulting, September 2023, Ref: UE0557), Biodiversity Net Gain Assessment (Urban Edge Environmental Consulting, June 2024, Ref: UE0557_WindleshamHouse_BNG_1_240611) and Biodiversity Metric V4.0 (Urban Edge Environmental Consulting, 10 June 2024 V1), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, and to provide a net gain for biodiversity as required by paragraphs 180 and 186 of the National Planning Policy Framework, Section 40 of the Natural Environment and Rural Communities Act 2006, Policy CP10 of the Brighton & Hove City Plan Part One and Policy DM37 of City Plan Part Two.

19. No development shall take place (including any demolition, ground works, site clearance) until a method statement for the protection of reptiles (which by default will also cover hedgehogs and foxes) 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); and
- 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.

20. No development shall take place until an ecological design strategy (EDS) addressing compensation for the loss of habitat, provision of a minimum 10% biodiversity net gain and species enhancements, to include hedgehog holes, chalk grassland along Windlesham Close, log piles, artificial nesting provision for birds (min. 11 swift bricks/boxes or multiple cavities that would support at least 11 pairs), bats (min. 3No.) and invertebrates (min. 11 bee bricks) has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

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

21. A landscape and ecological management plan (LEMP) shall be submitted to, and approved in writing by, the local planning authority prior to the occupation of the development [or specified phase of development]. This should cover at minimum all onsite and offsite habitats of medium distinctiveness i.e. eight offsite trees, retained and newly planted onsite trees, four chalk grassland parcels along Windlesham Close, onsite native species rich hedgerows and onsite mixed scrub. 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; and
 - 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.
22. No development 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 policies DM31 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.
23. No part 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 written details submitted to 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 approved written scheme of investigation.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policies DM31 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

24. No development above ground floor slab level of any part of the development hereby permitted shall take place until a drainage strategy detailing the proposed means of foul water disposal and an implementation timetable, has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.

Reason: To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy DM42 of Brighton & Hove City Plan Part 2.

25. No development above ground floor slab level of any part of the development hereby permitted shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved details.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies DM42 and DM43 of the Brighton & Hove City Plan Part Two and CP11 of the Brighton & Hove City Plan Part One and SPD16: Sustainable Drainage.

26. The development hereby permitted shall not be occupied until details of the following have been submitted to and approved in writing by the Local Planning Authority:

- the existing foul sewer connection proposed to be used;
- confirmation of the final sizing and locations of all drainage components;
- a maintenance and management plan for each drainage element, identifying tasks, responsible parties and also suggested frequencies.

Reason: To mitigate for the risk of flooding and to comply with policies DM42 and DM43 of the Brighton & Hove City Plan Part Two and CP11 of the Brighton & Hove City Plan Part One and SPD16: Sustainable Drainage.

27. Within 3 months of first occupation of the dwellings hereby permitted, a scheme of Travel Plan Measures to promote sustainable transport to and from the site shall be submitted to and approved in writing by the Local Planning Authority. The Scheme should include, but not be limited to, the following measures:

- Promotion of sustainable travel for residents including a range of bicycle workshops and training options
- The residents' choice of
 - Free membership of a car club scheme
 - Free membership of the Brighton bike share scheme
 - Free public transport season tickets
 - Cycle maintenance stand(s) and equipment within the cycle store
- Production of a residents Travel Pack outlining the offers available to residents

The above measures shall be implemented prior to each first residents' occupation of the building and thereafter be maintained as such.

Reason: To encourage sustainable travel to and from the site and to comply with policies CP9 of the City Plan Part One and DM33 of the 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 under Part S of the Building Regulations that new dwellings providing a parking space now require an EV charging point.
3. 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.
4. The water efficiency standard required 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. 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: HSE: Asbestos - health and safety in the workplace
6. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act.
7. The planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Head of Asset and Network Management. The applicant is advised to contact

the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.

8. The applicant is advised to contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.
9. The applicant is advised that Section 153 of the 1980's Highways Act states, "(1) A door, gate or bar which is put up on any premises and opens on a street shall be so put up as not to open outwards unless, in the case of a door, gate or bar put up on a public building, the local authority for the area in which the building is situated and also, if the street is a highway, the highway authority consent to its being otherwise put up."

2. SITE LOCATION

- 2.1. The application relates to a single-storey detached building set in a corner plot at the junction of Windlesham Close and Locks Crescent in Portslade. The site is landscaped with car parking to the eastern and western sides. Land levels fall to the west. The building is a community centre (Use Class F2), however has been vacant for some years.
- 2.2. The surrounding area is residential in character, with a two-storey block of flats (Evelyn Court) to the north on the opposite side of Locks Crescent, a three-storey residential block (Portslade Court) to the east and two-storey terraced and semi-detached dwellings to the south on Old Shoreham Road (accessible via a pedestrian pathway) separated from the site by rear gardens and vehicle parking areas. To the west lies a large allotment area.
- 2.3. A small area at the extreme western edge of the site, and a larger part at the eastern edge, is designated Open Space. The site is also located within the Nature Improvement Area.

3. RELEVANT HISTORY

- 3.1. **PRE2023/00017** - Demolition of existing premises on the site and construction of 13 affordable flats.
- 3.2. **PRE2021/00129** - Demolition of existing premises on site and the creation of 17 affordable flats.
- 3.3. **PRE2019/00183** - Demolition of existing building and creation of 17 affordable flats.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the demolition of the existing community centre building and the erection of a three-storey split-height building providing fifteen residential flats (Use Class C3). The proposals also include revised landscaping across the site.
- 4.2. The proposals have been amended during the course of the application, to include revisions to the proposed elevational detailing and landscaping.

5. REPRESENTATIONS

- 5.1. The application was first advertised in November 2023. Following the receipt of amended plans the application was then re-advertised in March 2024.
- 5.2. A total of **twelve (12)** letters of objection have been received, raising the following issues:
- Impact of additional traffic on local roads and parking stress
 - Harm to amenity of surrounding residents due to additional noise disturbance, overshadowing and loss of privacy
 - Overdevelopment and poor design, the building is too large and has an unpleasant appearance
 - Overpopulation and stress on local services
 - Nuisance during construction works
 - Too much rubbish/waste in the area, not collected frequently enough
 - A smaller building should be proposed
 - There are errors in the applicant's parking survey
 - There has already been a lot of development in Portslade
 - Concerns regarding capacity of sewers
- 5.3. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

Internal:

- 6.1. **Arboriculture** No objection
There is no objection to the proposed removals for Windlesham House subject to mitigation landscaping on a 2:1 ratio.
- 6.2. **Brighton and Hove Local Employment Scheme** No objection
An Employment & Training Strategy will be required to cover all relevant phases of the project, as well as a developer contribution of £4500 to be paid prior to site commencement.
- 6.3. **Environmental Health** No objection
There is no objection to the proposed external lighting scheme.

- 6.4. The submitted land contamination survey has been reviewed and its conclusions are agreed with. An intrusive land survey and an asbestos survey should be secured.
- 6.5. **Heritage** No objection
This site is outside the Portslade Conservation Area boundary. It is sufficiently distant from the Grade II listed 8 Locks Hill (from which the 3 storey Portslade Court prevents inter-visibility) that the development of this site with a 3-storey block as proposed would not be considered to impact the significance of these heritage assets.
- 6.6. **Housing Strategy** No objection
This is a council development through the New Homes For Neighbourhoods programme. All of the homes will be provided at social rent levels and will be owned and managed by the council. The development is required to provide 40% of the housing as affordable to comply with policy CP20 Affordable Housing. This would be 6 homes but as a council development it will exceed this requirement by providing 100% affordable housing - 15 homes.
- 6.7. **Lead Local Flood Authority** No objection
The applicant has provided further information to address the issues raised in our original response. On this basis there is no objection subject to conditions securing:
 - The condition of the existing foul sewer connection proposed to be used, as confirmed using a CCTV survey or similar.
 - Confirmation of the final sizing and locations of all drainage components.
 - A maintenance and management plan for each drainage element, identifying tasks, responsible parties and also suggested frequencies.
- 6.8. **Percentage for Art** No comment received
- 6.9. **Planning Policy** No objection
The loss of the community facility is considered acceptable in this instance as criteria (b) and (c) of CPP2 Policy DM9 are both partially satisfied.
- 6.10. There is no policy constraint on the reuse of a redundant community facility for housing. The principle of the development is therefore acceptable and the proposed 100% affordable development is welcomed.
- 6.11. **Private Sector Housing** No comment
- 6.12. **Sustainability** No objection
This development has excellent sustainability ambitions, demonstrated with a well designed strategy to minimise carbon emissions and water usage. This will benefit residents through lower fuel bills and comfortable living spaces, and future-proof the dwellings against the impacts of climate change.
- 6.13. The following conditions are recommended:
 - Carbon reduction of minimum 19% below building regulations

- Dwellings to have a minimum EPC of 'B'
- Water usage to be calculated as maximum of 110 litres / person / day
- Evidence of the final layout of the solar panel installation should be provided.

6.14. **Sustainable Transport** Comment

The amendments that have been made are welcomed and address some of the concerns originally raised:

- Height and scale of canopies above the entrance
- Removal of grassed areas in front of the building line on Locks Crescent expanding the effective footway width
- Redesign of cycle parking on Locks Crescent to avoid bicycles overhanging on the footway, new location for 2 no. visitor cycle stands proposed.
- Reversal of door openings on the western building entrance and the bicycle store

6.15. Conditions are nevertheless still sought to secure revised door and cycle parking arrangements, as well as to address the issues of car parking overspill and traffic management during and after construction works as set out in the first response.

6.16. **Urban Design** Seek amendments

The applicant's scheme site layout, building line and scale of development, are broadly supported but concern raised over monolithic and boxy form and roofline. Recommended that the applicant reviews the elevation and parapet design, including materiality. There is also an opportunity to add functionality to the communal garden such as accessible seating integrated into the Corten steel planter systems

External:

6.17. **County Archaeology** No objection

The submitted Archaeological Desk-Based Assessment (TVAS report dated November 2019) includes Historic Environment data that is in excess of four years out of date and only covering an area within 500m of the site, whereas we would have advised a 1km radius as being appropriate. However, it presents a broadly acceptable assessment of the site's archaeological potential, subject to conditions securing a Written Scheme of Investigation and appropriate post-works dissemination of findings.

6.18. **East Sussex Fire and Rescue** No comment received

6.19. **Ecology** No objection

Updated documents and clarifications have been provided following initial comments. Some issues remain however on this basis there is no objection, subject to conditions securing a Biodiversity Method Statement, an Ecological Design Strategy and a Landscape and Ecological Management Plan.

6.20. **Scotland Gas Networks** Comment

There should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate

pressure system. Safe digging practices in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of the mains, pipes, services and other apparatus on site before any mechanical plant is used.

6.21. **Southern Water** No objection

Standing advice provided regarding potential infrastructure on site and the need to apply separately for a foul connection. Condition sought requiring details of the proposed means of foul sewerage and surface water disposal should be submitted to and approved in writing by the Local Planning Authority.

6.22. **Sussex Police Community Safety** No objection

The inclusion of Secured By Design security measures is welcomed.

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
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP16	Open space
CP19	Housing mix
CP20	Affordable housing

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
DM33	Safe, Sustainable and Active Travel
DM37	Green Infrastructure and Nature Conservation
DM43	Sustainable Drainage
DM44	Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

9.1. The main considerations in the determination of this application relate to:

- The principle of the loss of the existing community facility
- The design and appearance of the proposed building
- The impact upon neighbouring amenity
- The standard of accommodation to be provided
- Ecology
- Transport
- Sustainability

Principle of Development:

9.2. The proposed loss of the existing (albeit currently vacant) community centre would engage the requirement of Policy DM9 of the City Plan Part Two. This policy states that development leading to the loss of community facilities will only be permitted where at least one of the following applies:

- “a) replacement facilities of an appropriate quality and size will be provided as part of new development proposals or in an alternative suitable location that meets the criteria in part 1 of this policy; 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.”*

- 9.3. The Planning Statement submitted with the application states that use by the Royal Voluntary Service (RVS) commenced in September 2009 as a day centre for the elderly including a meals-on-wheels facility. The RVS vacated the building in 2018 and terminated their lease in September 2023 due to the lack of demand to maintain this use.
- 9.4. The building has remained vacant since 2018 and the Planning Statement states that unsuccessful efforts have been made to bring it back into use. It is noted that the facility is small, being only 38m², and the larger, operational Portslade Village Centre is located approximately 500m away and offers similar facilities. Officers note that planning permission has recently been granted for the redevelopment of this nearby site with some community use floorspace retained. Criterion (a) is therefore considered to have been partially satisfied.
- 9.5. With regard to criterion (b) it has not been fully demonstrated that the building is not needed, but there is alternative capacity in an easily accessible location. The criterion is therefore partially satisfied.
- 9.6. The building is stated to be in poor condition with damp and water ingress, with photographic evidence provided as evidence of this. It is acknowledged that the building in its current state is no longer suitable to accommodate the current use and that refurbishment would be necessary. It has not however been demonstrated that these refurbishments would be of an unreasonable scale. Criterion (c) is therefore partially satisfied.
- 9.7. The Planning Policy consultee has reviewed the submission and has raised no objection to the loss of the existing use.
- 9.8. Given the lack of demand for the existing facilities, the partial reprovision of a more useful community space nearby, and that the facility is in poor condition, the scheme is considered to comply with the requirements of Policy DM9, particularly noting, as follows, the proposed use is for much-needed housing.
- 9.9. 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.
- 9.10. 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).
- 9.11. The proposal would result in the creation of fifteen new dwellings, and would make a welcome contribution towards the city's housing target. The applicant has confirmed that the scheme will be for 100% affordable housing, which is in excess of Policy CP20 requirements and is strongly supported.

- 9.12. In terms of housing mix it is regrettable that the proposals are limited to one- and two-bedrooms units, as larger dwellings of three or more bedrooms are identified as forming a significant part of the housing need. However, it is recognised that a good mix of one- and two-bedroom units are proposed (7x one-bedroom and 8x two-bedroom), and as a fully flatted development with limited private outdoor amenity space it is considered that the proposed housing mix can be accepted.
- 9.13. Accordingly, it is considered that the proposal would be acceptable in principle. The requirements of Policy DM9 have been partially met on two counts, and the provision of fifteen new dwellings is given increased weight in accordance with the NPPF and Policy CP1.

Design and Appearance:

- 9.14. The proposed building would be three-storeys in scale, with a flat roof and a split form following the falling topography of the site. The footprint of the scheme would align with the western and northern site boundaries, with an appropriate building line. The facades would be stepped and would be finished in brick, with strong alignment and cohesiveness in terms of the pattern of fenestration.
- 9.15. Following feedback from the Council's Urban Design Officer, the design of the building has been amended since the initial submission, with a darker tone of brickwork added to the uppermost floor and an improved treatment to the prominent northwestern corner.
- 9.16. The proposed design, as amended, is supported. Whilst there would be a substantial increase in scale and massing compared to the existing building, the three-storey scale of the building is considered appropriate, matching the height of Portslade Court to the east and stepping down to the west as land levels fall. Building lines and orientations are appropriate, and the stepped elevations demonstrate a high degree of interest and cohesiveness.
- 9.17. Whilst some elements, such as the roof railings, remain less than ideal from a purely visual standpoint, they are necessary for maintenance of the solar panels which provide sustainability benefits, and a more solid alternative would increase the loss of light to neighbours to the north.
- 9.18. Although the landscaping proposals have been pared back to the north of the site due to concerns raised by the Local Highway Authority, substantial landscaping remains proposed to the west, south and east and this is supported. Five trees would be removed to facilitate the development, identified as falling within categories U (unsuitable for retention) and C (low quality) due to damage and/or poor condition and the Council's Arboriculture Officers have raised no objection to their loss. A landscaping masterplan and supporting detail has been provided and indicates sufficient replacement planting to compensate for the lost trees in native species. The implementation of the proposed landscaping can be secured by condition.
- 9.19. Accordingly, subject to the recommended conditions it is considered that the scheme would be acceptable in terms of design and appearance and would be

in accordance with Policy CP12 of the City Plan Part One and Policy DM18 of the City Plan Part Two.

Impact on Amenity:

- 9.20. 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.
- 9.21. The proposed building would result in a substantial increase in scale and massing compared to the existing arrangement, together with an increase in activity on site and the creation of new vantages towards neighbouring dwellings. New external lighting is also proposed.
- 9.22. In terms of general activity and noise disturbance, it is recognised that there would be an increase compared to the existing use, particularly given that the building has lain vacant in recent years. However, it is considered that the proposed use as residential dwellings would be compatible with the surrounding area, and the number of proposed units (15) is not excessive compared to neighbouring blocks. For example, 121 Windlesham Close to the north has 23 units, and Portslade Court to the east has 17 units. It is therefore considered unlikely that the development would result in a significant increase in harm due to general activity.
- 9.23. In terms of potential loss of light for neighbours, the application includes a Sunlight & Daylight Assessment (SDA). The SDA identifies that there will be some impact on neighbouring properties, including the building directly to the north at 121 Windlesham Close where some of the south-facing ground- and first-floor windows would fall below BRE guidelines as a result of the development, as set out below.
- 9.24. In terms of daylight, 56 out of 63 neighbouring windows would pass the Vertical Sky Component (VSC) test defined within BRE guidance. Of those that would fail, some serve bedrooms or communal areas which are considered to be of lower importance in terms of access to daylight.
- 9.25. Four habitable spaces (serving three separate flats) are identified as being the worst affected:
- Window 71 serves a kitchen/living/dining room and would see a reduction in VSC from 30.1% to 18.4%.
 - Window 74 also serves a kitchen/living/dining room and would see a reduction in VSC from 32.7% to 20.4%.
 - Windows 82 and 83 serve the same living room and would see a reduction in VSC from 30.2% and 28.0% to 20.4% and 18.5%, respectively.
 - Window 86 serves a bedroom/living room and would see a reduction in VSC from 37.1% to 24.6%.
- 9.26. In terms of sunlight, there would be some reduction in the Annual Probable Sunlight Hours (APSH) for neighbouring windows, however the report finds no

cases where this would be a significant enough loss to result in non-compliance with BRE guidelines.

- 9.27. It is therefore noted that there would be a perceptible impact on the amount of daylight received by three of the neighbouring flats within 121 Windlesham Close to the north. This is acknowledged and is regrettable, and would result in some degree of harm to the amenity of these neighbours.
- 9.28. However, it is also recognised that the development is relatively modest in scale and has sought to minimise its impact in this regard, for example through the use of rooftop railings rather a solid parapet wall. Moreover, in considering the impact of the scheme as a whole it is noted that the development achieves an overall high level of compliance with BRE guidance.
- 9.29. The SDA also considers the impact upon the solar panels at nos. 121 and 124 Windlesham Close and identifies no significant impact.
- 9.30. In terms of loss of outlook and increased enclosure, it is recognised that the proposed building would be a more prominent visual feature from all surrounding neighbours due to its increased height and footprint relative to the existing building. However, the most affected neighbours would be 121 Windlesham Close and Portslade Court. There would be a spacing of approximately 15m to both of these neighbours and whilst this is somewhat close it is considered that the proposed building responds appropriately to the site boundaries and that the spacing is sufficient to mitigate the worst of the enclosing effect of the three-storey scale.
- 9.31. In terms of overlooking, it is considered that a sufficient separation distance (approximately 40m) would be retained to the rear elevation of the neighbours to the south on Od Shoreham Road. To the north, the separation would be closer at approximately 15m, however this is not unacceptably close and as a street frontage this neighbouring elevation is considered less sensitive in this respect. Some windows would face east onto Portslade Court with separation again at 15m which is considered close but not unacceptable, given that this is onto what is effectively the front elevation of the neighbouring building.
- 9.32. The proposed external lighting, comprising a series of 12 LED luminaires (lights) mounted at 3.5m height, has been reviewed by the Council's Environmental Health team and no concerns have been raised in terms of potential light spill or nuisance for neighbouring dwellings. Details of the operation and maintenance of the lighting can be secured by condition.
- 9.33. On this basis the scheme is considered acceptable in terms of its impact on neighbouring amenity, and to accord with Policy DM20 of City Plan Part 2.

Standard of Accommodation:

The fifteen proposed flats are all single-storey and comprise:

On the ground floor:

- Flat W01 - one bedroom, two-person, 61.5sqm

- Flat W02 - one bedroom, two-person, 53.1sqm
- Flat E01 - two bedroom, four-person, 74.1sqm
- Flat E02 - one bedroom, two-person, 50.2sqm
- Flat E03 - two bedroom, four-person, 75.2sqm

On the first floor:

- Flat W03 - one bedroom, two-person, 61.5sqm
- Flat W04 - one bedroom, two-person, 53.1sqm
- Flat E04 - two bedroom, four-person, 74.1sqm
- Flat E05 - one bedroom, two-person, 50.2sqm
- Flat E06 - two bedroom, four-person, 75.2sqm

On the second floor:

- Flat W05 - one bedroom, two-person, 61.5sqm
- Flat W06 - one bedroom, two-person, 53.1sqm
- Flat E07 - two bedroom, four-person, 74.1sqm
- Flat E08 - one bedroom, two-person, 50.2sqm
- Flat E09 - two bedroom, four-person, 75.2sqm

- 9.34. The units would be laid out over three storeys, with identical layouts across each floor save for the wheelchair accessible M4(3) flat (W01).
- 9.35. Each flat would comply with the Nationally Described Space Standard (NDSS) in terms of overall area, bedroom sizes and headroom. Habitable rooms would be of suitable sizes and proportions allowing spaces for furniture and circulation and access to natural light and outlook would be acceptable with no single aspect units. The application includes an Internal Daylight Assessment (IDA) which finds that all rooms would meet or exceed BRE illuminance guidance for bedrooms/living rooms.
- 9.36. There is arguably some shortcoming insofar as five of the open-plan kitchen/living/dining rooms do not meet the illuminance requirement for habitable kitchens. However, the BRE guidance allows for flexibility in shared-use rooms as the alternative may be an effective worsening of the accommodation with smaller, separated kitchen areas. It is considered appropriate to assess these shared spaces as living rooms and on this basis each would comply.
- 9.37. All flats would have access to a balcony/terrace at the rear. There are some uncomfortable relationships with the balconies for units E01, E04 and E07 being overlooked from the side-facing bedroom windows in the adjoining units, however it is considered that a condition requiring these windows to be obscure glazed and non-opening would resolve this issue.
- 9.38. On this basis it is considered that the proposed units would provide an acceptable standard of accommodation, in accordance with Policies DM1 and DM20 of the City Plan Part Two.

Ecology:

- 9.39. The site lies within the Brighton and Lewes Downs UNESCO Biosphere Reserve (as with the entire city) and South Downs Way Ahead Nature Improvement Area (NIA) but is otherwise not designated for its nature conservation interest.
- 9.40. The application includes an Ecological Walkover Survey and a Preliminary Ecology Appraisal and has been reviewed by the County Ecology consultee.
- 9.41. No likely impact on protected species such as great crested newts and badgers has been identified. The recommendations of the EWS are supported to minimise impact on reptiles, breeding birds, hedgehogs and foxes is supported, however further information will be necessary in the form of a Biodiversity Method Statement (in relation to the clearing of habitat suitable for reptiles) and an Ecological Design Strategy (in relation to new habitat for hedgehogs).
- 9.42. The likely impact on bats is considered acceptable, with the submitted lighting assessment indicating minimal impacts from the proposed external lighting on the hedgerows to the east and south.
- 9.43. In terms of biodiversity enhancements, the scheme includes new landscaping with native species, as well as biodiversity feature such as deadwood log piles, and bird and bat boxes. These are supported. Bee and swift bricks can also be secured in accordance with Council policy.
- 9.44. A minimum of 10% quantifiable Biodiversity Net Gain (BNG) is required. The metric submitted with the scheme indicates that BNG of 14.77% habitat units can be met with off-site tree planting (proposed to be at East Brighton Park). Some discrepancy is apparent in how the post development grassland has been calculated and the County Ecologist has calculated that 10.99% is a more accurate gain - this remains above the 10% requirement and is considered acceptable. This is on the basis that the four parcels of wildflower grassland along Windlesham Close are chalk grassland on an appropriate substrate, and this will need to be evidenced. A financial contribution of £11,000 towards reviewing the long-term monitoring of the BNG proposals can be secured as part of the legal agreement.

Sustainable Transport:

- 9.45. The application includes a Transport Note which finds that the expected trip generation is unlikely to be a significantly increased.
- 9.46. The site is well located for public transport, with bus stops within walking distance on Old Shoreham Road to the south and Fishersgate railway station 750m away.
- 9.47. The existing footway on the northern boundary of the site on Locks Crescent is relatively narrow (approximately 1m wide). The original proposals sought to utilise the footway 'as existing' but this was raised as a concern by the Local Highway Authority (LHA) as the proposed change of use to residential would increase the likelihood of conflict. The scheme has been amended to remove previously proposed areas of defensible landscaping and as a result the effective footway width has been increased to 2m, with one pinch point of 1.5m.

Other minor amendments made in response to LHA comments include the entrance doors now opening inwards, and increased height of entrance canopies. The LHA have confirmed that their original concerns have been largely addressed, subject to conditions relating to the cycle parking store, refuse and recycling store, and their original requests including a Demolition and Construction Environmental Management Plan, and overspill parking mitigation as set out below.

- 9.48. The proposed wheelchair accessible unit (according with M4(3) of the Building Regulations) is located at the western end of the site where there is flat access and this is supported. The proposed car parking space would be for the wheelchair accessible unit and would include the required additional access space to one side.
- 9.49. No other on-site car parking is proposed. The development will also result in the extinction of nine off-road spaces in the existing car park to the east of the existing building. The LHA have confirmed that a car-free development is acceptable in principle, however consideration will need to be given to the issue of overspill on-street parking demand as the site is not located within a Controlled Parking Zone.
- 9.50. The application includes a Parking Survey which identifies 174 on street spaces within the surveyed area, and a maximum observed occupation of 83 cars. The Parking Survey has been reviewed by the LHA who disagree some points and conclude that the development has the potential to result in a material impact in terms of overspill parking. They therefore consider mitigation is necessary in the interests of highways safety.
- 9.51. In accordance with the LHA comments this mitigation will take the form of a car club bay and a membership package for future residents. However, complicating matters is the concurrent redevelopment of Portslade Village Centre to the northeast for which planning permission has now been granted with a new car club bay secured. On the basis that this car club bay is implemented, the LHA consider that in this instance a second car club bay is not required as there would already be one within a five-minute walk, and that instead a membership package would be sufficient, to be secured by a condition requiring travel plan measures.
- 9.52. As access to the site for larger vehicles is only through narrow residential roads, it is considered appropriate to secure a Management Plan for the demolition and construction phases of the development.
- 9.53. The refuse store enclosure for the western block does include outward opening doors that may obstruct the highway. However, it has been clarified that these are only for occasional use when the bins have to be collected/emptied – the bins would otherwise be filled using top-opening methods. On this basis this can be accepted.
- 9.54. The applicant has confirmed that they are willing to undertake the highway works requested by the LHA such as double yellow lines and tactile paving. This will

be secured through the s106, requiring them to enter into a s278 agreement to undertake/fund the works.

Sustainability:

- 9.55. The application includes an Energy Statement, an Overheating Assessment, a Sustainability Statement and a Whole Life Carbon Statement. These documents have been reviewed by the Council's Sustainability Officer who considers that the development has excellent sustainability ambitions, demonstrated with a well-designed strategy to minimise carbon emissions and water usage.
- 9.56. Sustainability measures such as the use of building materials with good thermal values, communal heat pumps, and solar panels are proposed and welcomed. The proposals would meet or exceed the City Plan sustainability requirements relating to energy and water efficiency.

Other Considerations:

- 9.57. An Employment & Training Strategy and a financial contribution of £4500 towards the Council's Local Employment Scheme can be secured as part of the S106 agreement.
- 9.58. A Phase 1 contaminated land assessment has been provided with the application and reviewed by the Environmental Health team. The assessment finds that the risk of contamination on site is low, however also finds that the presence of several potentially contaminative activities within close proximity of the site gives rise to the possibility that contaminants may have migrated on to the site. The conclusions of the Phase 1 assessment are considered sound, and accordingly a follow-up Phase 2 survey can be secured by condition to establish any necessary remediation measures.
- 9.59. In accordance with the comments of the County Archaeology team, a Written Scheme of Investigation can be secured by condition as there is the potential for unknown archaeological heritage assets to be affected.
- 9.60. Due to the falling land levels, parts of the site are considered to be at medium to high risk of flooding. The application includes a Flood Risk Assessment and this has been reviewed by the Flood Risk Manager. Following the receipt of clarifying information relating to runoff rates and justification for the exclusion of SUDS, has no objection to the scheme on flood risk grounds subject to conditions securing detail of the drainage components and maintenance plans. The scheme includes a 'blue roof' to aid with water attenuation and control of run-off.

10. CONCLUSION

- 10.1. No objection is raised to the loss of the existing community use as the requirements of Policy DM9 have been met. The provision of 15 affordable housing units is welcomed and is given increased weight in accordance with the NPPF.

- 10.2. The amended scheme is considered to be acceptable in terms of design and appearance and standard of accommodation. Matters relating to ecology, arboriculture, transport, archaeology and drainage can be addressed by condition and legal agreement.
- 10.3. Some harm has been identified, including in terms of neighbouring amenity such as loss of light, loss of privacy and loss of outlook. However, on balance it is considered that the provision of 15 affordable housing units provides sufficient benefit to outweigh this harm.
- 10.4. Approval is therefore recommended, subject to the recommended conditions and subject to a legal agreement being signed.

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.

12. EQUALITIES

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.
- 12.1. 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 scheme provides level access to all but four of the fifteen proposed units, and includes a wheelchair accessible M4(3) unit. The absence of a lift for the western block is regrettable however the applicant has stated this is due to affordability and practicality (space) reasons and given the overall high proportion of accessible units this can be accepted.

13. S106 AGREEMENT

- 13.1. In the event that the draft S106 Agreement has not been signed by all parties by the date set out above, the application shall be refused for the following reasons:
- 1. The proposed development fails to provide 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

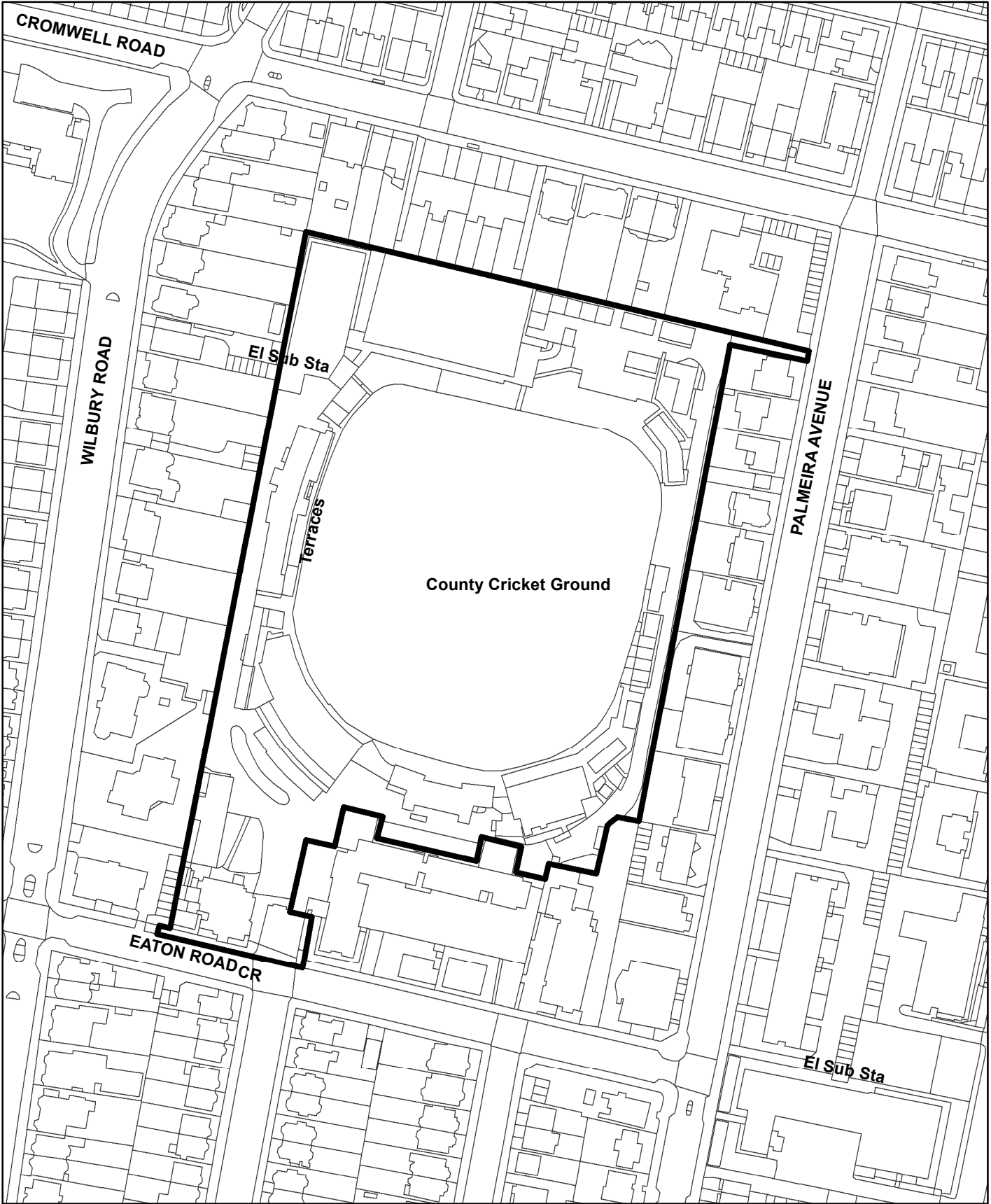
2. The proposed development fails provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry contrary to policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions 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 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 to secure a s278 agreement for the addition of tactile paving and double yellow lines on nearby roads and junctions. 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 D

**Sussex County Cricket Ground
BH2024/00904
Reserved Matters**

DATE OF COMMITTEE: 7th August 2024

BH2024 00904 - Sussex County Cricket Ground



N



Scale: 1:2,000

<u>No:</u>	BH2024/00904	<u>Ward:</u>	Goldsmid Ward
<u>App Type:</u>	Reserved Matters		
<u>Address:</u>	Sussex County Cricket Ground Eaton Road Hove BN3 3AN		
<u>Proposal:</u>	Reserved Matters application pursuant to Phases 3 and 4 of outline approval BH2023/02914 (original permission BH2019/02948) for approval of appearance, landscaping, layout and scale relating to provision of two stands of permanent seating to replace informal seating areas, improvements to spectator hospitality facilities and demolition of existing hospitality area and construction of new stand.		
<u>Officer:</u>	Emily Stanbridge, tel: 293311	<u>Valid Date:</u>	10.04.2024
<u>Con Area:</u>		<u>Expiry Date:</u>	10.07.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	14.08.2024
<u>Agent:</u>	ECE Planning Limited 64-68 Brighton Road Worthing BN11 2EN		
<u>Applicant:</u>	Sussex County Cricket Club C/o ECE Planning 64-68 Brighton Road Worthing BN11 2EN		

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	PL-Z0-01	P3	10 April 2024
Block Plan	PL-Z0-02	P3	10 April 2024
Proposed Drawing	PL-Z3-02	P2	10 April 2024
Proposed Drawing	PL-Z4-02	P1	10 April 2024
Proposed Drawing	PL-Z3-015		10 April 2024
Proposed Drawing	PL-Z3-05		10 April 2024
Proposed Drawing	PL-Z3-06		10 April 2024
Proposed Drawing	PL-Z3-07		10 April 2024
Proposed Drawing	PL-Z3-08		10 April 2024
Proposed Drawing	PL-Z3-10		10 April 2024
Proposed Drawing	PL-Z3-12		10 April 2024
Proposed Drawing	PL-Z3-16		10 April 2024
Proposed Drawing	PL-Z3-18		10 April 2024
Proposed Drawing	PL-Z4-05		10 April 2024
Proposed Drawing	PL-Z4-06		10 April 2024

Proposed Drawing	PL-Z4-07		10 April 2024
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2. No development above ground floor slab level of any part of the development hereby permitted shall take place until a drainage strategy detailing the proposed means of foul water disposal has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.

Reason: To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy DM42 of Brighton & Hove City Plan Part 2.

3. Prior to first use 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 and materials;

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

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to 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. SITE LOCATION

- 2.1. The site is located on the north side of Eaton Road, Hove and comprises the Sussex County Cricket Ground. The main access for pedestrians and vehicles is from Eaton Road whilst a secondary access is located to the northeast of the site, adjacent to the access to Cromwell Court and north of the detached building at No.66 Palmeira Avenue.

- 2.2. There are a number of buildings within the site including spectator stands and facilities that have been constructed at differing times/periods. There are also a number of 'temporary' buildings that are indicated as approaching their end of life. These are predominantly tented' pavilion type structures .
- 2.3. The site is surrounded on all sides by predominantly residential development including detached dwellings, a number of which have been converted to flats and purpose-built flatted blocks ranging in storey heights.
- 2.4. Whilst the site itself is not located within a conservation area it is bound by the Willet Estate Conservation Area to the west. Further properties on the southern side of Eaton Road and the northern side of Cromwell Road fall within this designated heritage area. The nearest heritage assets to the site are a listed building to the west on Wilbury Road (No.44) and a locally listed building to the southeast at the junction of Eaton Road and Palmeira Avenue, comprising Brighton and Hove Reform Synagogue.

3. RELEVANT HISTORY

- 3.1. **BH2023/02914:** Application to remove condition 61 (Travel Plan) of planning permission BH2020/03745. Approved January 2024.
- 3.2. **BH2022/00486:** Erection of 4no. temporary seated spectator stands. Approved April 2022.
- 3.3. **BH2021/04379:** Application to vary condition 43 (details of privacy screens to the balconies serving flats 2, 9, 10, 16, 22 and 27) of planning permission BH2020/03745. Approved February 2022.
- 3.4. **BH2020/03745:** Application for variation of condition 29 of application BH2019/02948 (see original description) to amend the wording of condition 29 to the following 'No customer in the public house shall remain on the premises outside the hours of 09:00 - 00:30 on Mondays to Sundays, including Bank or Public Holidays'. Approved March 2021.
- 3.5. **BH2019/02948:** Hybrid Planning Application comprising: (Phase 1) Full Planning application for the demolition of existing public house, single dwellinghouse & single storey commercial building and the construction of a 9-storey (over basement) mixed use building comprising re-provision of public house/restaurant (A3/A4), 37no. residential apartments (C3) and approximately 1,200sqm flexible commercial space (B1/ D1) together with ground & basement parking; (Phase 2) Full Planning application for demolition of Club offices and partial demolition of southwest stand and the construction of new build extension and adaptation of southwest stand to include club shop, reception area; bar and café, hospitality area together with enhancements to the public realm; (Phase 3) Outline Planning application for provision of two stands of permanent seating to replace informal seating areas, together with improvements to spectator hospitality facilities including works to existing single storey buildings; (Phase 4)

Outline Planning application for demolition of existing hospitality area and construction of new stand to replace displaced seating. Approved February 2020.

4. APPLICATION DESCRIPTION

- 4.1. A hybrid planning application (BH2019/02948) was granted on the site in 2020. This application granted full planning permission for phases 1 and 2 of the redevelopment of this site and outline permission for phases 3 and 4 of the redevelopment of this site.

Phase 1 (Full)

- 4.2. Mixed use new build 8/9 storey block to provide 37no residential units with public house on the ground floor and underground car parking fronting Eaton Road. This included the provision of an enhanced pedestrian area and improved access to the ground from the south-west entrance.

Phase 2 (Full)

- 4.3. Redevelopment of the south-west stand to include hospitality facilities, a new reception area and further corporate facilities.

Phase 3 (Outline)

- 4.4. Redevelopment of the north end stands including upgrades to spectator facilities

Phase 4 (Outline)

- 4.5. New seating upgrades to the southeast corner of the site.
- 4.6. In terms of phases 3 and 4 only access was agreed at the outline stage.
- 4.7. Subsequent applications for amendment/removal of conditions (s73 applications) have been approved, the latest of which was approved to remove the requirement for a travel plan in relation to phase 1 of the development (BH2023/02914).
- 4.8. This current application is for the reserved matters in relation to phases 3 and 4, relating to the most recent outline permission for the site (ref. BH2023/02914).
- 4.9. Phase 3 relates to the northern end of the cricket ground and seeks the retention of the existing buildings, albeit with a change of use from storage to refreshment and toilet facilities. These would however remain associated with the function of the cricket ground. Two new stands of seating are also proposed to replace the existing informal seating areas whilst retaining some areas for informal seating on the grass banks. The proposals also include improved areas of public realm.
- 4.10. Phase 4 will remove existing hospitality facilities within the southeastern corner of the site and replace them with a newly designed stand. This new stand replaces the existing seating lost in the southwest stand due to the hospitality adaptations under approved phase 2 of application BH2019/02948.

- 4.11. This application seeks approval for the following remaining outstanding reserved matters:
- Appearance
 - Landscaping
 - Layout and
 - Scale.

5. REPRESENTATIONS

- 5.1. **Six (6)** letters of representation have been received objecting to the development on the following grounds:
- Noise
 - Overdevelopment
 - Additional traffic
 - Height of the proposed stands
 - The need for the redevelopment
 - Increased stands are unnecessary
 - Health and safety impacts
 - Impact on neighbouring amenity
- 5.2. **One (1)** letter of representation has been received supporting the proposed development on the following grounds:
- Welcome the development of the ground's facilities

6. CONSULTATIONS

Internal:

- 6.1. **Heritage** No objection (verbal comment)
The properties most likely to have views over the proposals are situated outside of the conservation area. Therefore, views of the development from within the conservation area are limited.
- 6.2. **Lead Local Flooding Authority:** Further information required.
A formal flood risk assessment has already been submitted for this development and therefore no further information is required in relation to this. Whilst preliminary drainage plans have been provided, testing to confirm infiltration rates is required. In addition, drainage plans to show the locations and the specification of drainage elements is also required.
- 6.3. Further details on the location and conditions of existing sewer connections should be confirmed via a CCTV survey. Confirmation should be sought from Southern Water that no objection is had to this approach.
- 6.4. **Policy** No comment
- 6.5. **Sustainability** No comment

- 6.6. **Sustainable transport** No objection
The permitted vehicle access was approved with the Hybrid approval (BH2019/02948). The conditions attached to this earlier permission with relevance to highways have already been discharged. Relevant conditions that are current to phases 3 and 4 are already secured under application BH2023/02914,
- 6.7. **Urban Design** No objection subject to conditions
It is anticipated that the applicant will provide full details of materiality when seeking to discharge conditions already secured. Information is requested to minimise embodied carbon. A landscaping condition should be sought to make clear the design principles and make clear how sustainable drainage will be achieved. Accessibility across landscaped areas should also be considered.
- External:
- 6.8. **County Archaeology** No objection
- 6.9. **East Sussex Fire and Safety** No comment
- 6.10. **Health and Safety Executive** No objection
- 6.11. **Southern Water** No objection
- 6.12. **Sport England** No objection The redevelopment of the ground is important for the long-term sustainability of the ground.
- 6.13. **Sussex Police** No objection

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 2

DM18	High quality design and places
DM19	Maximising development potential
DM20	Protection of Amenity
DM21	Extensions and alterations
DM22	Landscape Design and trees
DM26	Conservation areas
DM27	Listed buildings
DM28	Locally listed Heritage Assets
DM31	Archaeological interest
DM33	Safe, Sustainable and Active Travel
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
CP1	Housing delivery
CP2	Sustainable Economic development
CP5	Culture and tourism
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP16	Open Space
CP17	Sports provision
CP18	Healthy City

Supplementary Planning Documents:

SPD03	Construction and demolition waste
SPD06	Trees and development sites
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. Planning permission is sought for reserved matters of the approved outline scheme reference BH2023/02914 (original ref. BH2019/02948). Matters seeking approval are:
- Appearance
 - Landscaping
 - Layout
 - Scale

- 9.2. The access to the development has previously been granted permission under the original outline application BH2019/02948, amended by BH2023/02914. The main considerations in the determination of this application relate to the reserved matters listed above in relation to the proposed development of phases 3 and 4.

Principle of Development

- 9.3. The principle of development has already been established through approval of the Outline application BH2019/02948 and therefore does not form part of the consideration of this current application. The current proposals form part of the wider redevelopment of the cricket ground site.
- 9.4. Under phase 3 the proposals modernise the northern end of the ground with two stands of permanent seating either side of the bowling sight screens with storage beneath. Also proposed within the single storey buildings along the rear boundary are new bar/refreshment facilities and increased W/C provision to serve the new stands.
- 9.5. Under phase 4 the scheme provides a new south-east stand to replace the seating lost in the south-west stand due to the hospitality adaptations approved under phase 2 of application BH2019/02948. Bar/refreshment facilities and w/c's are proposed beneath the stand to serve this new seating area.
- 9.6. The proposal will not significantly increase the capacity of the cricket ground. The total match safety certificate number of patrons will remain at 7,000 people. However, the proposal will include an uplift in match day seating capacity from 6,000 to 6,800.
- 9.7. Temporary stands were granted in April 2022 (BH2022/00486) to the northern end of the site. This temporary seating was approved as an interim measure whilst further design work was progressed in respect of phases 3 and 4 of the current application. This temporary permission expires in April 2025.

Scale

- 9.8. 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.
- 9.9. 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".
- 9.10. Whilst scale was not formally considered as part of the outline application, condition 73 was attached to application BH2019/02948 as amended by BH2023/02914 to secure the overall height of the proposed new seating stands. The wording of this condition states:

“The stands in Phase 3 and 4 of the development shall not exceed the following heights in each of the following positions within the site:

a) The terrace in Phase 3 shall not exceed 5.5 metres in height

b) The terrace in Phase 4 shall not exceed 6 metres in height

Reason: To ensure the development integrates effectively with its surroundings and to comply with policy CP12 of the Brighton and Hove City Plan Part One and DM20 of the Brighton and Hove City Plan Part 2.”

- 9.11. During the consideration of the outline approval, the officer report stated:
'Whilst scale and siting is reserved for later approval, if the reserved matters scheme adhere to this siting and height, it is not considered that phases 3 or 4 of the proposal would have a detrimental impact on amenity subject to conditions securing the heights and positioning of the stands.'
- 9.12. The stands as submitted under the current application comply with the requirements of the above conditions. The two new stands in phase 3 measure 5m in height and the new stand in phase 4 measures 5.5m in height. All stands are therefore in accordance with the above condition and the information considered acceptable in approving the outline application.
- 9.13. The nearest residential unit to the phase 3 development is located to the rear of 89 Cromwell Road. The two new stands would be positioned approximately 35m from the northern boundary of the site and this nearest neighbouring occupier. Beyond that, the stands retain a distance of approximately 62m to the next nearest neighbouring property (89 Cromwell Road). This is considered a sufficient distance for the proposed stands not to have an increased impact on neighbouring amenity over that of the existing cricket ground use, particularly noting the principle of the development has been approved in outline.
- 9.14. The infill extension proposed under phase 3, along the northern boundary between units 6 and 7 would not exceed the height of the existing buildings and as such its scale is appropriate. An additional unit (9) is proposed within the northern end of the grounds. This unit would be set 12m away from the northern boundary and be single storey in height, comparable to the existing neighbouring units. Its footprint, whilst larger than the existing shed it is to replace, is still comparable with neighbouring units and retains appropriate spacing on all sides.
- 9.15. The proposed stand under phase 4 is located approximately 14m away from Ashdown to the south-west of the site. The stand is also situated approximately 20m from the shared boundary with No. 47 Palmeira Avenue. This is considered a sufficient distance for the proposed stand not to have an increased impact on neighbouring amenity.
- 9.16. The scale of development is in accordance with the outline approval and would not cause significant harm to the amenities of neighbouring properties owing to the separation distances between the development and neighbouring properties. The proposals are therefore in accordance with policy DM18 and DM20 of the Brighton and Hove City Plan Part Two and CP12 of the Brighton and Hove City Plan Part One.

Appearance

- 9.17. The stands proposed in both phases 3 and 4 are similar in appearance to existing stands located at the cricket ground. The design of the stands has a functional appearance, utilising materials that are appropriate to the site.
- 9.18. The predominant materials used for the stands in both phases 3 and 4 are facing brickwork, comprising a white brick to the side and rear elevations of the stands to match the approved buildings in phase 1 and 2. The metal doors that feature within the stands on the side and rear elevations will also match those in phases 1 and 2. This ensures a consistent approach across all the recent buildings within the site.
- 9.19. The design of the stands is considered appropriate and would not appear out of context with the wider site.
- 9.20. Phase 3 seeks small scale alterations to the existing single storey buildings to the northern end of the site. The works to the existing single storey buildings are minor in nature and seek to infill the small gap between units 6 and 7. The external finish of this will match the existing buildings.
- 9.21. A new unit (9) is proposed in place of an existing shed which is to be demolished. Its external appearance will match that of the existing units along the northern boundary. This is considered to be suitable in terms of visual impact.
- 9.22. The materials used to the single storey buildings to the north of the site match the existing colour palette, predominantly comprising a yellow/buff brick and dark blue brickwork to provide low level banding at ground level. All pedestrian doors are to be replaced with blue aluminium doors, similar to those existing and the existing metal shutters shall also be replaced. The use of materials results in a coherent appearance across the single storey buildings retained and extended to the northern most part of the site.
- 9.23. Condition 21 of application BH2023/02914 requires the submission of material samples in relation to phases 3 and 4 prior to any development above ground floor slab.
- 9.24. Views of the proposed development would be had from neighbouring properties however, wider views from within the adjacent conservation area would be limited. Those properties to the north and east which have the most prominent views of the development are not within the Willett Estate Conservation Area.
- 9.25. In views from neighbouring properties, including any listed buildings, it is considered that the proposals would be viewed as part of a wider site and appropriate within the context of the broader cricket ground. Due to the low-key nature of the proposals, it is not considered that the proposals would have a harmful heritage impact.

- 9.26. The proposed development is considered to result in an acceptable appearance, appropriate to the cricket ground setting in accordance with DM18, DM21 and DM26 of the Brighton and Hove City Plan Part 2.

Layout

- 9.27. The proposals have been based broadly on the proposed block plan submitted at outline stage. Phase 3 would be situated to the northern end of the site with the conversion of existing storage spaces and minor extension works to provide improved refreshment and toilet facilities following the general footprint of development along the northern boundary. This was considered acceptable at outline stage.
- 9.28. The position of each of the two new stands is within the stand zone identified on the phase 3 parameter plan submitted as part of the outline application. The stands retain sufficient circulation space on match days and are situated at a sufficient distance from neighbouring properties. The two stands retain sufficient spacing between to allow for views from the concourse to the cricket field. The location of the stands also allows for an area of informal seating to be retained to the northwestern corner of the field.
- 9.29. Phase 4 will remove the existing hospitality facilities within the southeastern corner of the site and replace them with a newly designed stand. The new stand sits on a footprint much smaller than the existing hospitality suites providing space for improved matchday circulation. The separation distances retained to neighbours is considered appropriate.
- 9.30. The proposal is therefore considered to be in accordance with policies DM18 and DM20 of the Brighton and Hove City Plan Part One and CP12 of the Brighton and Hove City Plan Part One.

Landscaping

- 9.31. The landscaping proposals build on and enhance the existing landscaping within the cricket ground, taking cues from a 'village green', with visual prompts which reflect cricket themes such as manicured lawns, hanging baskets, moveable raised planters and white picket fences. These areas of softer landscaping soften the perimeters whilst being easy to maintain and offer a degree of flexibility with the number of visitors on match days.
- 9.32. It is appreciated that the concourse to the northern end of the site, under phase 3, and the area to the rear of the proposed stand under phase 4 comprising a new courtyard, have limited options in providing areas of soft landscaping to avoid pinch points on match days and to cater for the number of visitors. These areas of public realm will form a food and refreshment space on match days and the hardstanding under phase 3 will continue to be used for parking on non-match days.
- 9.33. The paving proposed for these areas will be laid in three colours (silver grey, mid grey and graphite) arranged in linear bands graduating in tone as the visitor moves through the site. The block paving throughout will ensure an appropriate surface at an appropriate gradient for all users of the site.

- 9.34. Moveable planters will help to soften edges and define pedestrian routes whilst offering flexibility to add greening to complement the various functions and events. Hanging baskets are also proposed on and around buildings to help integrate the development proposals within the wider grounds.
- 9.35. Areas of low-level planting are proposed within both phases to include a mix of evergreen and deciduous shrubs and seasonal herbaceous perennial plants. A condition is sought to secure full details of the planting.
- 9.36. A condition relating to the protection of any existing trees is already secured under the outline permission.
- 9.37. Terraced lawns will be retained to the west of phase 3, providing space for spectators to enjoy informal seating areas. This area will comprise artificial turf and deck chairs for spectators. This space will be defined by a white low level timber fence.
- 9.38. Some of the existing temporary elements of the public realm looked tired and the revisions allow for a more permanent and vibrant public realm with a sense of place.
- 9.39. The proposed landscaping is therefore considered to be in accordance with policies DM18 and DM22 of the Brighton and Hove City Plan Part Two.

Key planning conditions

- 9.40. The amended outline application (BH2023/02914) has numerous conditions already secured in respect of phases 3 and 4 which will remain subject to approval from the Local Planning Authority. These conditions include addition information on the following:
- Existing and proposed ground levels
 - Details of any external lighting
 - Samples of materials
 - Details of plant and machinery against transmission of sound and vibration
 - Tree protection measures
 - Site Waste management plan
 - Land contamination reports
 - Drainage
 - Noise and site management plan
 - Cycle parking
 - Delivery and service management plan

Conclusion

- 9.41. The principle of development has already been established through approval of the Outline application BH2019/02948. The scale and layout of the development proposed is largely similar to that shown on the drawings under the approved Hybrid application. The overall height of the stands is in compliance with condition 73 of approved application BH2019/02948 as amended by BH2023/02914. The development is not envisaged to have any significant harm

to the amenities of neighbouring occupiers. The proposals would provide enhanced spectator and hospitality facilities which are welcomed. The proposed development is considered to be in compliance with policies DM18 and DM20 of the Brighton and Hove City Plan Part One and CP17 of the Brighton and Hove City Plan Part One.

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.

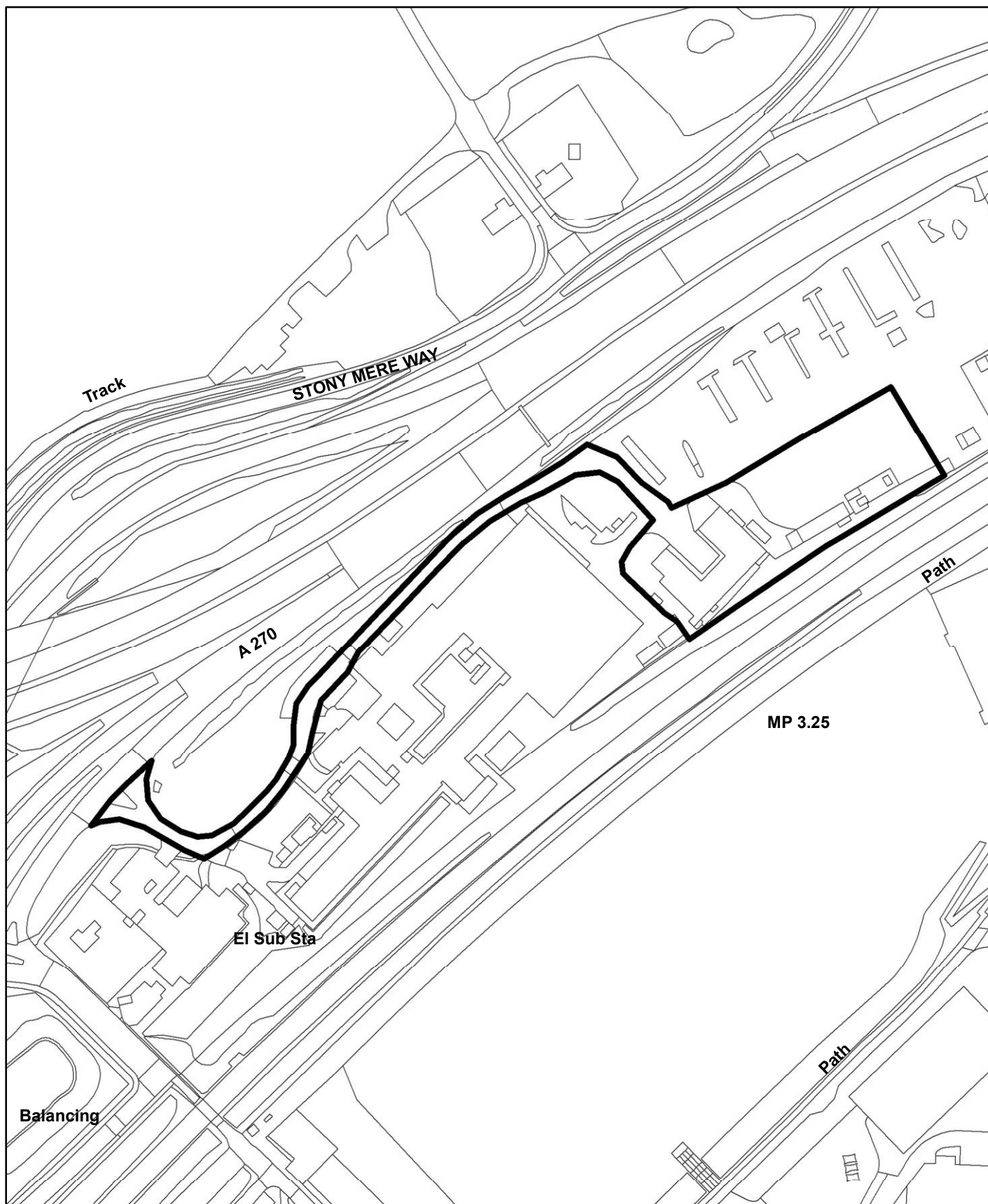
10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

10.3. The development offers improved disability access. The current grass banks to the north will be replaced with two permanent stands with block paving providing access to these stands. This provides disabled spectators with a wider choice of options to view events. The phase 4 stand is located adjacent to an existing ramp that provides step free access from the access road to the proposed stand. The proposals also include new disabled W/C facilities.

ITEM E

**Southern Projects Ltd
Southern House, Lewes Road
BH2023/03361
Full Planning**

DATE OF COMMITTEE: 7th August 2024



Scale: 1:2,000

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<u>No:</u>	BH2023/03361	<u>Ward:</u>	Coldean & Stanmer Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Southern Projects Ltd Southern House Lewes Road Falmer Brighton BN1 9PY		
<u>Proposal:</u>	Construction and operation of nitrate treatment plant building, 3no equipment kiosks, pumping station building and fencing.		
<u>Officer:</u>	Jane Moseley, tel: 292192	<u>Valid Date:</u>	18.12.2023
<u>Con Area:</u>	None	<u>Expiry Date:</u>	18.03.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	12.07.2024
<u>Agent:</u>	Arcadis Arcadis 2nd Floor Tempus Court Onslow Street Guildford GU1 4SS		
<u>Applicant:</u>	Southern Water Southern House Lewes Road Falmer Brighton Sussex BN1 9PY		

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	710004-MW X-ZZ-00-D R -T-00001	P03	18 December 2023
Location and block plan	710004-MW X-ZZ-00-D R -T-00002	P07	18 December 2023
Block Plan	710004-MW X-ZZ-00-D R -T-00003P01	P01	18 December 2023
Proposed Drawing	710004-MWX-ZZ-00-DR-T-01400	P04	18 December 2023
Proposed Drawing	710004-MWX-ZZ-00-DR-T-01401	P02	18 December 2023
Proposed Drawing	710004-MWX-ZZ-00-DR-T-01600	P02	18 December 2023
Proposed Drawing	710004-MW X-ZZ-00-D R -T-06001	P03	18 December 2023
Proposed Drawing	710004-MWX-ZZ-00-DR-T-09000	P03	18 December 2023
Proposed Drawing	710004-MW X-ZZ-00-DR-T-05300	P02	18 December 2023
Proposed Drawing	710004-MW X-ZZ-00-D R -EN-00001	P01	18 December 2023

Proposed Drawing	710004-MW X-ZZ-00-D R -EN-00002	P01	18 December 2023
Block Plan	710004-MW X-ZZ-00-D R -T-00005	P05	18 December 2023
Report/Statement	710004	Response to LLFA - P02	15 February 2024
Report/Statement	710004-QAX-XX-XX-RP-EN-00001	Noise Impact Assessment	18 December 2023
Report/Statement	331101000100.00114	Arboricultural IA Rev.01	18 December 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. Piling, other foundation designs or investigation boreholes using penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details.
Reason: To ensure that the proposed development, does not harm groundwater resources in line with paragraph 180 of the National Planning Policy Framework (NPPF). Piling, other foundation designs or investigation boreholes using penetrative methods can result in risks to potable supplies from, for example, pollution/turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways.
4. Prior to first use of the development hereby approved, details of any facilities for the storage of chemicals associated with this development shall be submitted to and approved by the local planning authority. The details shall include:
 - secondary containment that is impermeable to both the chemical and water, with no opening used to drain the system;
 - a minimum volume of secondary containment at least equivalent to the capacity of the tank plus 10% or, if there is more than one tank in the secondary containment, at least equivalent to the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest;
 - all fill points, vents, gauges and sight gauge located within the secondary containment;
 - associated above ground pipework protected from accidental damage;
 - below ground pipework having no mechanical joints, except at inspection hatches and have either leak detection equipment installed or regular leak checks; and

- all fill points and tank vent pipe outlets designed to discharge downwards into the bund The scheme shall be implemented as approved prior to any storage of chemicals

Reason: To ensure that the proposed development does not harm groundwater resources in line with paragraph 180 of the NPPF and policies DM40 and DM42 of City Plan Part 2.

5. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

- (1) A preliminary risk assessment which has identified:
 - all previous uses o potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
- (2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- (3) The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- (4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 180 of the NPPF and Policies DM40 and DM42 of CPP2.

6. Prior to any part of the permitted development being brought into use, a verification report demonstrating the completion of works set out in the approved Remediation Strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete, in accordance with paragraph 180 of the NPPF and policies DM40 and DM42 of CPP2.

7. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation

strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site, in accordance with paragraph 180 of the NPPF and Policies DM40 and DM42 of CPP2.

8. The landscaping detailed on the approved Landscaping Plans (drawing no.s 71004-MWx-ZZ-00-DR-EN-00001 rev. P01 and P02, received on 19 December 2023) shall be carried out in the first planting and seeding season following the first use of the buildings hereby permitted or the completion of the development, whichever is the sooner. 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, and CP12 of the Brighton & Hove City Plan Part One.

9. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until the protection measures identified in sections 5, 6 and 7 of the submitted Stantec Arboricultural Impact Assessment (ref. Stantec Arboricultural Impact Assessment (ref. 331101000 100.00114 dated 8 August 2023) are in place, which shall be retained throughout the construction process. The fences shall be erected in accordance with British Standard BS5837 (2012) Trees in relation to design, demolition and construction - Recommendations and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

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

10. No construction or demolition or associated movement of vehicles shall be undertaken other than between the hours of 0800 and 1800 Monday to Friday, and 0800 and 1400 on Saturday with no operations taking place on Sundays or Bank/Public Holidays, unless otherwise agreed in advance and in writing by the Local Planning Authority.

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.

11. No development above ground floor slab level of any part of the development hereby permitted shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site has been submitted to and approved in writing by the Local Planning Authority, in accordance with the details set out in the Site Drainage Strategy (ref. 710004-MWX-ZZ-00-DR-T-05300 rev. P02) received on 18 December 2023, and the GTB Report Responding to Comments from Development Control for Planning Application (ref. 710004, rev P02) received on 15 February 2024, and including an assessment of the risks to controlled waters if infiltration is proposed. The approved drainage system shall be implemented in full in accordance with the approved details and maintained as such thereafter.

Reason: To protect controlled waters in accordance with paragraph 180 of the NPPF, and to comply with policies DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.

12. No development 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 policies DM31 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

13. The archaeological work shall be carried out in accordance with the approved written scheme of investigation and a written record of all archaeological works undertaken shall be submitted to the Local Planning Authority for approval in writing within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is agreed in advance and in writing with the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policies DM31 of Brighton & Hove City Plan Part 2, and CP15 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's attention is drawn to the response of the Environment Agency dated 22 January 2024 regarding the use of infiltration SuDS systems, and CL:AIRE protocols for waste.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. This application relates to an area within the Southern Water site in the very northern part of the city adjacent to (south of) the A27 and A270, with the railway corridor running along the southern edge of the site. It is accessed off Lewes

Road (the A270) in the north-western corner of the wider site which contains the Southern Water offices and some operational areas associated with water treatment. The application site is currently in use as a large hard-sealed carparking area.

- 2.2. The site is not within a conservation area or otherwise subject to any designations, but all trees within it are covered by an area Tree Preservation Order, and the site is located over a Principal Aquifer.
- 2.3. Planning permission is sought to install various plant and buildings to allow for nitrate treatment associated with the treatment of potable water for supply to the city. The works comprise the installation of a nitrate treatment plant building, a sodium hypochlorite dosing kiosk, a substation kiosk, pumping station building and associated security fencing/gates.
- 2.4. The proposal comprises the following:
 - Nitrate treatment building: 20.7m X 44.0m with a flat roof to a maximum of 9.5m height, dropping to 7.2m, steel framed, green in colour;
 - Pumping station building: 14.6m X 11.8m to a maximum of 7.7m height (albeit with metal balustrade above to allow access to the roof area), steel framed, green in colour;
 - Chemical dosing kiosks: 3.5m X 8.1m to 3.6m in height;
 - Substation kiosk: 4m X 4m to 3.8m in height;
 - Fencing: green mesh fencing and gate to 3m in height.

3. RELEVANT HISTORY

- 3.1. BH2024/00618: Installation of entrance doors and weathering canopy to entrance. Approved 10 May 2024.
- 3.2. BH2023/01838: Prior notification of demolition of a conventional single storey brick/block building previously used for offices/laboratories, a double stack portable office building and pre-cast concrete panelled garage units. Approved 24 August 2023.

4. REPRESENTATIONS

None received.

5. CONSULTATIONS

Internal:

- 5.1. **Lead Local Flooding Authority :** No objection subject to conditions. Drainage scheme submitted along with maintenance and management plan for each element but need confirmation of responsibility. Groundwater contamination risk assessment submitted but need to clarify measures regarding parking areas if permeable paving to be used. Performance of drainage system including

soakaway to be demonstrated by infiltration testing, but would be betterment over existing.

- 5.2. **Planning Policy:** No objection. Principle of a green metal fabric supported; infilling of gaps along property's boundary line supported to improve screening/reduce views into site.
- 5.3. **Sustainability Officers:** No comments to make,
- 5.4. **Urban Design:** No objection. Development is necessary because monitoring of water quality has identified risk of failing to meet quality standards so additional treatment plant required to remove nitrates. Use will make more effective use of existing site in accordance with Policy DM19. Officer should consider whether there are likely to be increased impacts on residential uses through noise and odour.
- External:
- 5.5. **County Archaeology:** No objection subject to conditions to secure a Written Scheme of Investigation and implementation thereof. Note that site is within a dry valley with potential to preserve archaeological and palaeoenvironmental evidence of past human interaction with the landscape within deep superficial valley deposits; no archaeological information provided and HER not consulted.
- 5.6. **County Landscape:** Support. Would have minor and beneficial effects on local townscape character and visual amenity, subject to conditions. Note site is on urban fringe between A27 and rail corridor, few public views into site, largely screened by buildings and trees. Demolition of older buildings provides opportunity to improve character and visual appearance of site. Arboricultural report provided to support application with details of tree removal, noting a category B tree would be removed. Removal compensated with new tree planting around boundaries to infill existing tree screen. Conditions recommended to secure tree protection measures set out in Arboricultural Report, and landscape enhancements.
- 5.7. **Environment Agency:** No objection subject to conditions requiring that piling and similar penetrative activities are not be carried out without written consent of LPA; securing chemical storage; and requiring land contamination details.
- 5.8. **National Highways:** No objection. Satisfied proposal would not materially affect the safety, reliability and/or operation of strategic road network.
- 5.9. **South Downs National Park:** No objection subject to new planting being carried out as per the Landscape Mitigation Plans.
- 5.10. **Southern Water** (as water utility providers): No objection

6. MATERIAL CONSIDERATIONS

- 6.1. 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
- 6.2. 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).

7. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP8	Sustainable buildings
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design

Brighton & Hove City Plan Part Two

DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM31	Archaeological Interest
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance.
DM42	Protecting the water environment
DM43	Sustainable Drainage

8. **CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to the principle of the development, its design and appearance, and the impact on amenity, and on the environment, including trees.

Principle of Development:

- 8.2. The principle of the use of the site for the provision of water treatment equipment is well established, and provides essential infrastructure for the city. This scheme would allow for a more efficient use of the site by providing additional facilities within the existing site. It is therefore supported in principle.

Design and Appearance:

- 8.3. The proposed buildings/plant would be functional in appearance, as with most of the buildings on site, and would be relatively large in scale, with the nitrate treatment building being around three storeys in height. However, they would be set well into the site with limited opportunities for off-site views, particularly from public vantage points. Furthermore, they would be set against the existing large infrastructure/buildings on the site, and would be in keeping with the site's industrial use. The site is well enclosed with mature trees, further reducing the impact on the surrounding area, particularly noting that the site is bounded by the major transport infrastructure of the A27 to the north and railway corridor to the south, with the main Southern Water buildings to the west.
- 8.4. The design and appearance of the development is therefore considered acceptable in this context and would not harm the appearance of the area.

Impact on Residential Amenity:

- 8.5. The proposed buildings would be set well into the site, more than 75m away from the nearest residential properties at Stanmer Court so there would be no loss of light or outlook, particularly as the flats are set at an angle, and are themselves four storeys in height. There is a thick belt of trees along the common boundary that would also reduce any visual impact from the development. The works relate to the treatment of potable water so there would be no increased odour.
- 8.6. The development would result in some increased noise from plant to be installed on site but the submitted Noise Impact Assessment confirms that this would not exceed background levels at Stanmer Court, particularly given the existing background noise from the major transport corridors adjacent. There may be some increased disturbance during construction but given the separation distance and background noise, this is not considered to be significant. Access to the site would be from the south-west, away from residential properties which would help limit the impact, and while there would be some construction noise, with limitations on hours of works, to be secured by condition, this would be acceptable.
- 8.7. On this basis, the scheme is considered acceptable in terms of its impact on the residential amenity of neighbours, in accordance with Policy DM20 of CPP2.

Impact on the Environment

- 8.8. As already noted, the site is subject to an area Tree Preservation Order (TPO). An Arboricultural Impact Assessment (AIA) has been submitted, confirming that two trees and one group of trees would need removal to facilitate the development. One tree would be B category (moderate quality/value), and one tree and the group are C category (low quality/value). It is noted that the removal of the trees would require agreement through the separate TPO process.
- 8.9. Mitigation planting is proposed to offset this loss, as set out in a Landscape Mitigation Plan, comprising tree planting along the northern and eastern

boundaries of the site, along with enhanced grassland. This would be secured by condition, an approach supported by the County Landscape Architect.

- 8.10. In addition, works are to take place within the root protection areas of three trees. The AIA includes measures to protect trees during construction, which would be secured by condition, and includes tree protective fencing and oversight by an Arboricultural Consultant.
- 8.11. On this basis, the impact on trees would be acceptable.
- 8.12. As noted in the comments of the County Archaeologist, the site has the potential to contain features of archaeological significance, but no details have been provided with the submission. This would be secured by condition, an approach they are satisfied will provide the appropriate protection.
- 8.13. The impact on the sensitive water environment (i.e. the principal aquifer below the site) is considered to be acceptable, subject to conditions requiring that piling is not undertaken, that chemicals are stored appropriately, and requiring details of land contamination, which would be secured by condition.
- 8.14. A drainage scheme has been provided but as noted above, the Lead Local Flooding Authority has queried the details, requiring further information to be secured by condition which it would be.
- 8.15. On the basis of the above, the proposal is considered acceptable in terms of its impact on the environment, subject to conditions.

9. COMMUNITY INFRASTRUCTURE LEVY

- 9.1. 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 proposal relates to buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery so is exempt from CIL payment.

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.

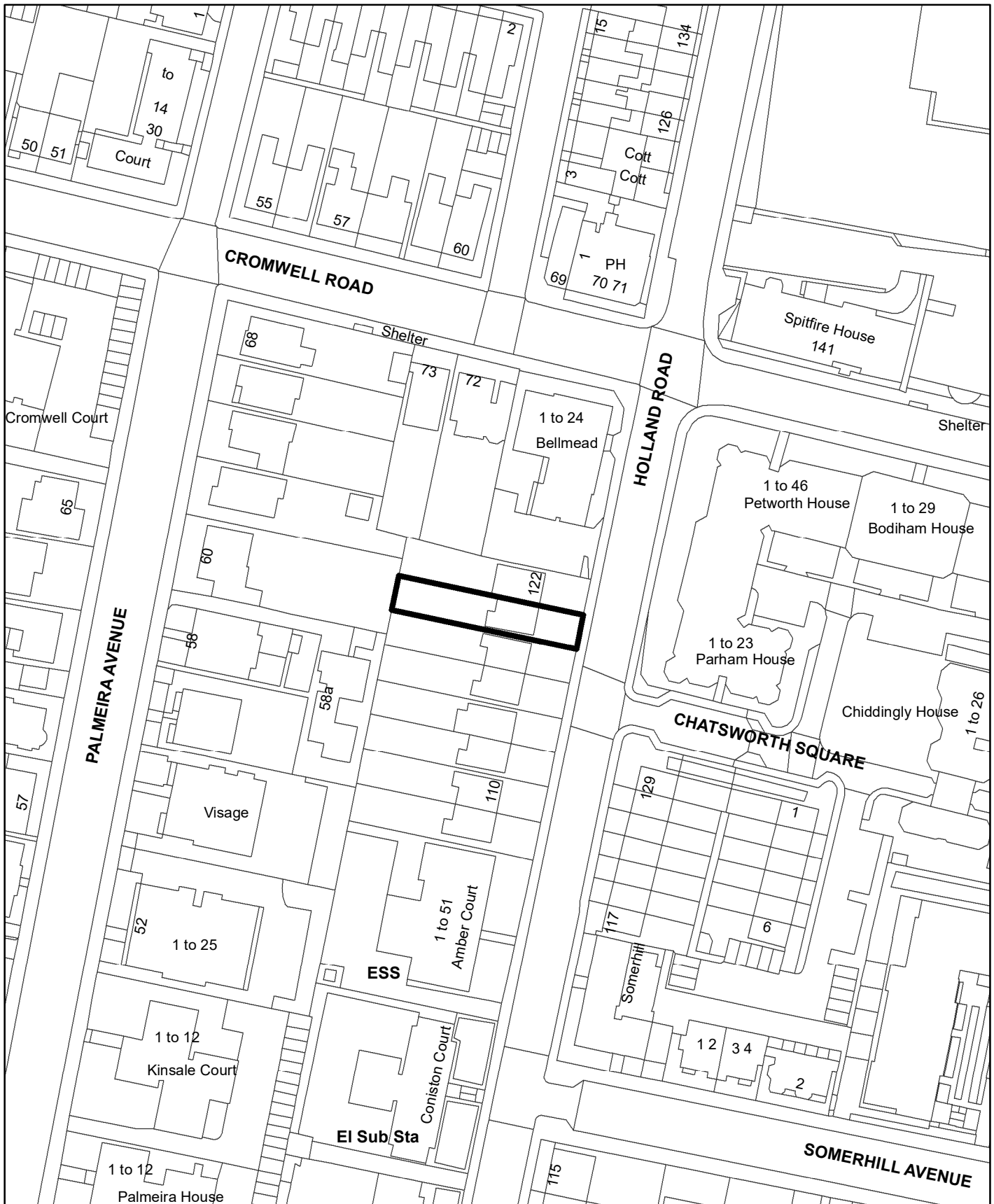
- 10.2. Officers considered the information provided by the applicant, together with the responses from consultees and have determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

ITEM F

**120 Holland Road
BH2024/01297
Householder Planning Consent**

DATE OF COMMITTEE: 7th August 2024

BH2024 01297 - 120 Holland Road



N



Scale: 1:1,250

<u>No:</u>	BH2024/01297	<u>Ward:</u>	Goldsmid Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	120 Holland Road Hove BN3 1JR		
<u>Proposal:</u>	Erection of a single storey ground floor rear infill extension and revised ground floor fenestration (retrospective).		
<u>Officer:</u>	Matthew Gest, tel: 292525	<u>Valid Date:</u>	24.05.2024
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	19.07.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Absolute Town Planning Ltd C/o Parkers At Cornelius House 178-180 Church Road Hove BN3 2DJ		
<u>Applicant:</u>	Professor Louiza Odysseos 120 Holland Road Hove BN3 1JR		

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	HR/2002/001		24 May 2024
Block Plan	HR/2002/002		24 May 2024
Proposed Drawing	HR/2002/007	A	23 July 2024
Proposed Drawing	HR/2002/008	A	23 July 2024
Proposed Drawing	HR/2002/009	A	23 July 2024
Proposed Drawing	HR/2002/010	A	23 July 2024
Proposed Drawing	HR/2002/011	A	23 July 2024
Report/Statement		Design & Access	24 May 2024

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 two storey semi-detached dwellinghouse sited on the western side of Holland Road within the Goldsmid Ward of the City. The property is finished with white render over a brick base with a brown tiled roof. The site is not within a Conservation Area and the streetscene is residential with a mix of semi detached dwellinghouses and flat developments. The application relates to the rear of the property.
- 2.2. The site is not subject to any Article 4 directions which would relate to or restrict the development proposed.

3. RELEVANT HISTORY

- 3.1. **BH2023/02625** - Application to vary condition 1 (part-retrospectively) of planning permission BH2021/01150 to allow amendments to approved drawings to bring the 6no rear doors together in a combined assembly and replace the glazed mono-pitch roof with a flat roof. Approved 24.11.2023
- 3.2. **BH2021/01150** - Erection of a single storey ground floor rear infill extension and revised ground floor fenestration. Approved 08.06.2021

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought retrospectively for a single storey ground floor extension at the rear of the host property. The development has been completed. The extension is sited as an infill between the existing original rear two storey projection and the boundary on the northern side. The development proposed is 1.86m in depth a maximum height of 2.9m (measured from floor level) with a height of 3.2m overall.
- 4.2. A visit to the site has noted the installation of a rear raised deck measuring a maximum of 0.35m at the property. This is not represented on the plans submitted and does not form part of the application submission.

5. REPRESENTATIONS

- 5.1. Representations have been received from 29 individuals, objecting to the proposed development for the following reasons:
- Inappropriate height
 - Overshadowing/loss of Light
 - Should only be approved if light restored to neighbouring property
 - Inaccurate plans - no rooflights, not constructed in accordance with submitted
 - Development impacts on creativity
 - Would set precedent for non-compliance with planning decisions
 - Increase in energy bills for neighbouring property
 - Increase in mould and damp contributing to poor health
 - Inaccuracies in light report submitted

- Psychological distress and impact of extension

5.2. Councillor O'Quinn has objected to the proposal. A copy of their comments are attached to this report.

6. CONSULTATIONS

None

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 Two (adopted October 2022);
- Brighton & Hove City Plan Part One (adopted March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour Joint Area Action Plan (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
CP18	Healthy city

Brighton and Hove City Plan Part Two

DM1	Housing Quality, Choice and Mix
DM20	Protection of Amenity
DM21	Extensions and alterations

Supplementary Planning Documents

SPD12	Design Guide for Extensions and Alterations
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9. CONSIDERATIONS & ASSESSMENT

9.1. The main considerations in the determination of this application relate to the design and appearance of the proposal and the impact on neighbouring amenity.

- 9.2. A site visit has been undertaken and the impacts of the proposal can also be assessed from the plans and photos taken and provided and from recently taken aerial imagery of the site.

Design and Appearance

- 9.3. The extension is considered to relate suitably to the existing property, infilling a space between an existing and original rear projection and the northern boundary at the rear of the site.
- 9.4. The extension is single storey in height with a flat roof which, in this case, would relate acceptably to the host property and does not project further into the garden than the existing two storey rear projection, and is suitably subservient in size. A set of folding doors are proposed across the rear elevation in anthracite grey which would not match the fenestration on the existing property, however due to the limited visibility this variation is considered acceptable. The materials proposed would otherwise match the existing dwelling and would have an overall acceptable appearance.
- 9.5. The development is not visible from any public vantage points and would not have a detrimental impact on the character and appearance of the wider area.
- 9.6. Overall, the proposed extension would represent a sympathetic and subordinate addition to the host property, in accordance with Brighton & Hove City Plan Part Two policy DM21 and SPD 12 Guidance.

Impact on Amenities

- 9.7. Due to the siting of the proposal on the north western side of the host dwelling there is sufficient separation to the neighbouring property to the south (118 Holland Road) to have no discernible impact.
- 9.8. The proposal would have most impact upon the existing property to the north.
- 9.9. As noted above the extension has a depth matching that of the existing rear two storey projection at the host property and also has a depth similar to an existing rear single storey extension at the neighbouring northern property at 122 Holland Road. The extension is, however, higher than the neighbouring extension and the solid form does result in some loss of light.
- 9.10. It is noted within representations received that the neighbouring extension has not been accurately represented on the application drawings. A site visit has been conducted and measurements of both structures taken. The measurements would indicate that the proposed structure has been constructed within reasonable tolerances and is reasonably reflected with accuracy on the drawings proposed, given there will always be minor differences on site. However, it is clear that the neighbouring extension at 122 Holland Road, whilst measuring correctly on the western elevation, appears on the drawings to be set approximately 0.3m higher against the proposed extension than the reality. Whilst this contravention is noted the impact of the proposed extension can be sufficiently evaluated following the site visit and the difference is considered de minimis – too small to be material.

- 9.11. With regards to its overall form the extension proposed is approximately 0.2m higher than an extension which could be reasonably constructed utilising permitted development rights under Class A of the Town and Country Planning (General Permitted Development Order). This is due to the height of the eaves being over 3m within 2m of the boundary. The GPDO would permit an extension with eaves of 3m whereas the overall eaves height of the proposed development is 3.2m.
- 9.12. The extension's depth would mean that there would be no harmful overshadowing of the neighbouring western elevation itself, however the taller and solid form of the proposed extension would however create a degree of overshadowing of the glazed roof at 122 Holland Road.
- 9.13. It is noted within the representations received that the proposal has been experienced as causing harmful overshadowing by neighbouring occupiers and that the structure proposed causes the glazed roof to be overshadowed. Due to the orientation of the site this impact is most significant in the winter months and from the middle to the later parts of the day. A site visit conducted in June 2024 demonstrated overshadowing not being present in the afternoon and the overshadowing does not occur to a harmful degree in the summer months.
- 9.14. Due to the extensions having a similar depth there would be no direct overshadowing of the western facing windows over and above that which exists from the boundary treatment and existing situation. Consequently there would be no harmful overshadowing of the western facing windows at the neighbouring property.
- 9.15. "Site layout planning for daylight and sunlight" published by the BRE (Building Research Establishment in 2022 advises that where windows on a development are more than 90 degrees from due south, the effect upon the neighbouring development need not be assessed. The guidance states; *"To assess loss of sunlight to an existing building, it is suggested that all main living rooms of dwellings, and conservatories, should be checked if they have a window facing within 90° of due south. Kitchens and bedrooms are less important, although care should be taken not to block too much sun."*
- 9.16. It is noted that 120 and 122 Holland Road are both sited so as to face slightly north of east-west line. In this case therefore there need be no formal quantitative assessment of the loss of sunlight to the elevation windows. It is noted also that the BRE guidance is advisory however a sunlight and daylight assessment has been submitted with the application and although no formal calculations have been provided it is considered that the report demonstrates that there would be no harmful impact to the west facing windows. The report demonstrates that the proposed extension would not contravene the 45 degree rule due to their rear most elevations being relatively in line with one another and in addition the orientation of the sites being more than 90 degrees of due south would mean that a formal assessment of received sunlight is not required in accordance with guidance. Whilst this is the case the height difference from the

development proposed would cause the glazed roof to be overshadowed during part of the day for part of the year.

- 9.17. It is acknowledged that there would be a degree of loss of direct sunlight and some degree of overshadowing during the winter months particularly of the neighbouring glazed roof at 120 Holland Road (albeit not to the west facing windows and doors) from the development proposed. The overall levels of light received to this part of the neighbouring dwellings are otherwise considered to be acceptable. In consideration that this effect is limited to a part of the year and day only, the west facing windows and doors would remain reasonably unaffected and the development would otherwise accord with BRE guidance it is not considered that the harm caused by the proposal from overshadowing is sufficient to warrant refusal of the application.
- 9.18. With regard to other amenity impacts, no significant adverse impacts are expected as a result of the proposed development upon outlook, noise nor loss of privacy.

Other matters

- 9.19. Representations received have raised that the proposal has affected the use of the neighbouring space by the occupants with a consequential impact upon their employment and creativity. Whilst this is noted the overall impact upon the amenities of the adjoining property is considered to be acceptable for the reasons above.
- 9.20. Further representations have also raised that the development has caused mould and damp to be experienced as a result of the proposal. This, however is related to various factors and this consequence of the proposal is not considered to be a material planning consideration.
- 9.21. Finally whilst the application is retrospective the material planning considerations remain the same as those to be assessed if the application were prior to development. It is also noted that to erect a structure and submit an application retrospectively is entirely lawful in UK Planning Law.

Conclusion

- 9.22. Overall the proposal would not cause any harm to the character and appearance of the wider area due to the limited visibility of the proposal. Whilst the impact of amenity is such that some overshadowing of a neighbouring glazed roof occurs as a result of the proposal it is not considered that there is sufficient harm to the amenity of neighbouring occupiers to warrant refusal of the application. The development is therefore in accordance with Brighton & Hove City Plan Part Two policies DM20, DM21 and SPD12 guidance.

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. Jackie O'Quinn

BH2024/01297 – 120 Holland Road

30th June 2024:

I am writing to object to the above planning application on behalf of residents and in particular on behalf of the residents at no 122 Holland Road.

I have made a site visit to 122 Holland Road to assess the situation for myself as it was so difficult to see where the issue lay from the plans that are presented in this application which don't reflect the situation on the ground. The following are the issues that have led to the large number of objections to this application:

The height of the single storey ground rear infill extension at no 120 is most definitely higher than the extension at no 122 and the difference in height does create an appreciable loss of light to no 122. The drawings presented do not reflect the difference in height very accurately and thus one could be led to believe there is little difference.

The loss of light to no 122 is to their main living area – kitchen, dining room and leading into the living room – all open plan. The roof of the extension at no 120 is their main source of daylight for the living area and without it the area is cast into various degrees of shadow for at least 6 months of the year. This loss of light is a loss of private amenity to the residents of no 122, especially as the area is utilised by Mrs Heathfield who uses the area immediately under the clear roof of the extension to carry out her work. We are all aware of how important natural light is to our wellbeing and that is underlined by the fact that the residents of no 120 have installed a light/sun tunnel to their roof as they know how important light is.

It has been stated that there were no objections to the initial planning application and that somehow this makes everything ok. However, the residents of no 122 believed that the infill extension at no 120 was the same height as their own extension as shown in the plans presented – in BH2023/02625 - and that there would therefore be no issues- so there was no point in objecting. However, the planning officer was 'apprehensive about light loss as a result of (the) development' and it was passed on the proviso that it was built 'in accordance with the approved drawings', all of which show the extension as no higher than 3m – so, no higher than the one at no 122.

However, as the extension was built it became clear that there was going to be a significant height difference and the residents of 122 asked for changes to be made – but they weren't and that is what has led to this debacle and the retrospective application.

The situation has done considerable damage to the relationship of the residents at no 122 and 120 who were previously on friendly terms, and this is directly as a result of misleading plans. On another note, I would like to say how sad it is that this has happened to Mrs Heathfield who campaigned so hard on behalf of all her neighbours, including at Bellmead (Housing for older residents), against the building of 80 flats on the corner of Cromwell Road and Palmeira Avenue. This went to appeal and the appeal was won by residents with Mrs Heathfield being



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION **City Council**

one of the residents who spoke at the appeal hearing despite her nervousness about public speaking. I'm aware this is not a planning consideration, but it does rather underline the saying 'no good deed goes without punishment'.

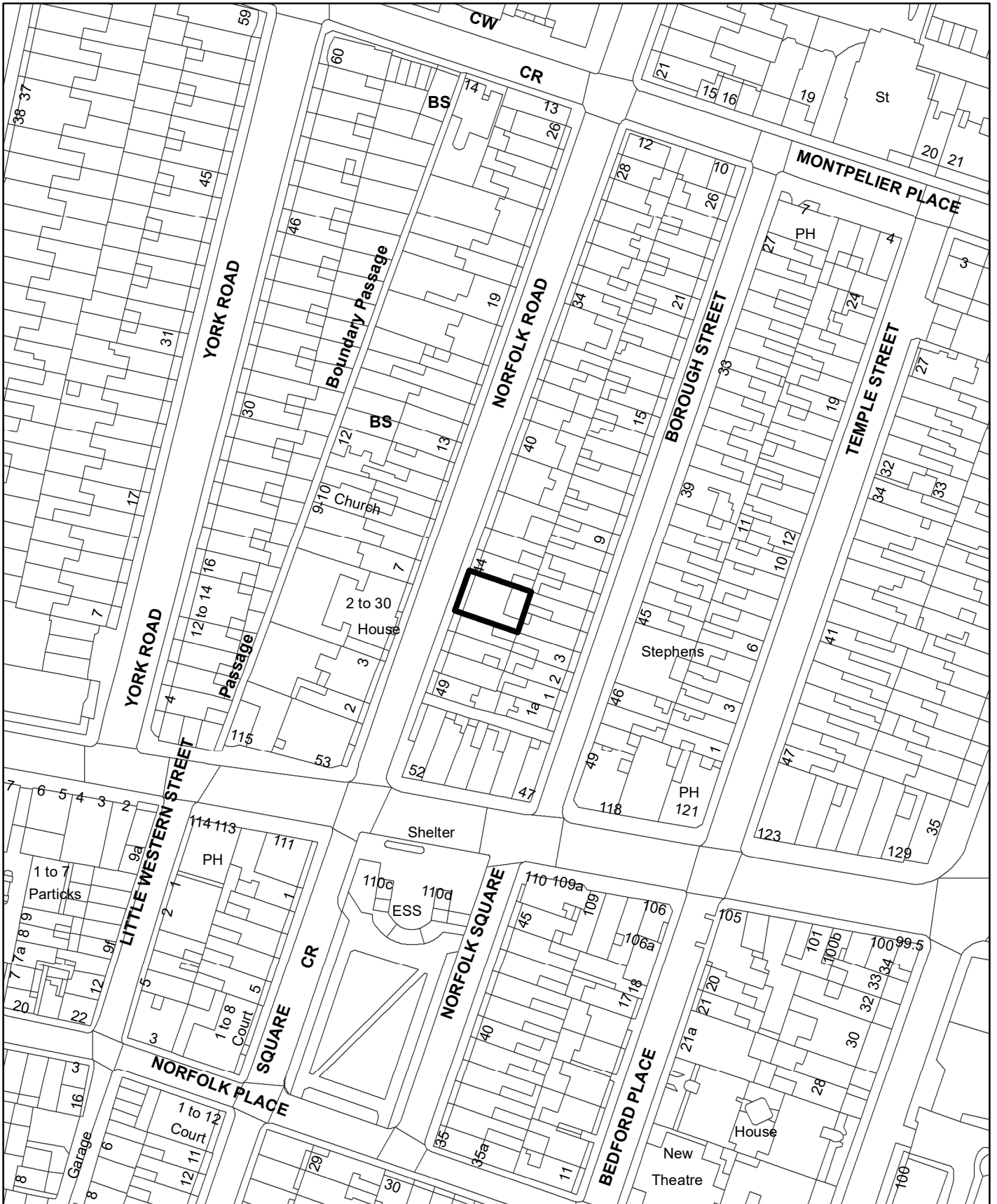
I would request that this retrospective application not be approved, and I wish to speak at the Planning Committee when this application is heard.

ITEM G

**45 Norfolk Road
BH2023/03393
Householder Planning Consent**

DATE OF COMMITTEE: 7th August 2024

BH2023 03393 - 45 Norfolk Road



N



Scale: 1:1,250

<u>No:</u>	BH2023/03393	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	45 Norfolk Road Brighton BN1 3AB		
<u>Proposal:</u>	Part-retrospective application for the erection of single storey rear extension at second floor level and creation of roof terrace at roof level, with A/C unit. (Amended description)		
<u>Officer:</u>	Jack Summers, tel: 296744	<u>Valid Date:</u>	08.02.2024
<u>Con Area:</u>		<u>Expiry Date:</u>	04.04.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	05.04.2024
<u>Agent:</u>	Jason Wren Basin Road north Maritime House Hove BN2 1WR United Kingdom		
<u>Applicant:</u>	Mr Usman Ahmad 45 Norfolk Road Brighton Brighton & Hove BN1 3AB		

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:

- 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	SU001	-	8 February 2024
Proposed Drawing	PL003	B	5 April 2024
Proposed Drawing	PL004	C	5 April 2024
Proposed Drawing	PL005	C	5 April 2024
Proposed Drawing	PL006	E	14 May 2024
Proposed Drawing	PL007	A	5 April 2024
Proposed Drawing	PL008	C	5 April 2024
Proposed Drawing	PL009	-	8 April 2024
Block Plan	PL050	-	5 April 2024
Detail	Samsung WindFree 1-Way Cassette	-	8 February 2024

- The relevant external finishes of the development hereby permitted shall be as follows:
 - External walls of stair core in lead.
 - External walls of rear extension in painted render to match the appearance of the existing property.
 - Safety railings in metal colour-finished black or grey.

- Windows upon the rear elevation with timber frames, with a sliding sash opening method.

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

3. Prior to the first use of the rooftop for amenity purposes, the stair core and safety railings as shown on approved drawing PL004 Rev C shall be fully installed. Access to areas of the flat roof beyond the safety railings and/or stair core structure shall be for maintenance or emergency purposes only and said areas shall not be used as roof gardens, terraces, patios or similar amenity areas. The stair core and safety railings shall thereafter be maintained in perpetuity.

Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policy DM20 of the Brighton & Hove City Plan Part Two.

4. 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.

5. Three or more swift bricks/boxes shall be incorporated within the external surface 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.

6. 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. 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 the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of the Brighton & Hove 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. 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.
3. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place.
4. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the Council from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.
5. 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

2. SITE LOCATION

- 2.1. The application site is a three-storey historic attached dwelling on the east side of Norfolk Road within the Montpelier & Clifton Hill Conservation Area. It features a large flat roof with parapet walls at the front and rear. The majority of properties fronting Norfolk Road feature pitched or butterfly roof-forms, with the application site being one of the notable exceptions.
- 2.2. The application site adjoins no.44 Norfolk Road which, together with no.43, is a grade II listed building. There are multiple other heritage assets in the vicinity, including (but not limited to) nos.7 and 8 opposite the site, no.47 to the south, and no.3 Borough Street to the southeast.

3. STATEMENT OF SIGNIFICANCE

- 3.1. The building is located in the Montpelier & Clifton Hill Conservation Area. It is a 19th century double-fronted house of formal design, three storeys over basement with a rectangular bay either side of the central entrance, over which is a verandah. The flat roof is obscured from view behind the parapet, which is typical of Norfolk Road.
- 3.2. Adjoining to the north, nos.43 and 44 are grade II listed buildings; terraced houses of early 19th century date in Regency style, 3 storeys over basement with shallow hipped roofs obscured by parapet, faced in stucco with segmental bays.

- 3.3. The Montpelier and Clifton Hill Conservation Area Character Statement notes that "in Norfolk Road, which used to be called Chalybeate Street, the buildings are both two- and three-storey, many with first floor balconies. Of note are the shallow segmental bays of the listed buildings (nos. 1-3), and at the northern end of the street, a group of unlisted houses with particularly fine first floor balconies contribute to the liveliness of the street with their cast iron railings". The Statement goes on to note that the conservation area "is notable for its hilly siting with long terraces of houses dropping down the hill towards Western Road and westwards towards Hove. Long vistas can be obtained towards the sea and views down Norfolk Road and tree lined Montpelier Road are especially important".

4. RELEVANT HISTORY

- 4.1. **BH2023/02247** Existing ground floor door to rear elevation widened. Approved
- 4.2. **BH2021/04029** Erection of single storey rear extension at second floor level and creation of roof terrace at roof level. Approved

5. APPLICATION DESCRIPTION

- 5.1. Planning permission is sought part-retrospectively for the erection of a second floor extension to facilitate the creation of a roof terrace, and installation of an air-conditioning (A/C) unit at rooftop level.
- 5.2. The extension would create two ensuite bathrooms and a stairwell leading up to the flat roof; there would be five new windows in the rear (east) elevation, and access to the rooftop would be via a large horizontal roof-light. Balustrading restricts access within approximately 1m of the front and rear rooftop edges. These works were all granted permission under BH2021/04029; the developer commenced the development in 2024 and chose to amend the scheme with the inclusion of the A/C unit in the northeast corner of the rooftop; due to this forming part of the wider rooftop development, retrospective permission is required for the entire schedule of works, but the extant permission BH2021/04029 must be given significant weight in the planning balance.

6. REPRESENTATIONS

- 6.1. Fourteen (14) representations have been received from seven individuals, objecting to the proposal on the following grounds:
- Detrimental impact on amenity from noise nuisance
 - Detrimental impact on amenity from light nuisance
 - The proposed works are an overdevelopment
 - The A/C unit may be visible from upper floor windows
 - The A/C should have been included in the original permission for the terrace
 - The A/C unit might transfer hot or polluted air into neighbouring properties
 - The use of the terrace should be limited by condition to certain hours

- The application is part-retrospective
- The dwelling might change use in the future
- Query as to whether A/C is necessary
- Query as to what lighting is proposed on the roof terrace
- Query as to whether the terrace will be used for non-ancillary purposes

7. CONSULTATIONS

- 7.1. **Environmental Health:** No objection. The Noise Impact Assessment prepared by Evolved Acoustics Ltd. has demonstrated that the proposed A/C unit would have an acceptable impact on neighbouring premises.
- 7.2. **Heritage Officer:** No objection. The information provided is satisfactory for us to determine that the development is acceptable in relation to impacts on heritage.

8. MATERIAL CONSIDERATIONS

- 8.1. 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.
- 8.2. 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)

9. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
CP10	Biodiversity
CP12	Urban Design
CP15	Heritage

Brighton & Hove City Plan Part Two (CPP2)

DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM26	Conservation Areas

DM29	The Setting of Heritage Assets
DM37	Green Infrastructure and Nature Conservation

Supplementary Planning Documents

SPD03	Construction & Demolition Waste
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD17	Urban Design Framework

Conservation Area Character Statements

Montpelier & Clifton Hill (2005)

10. CONSIDERATIONS & ASSESSMENT

- 10.1. The main considerations in the determination of this application relate to the design and appearance of the proposed development; and the potential impacts on the amenities of local residents, and on the significance of heritage assets in the vicinity. A site visit was undertaken in July 2024.

Principle of Development

- 10.2. The second floor extension and associated roof terrace benefits from an extant permission under application BH2021/04029; therefore, all aspects of the proposed development, with the exception of the A/C unit, could be undertaken without the need for any further permissions.

Design and Appearance

- 10.3. The second-floor extension and associated roof terrace was found to be acceptable under permission BH2021/04029, which remains extant. The additional A/C unit would be concealed behind the rear parapet wall, with only distant views possible from a very limited number of taller buildings on the west side of Norfolk Road. It is considered that the development including the A/C unit would be acceptable in terms of appearance.
- 10.4. It has been asserted in the representations received that the proposal would be overdevelopment. As has been mentioned, the majority of the works already benefit from planning permission; the additional A/C unit is not considered to make any material difference in this regard.

Impact on Heritage Assets

- 10.5. 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.

- 10.6. 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".
- 10.7. The second-floor extension and associated roof terrace was found to be acceptable under permission BH2021/04029, which remains extant. The additional A/C unit would be concealed behind the rear parapet wall and is anticipated to have a neutral impact on the historic significance of the Montpelier & Clifton Hill Conservation Area, and the surrounding listed buildings; the LPA has no concerns in this regard.

Impact on Amenities

Noise Nuisance

- 10.8. The applicant has submitted a Noise Impact Assessment (NIA) that has found that the A/C unit would have an acceptable impact on the amenities of local residents in terms of noise. Environmental Health Officers agree with the conclusions so there are no concerns in this regard, subject to a condition limiting noise emissions which would also ensure the unit is maintained appropriately with age.
- 10.9. It should also be noted that the council will retain the authority to investigate under the Environmental Protection Act 1990, should any complaints in terms of noise or odour be received.
- 10.10. It has been recommended in the representations received that the terrace should be permitted subject to a condition restricting hours of use. This would be unreasonable since the terrace already benefits from unrestricted hours of use under BH2021/04029, and there have been no material changes in the planning context since that permission was granted.

Loss of Privacy

- 10.11. As has been mentioned, the terrace benefits from an extant permission; nevertheless, it is worth noting that it has been designed with guard rails set in from the edges of the property which are designed to restrict views down into the gardens of neighbouring properties. The A/C unit is not anticipated to cause any further impact in this regard.

Light Nuisance

- 10.12. No external light sources are proposed as part of this development. The rear windows and access rooflight may emit light from internal sources but these cannot reasonably be assumed to be more impactful than existing windows in the vicinity, and they benefit from the extant permission BH2021/04029.

Overshadowing/Loss of Light

- 10.13. The proposed development is not anticipated to result in any further impact in this regard over the approved scheme BH2021/04029.

Biodiversity

- 10.14. 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 condition 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.

Other Considerations

- 10.15. To seek planning permission retrospectively is a valid course of action in the development process and has not been weighed against the developer in the assessment of the propriety of this proposal.
- 10.16. It has been alluded to in the objections received that the dwelling may change to a different use class in the future. No evidence has been submitted to support these speculations, and they have been given no weight in the planning balance. A change of use in the future is likely to require a new planning application; which would be assessed on its own merits.
- 10.17. It has been asserted that the A/C unit should have been included in the original permission BH2021/04029, and that the designer should have anticipated the need for ventilation equipment. The LPA understands that developments evolve over time; there are no reasonable grounds to refuse planning permission on this basis.

Conclusion

- 10.18. The development, with the exception of the A/C unit, benefits from an extant permission under BH2021/04029. The A/C is considered to be acceptable in terms of appearance and the impacts it is anticipated to have on the heritage setting. It would emit some noise, but this would be within acceptable tolerances as demonstrated in the NIA, and as agreed by the Environmental Health Team. For the foregoing reasons the proposal is considered to be in accordance with policies CP10, CP12 and CP15 of the Brighton and Hove City Plan Part One, and DM18, DM20, DM21, DM26, DM29 and DM37 of the City Plan Part Two.

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

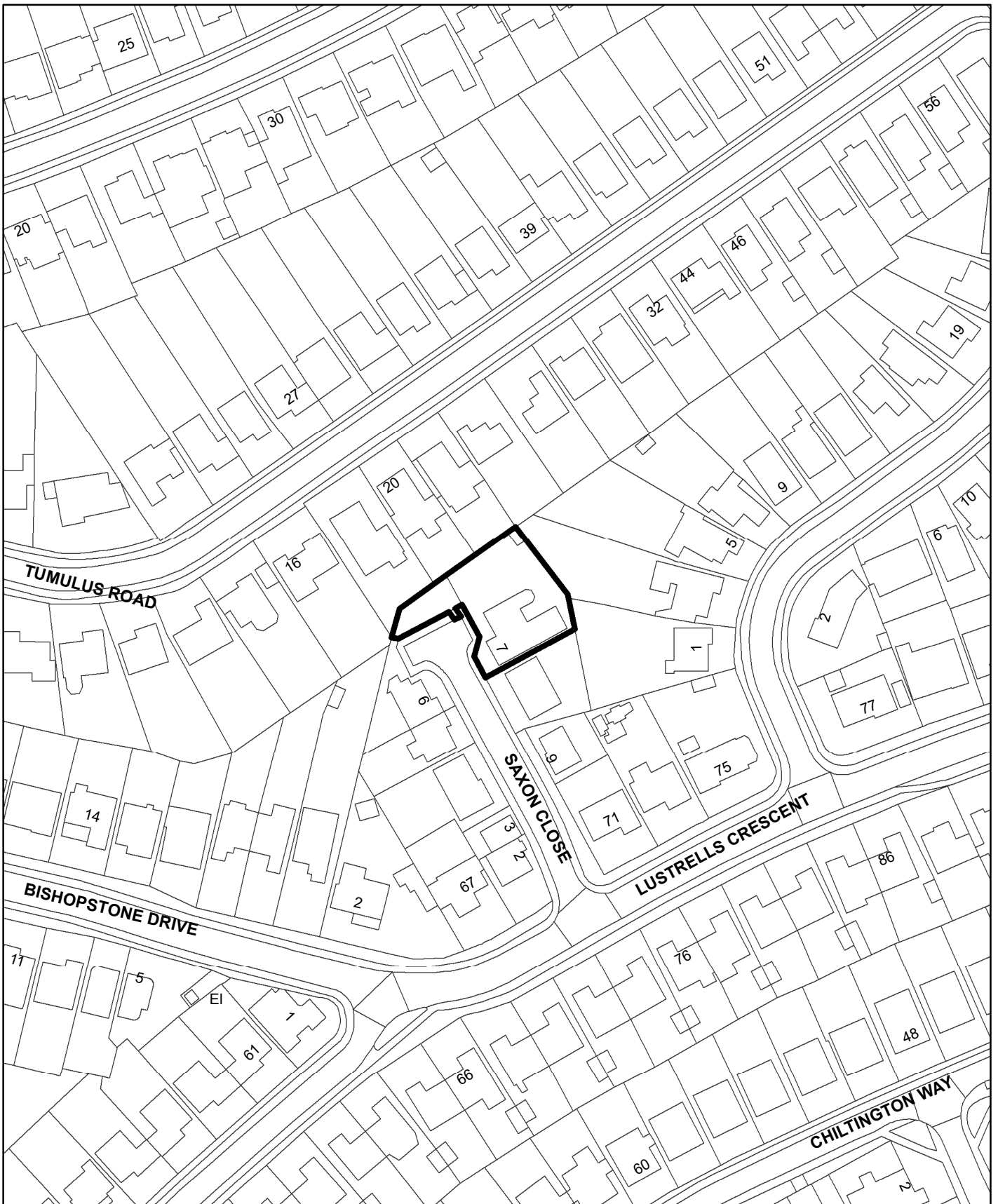
determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

ITEM H

**7 Saxon Close
BH2024/00692
Removal or Variation of Condition**

DATE OF COMMITTEE: 7th August 2024

BH2024 00692 - 7 Saxon Close



N



Scale: 1:1,250

<u>No:</u>	BH2024/00692	<u>Ward:</u>	Rottingdean & West Saltdean Ward
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	7 Saxon Close Saltdean Brighton BN2 8GA		
<u>Proposal:</u>	Application to vary condition 1 of planning permission BH2023/00424 to amend approved drawings for the addition of a basement level.		
<u>Officer:</u>	Rebecca Smith, tel: 291075	<u>Valid Date:</u>	15.03.2024
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	10.05.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	14.08.2024
<u>Agent:</u>	Turner Associates 2D St Johns Road Hove BN3 2FB		
<u>Applicant:</u>	Investsave Ltd 7 Saxon Close Saltdean Brighton East Sussex BN2 8GA		

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	TA 1398/09	C	15 March 2024
Proposed Drawing	TA 1398/10	D	15 March 2024
Proposed Drawing	TA 1398/11	D	15 March 2024
Proposed Drawing	TA 1398/12	D	15 March 2024
Proposed Drawing	TA 1398/13	D	15 March 2024
Proposed Drawing	TA 1398/14	D	15 March 2024
Proposed Drawing	TA 1398/15	D	15 March 2024
Proposed Drawing	TA 1398/16	D	15 March 2024
Proposed Drawing	TA 1398/17	D	15 March 2024
Proposed Drawing	TA 1398/18	C	15 March 2024
Proposed Drawing	TA 1398/19	B	15 March 2024
Proposed Drawing	TA 1398/20		15 March 2024
Report/Statement	Ecological Report		19 July 2023
Report/Statement	Ecological Report Appendix		19 July 2023
Report/Statement	Heritage Report		13 February 2023

2. The development hereby permitted shall be commenced before 6th September 2026.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. 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 and DM21 of Brighton & Hove City Plan Part Two and CP12 of the Brighton & Hove City Plan Part One.

4. Prior to occupation of the development hereby permitted, a scheme for landscaping, for both 7 Saxon Close and the new dwelling, 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 and materials;
 Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies DM22 of Brighton & Hove City Plan Part Two, and CP12 and CP13 of the Brighton & Hove City Plan Part One.

5. All ecological measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal and Confidential Badger Appendix (David Archer Associates, July 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, as required by paragraphs 174 and 180 of the National Planning Policy Framework, Section 40 of the Natural Environment and Rural Communities Act 2006, Policy CP10 of the Brighton & Hove City Plan Part One and Policy DM37 of the City Plan Part Two.

6.

- i) No development 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.
- ii) The archaeological work shall be carried out in accordance with the approved written scheme of investigation and a written record of all archaeological works undertaken shall be submitted to the Local Planning Authority for approval in writing within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is agreed in advance and in writing with the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policies DM31 of Brighton & Hove City Plan Part Two, and CP15 of the Brighton & Hove City Plan Part One.

7. 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. 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.

8. 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(s) 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 Dm20 & DM21 of Brighton & Hove City Plan Part Two, and CP12 of the Brighton & Hove City Plan Part One.

9. The dwelling hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans TA1398/11 C and

TA1398/12 C received on 19th July 2023. 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.

10. The new crossover and access shall be constructed prior to the first occupation of the development hereby permitted.

Reason: In the interests of highway safety and to comply with policies DM33 of the Brighton & Hove City Plan Part Two and CP9 of the City Plan Part One.

11. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.

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

12. The development hereby permitted shall not be occupied until the dwelling hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

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

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.

14. The residential unit hereby approved shall not be occupied until the building 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.

15. Prior to first occupation of the development hereby approved, details of the photovoltaic array referred to on drawing TA1398/10 C 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.

16. 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 Two, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
17. No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site to provide biodiversity net gain, in accordance with the recommendations in the Preliminary Ecological Appraisal (David Archer Associates, July 2023) has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:
- a) purpose and conservation objectives for the proposed works;
 - b) review of site potential and constraints;
 - c) detailed design(s) and/or working method(s) to achieve stated objectives;
 - d) extent and location /area of proposed works on appropriate scale maps and plans;
 - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - g) persons responsible for implementing the works;
 - h) details of initial aftercare and long-term maintenance;
 - i) details for monitoring and remedial measures;
 - j) details for disposal of any wastes arising from works.
- The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
Reason: To provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 174 and 180 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.
18. 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.
19. The dwelling hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans TA1398/11 D, TA1398/12 D and TA1398/20 received on 15th 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.

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 site is a two storey detached dwelling with a rear/side garden, located at the end of Saxon Close in Saltdean. The site is irregular in shape, with the main dwelling located along the southern boundary, a large garden along the northern (side) boundary which extend west around the corner along the edge of the hammerhead of the cul-de-sac. The land slopes upwards to the north-west towards the end of the cul-de-sac to the north-west, with dwellings beyond the site on Tumulus Road sitting at a significantly higher level than the application site.
- 2.2. The site is not listed and is not within a conservation area. There are no Article 4 Directions covering the site which are relevant to the proposed development.

3. RELEVANT HISTORY

- 3.1. **BH2023/00424** - Erection of 1no detached part 1/part 1.5 storey three bedroom dwelling (C3) with associated parking, bin store and landscaping on land at 7 Saxon Close, including subdivision from 7 Saxon Close. Approved 07.09.2023
- 3.2. **BH2022/03233** - Partial demolition and remodelling of the existing dwelling and erection of 1no four bedroom dwelling and 1no three bedroom dwelling (C3). Withdrawn
- 3.3. **BH2010/01380** - Erection of single storey rear extension at the lower ground floor (basement) level. Approved 07.09.2010

4. APPLICATION DESCRIPTION

- 4.1. The application is seeking planning permission to vary Condition 1 of BH2024/00424 (the plans condition). As noted above, that permission allowed the erection of a new three-bed dwelling. The present application seeks to amend the approved plans to allow for the proposed new dwelling to include basement level accommodation.
- 4.2. The principle of the development has been approved through the grant of the 2023 permission

5. REPRESENTATIONS

- 5.1. Representations have been received from 11 people, objecting to the proposed development for the following reasons:
- Overdevelopment
 - Not appropriate for a dwelling on the Close
 - Land instability
 - Increased noise and disturbance for neighbours (including during construction)
 - Overshadowing
 - Increased traffic and parking demand
 - Damage to trees and wildlife
 - Too close to the boundary
 - Potential damage to archaeological remains
 - Design is out of keeping with the area
 - Detrimental impact on property value
 - Restriction of view
 - Increased risk of flooding
- 5.2. **Councillor Fishleigh** has objected to the proposal, raising concerns regarding overdevelopment and land destabilisation and has requested that the application be referred to the planning committee for a decision.
A copy of her comments are attached to this report.

6. CONSULTATIONS

Internal:

- 6.1. **Sustainable Drainage:** No objection. Accept variation of condition 1.

External:

- 6.2. **Brighton & Hove Archaeological Society:** Comment. Site is in an area that has produced a number of important archaeological finds from the prehistoric to Saxon burials. Suggest County Archaeologist view sought.
- 6.3. **County Archaeology:** No objection. No objection subject to previously applied conditions being retained on any approval.

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
CP12	Urban design
CP14	Housing density
CP15	heritage
CP19	Housing mix

Brighton & Hove City Plan Part Two:

DM1	Housing Quality, Choice and Mix
DM3	Residential conversions and the retention of smaller dwellings
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM22	Landscape Design and Trees
DM31	Archaeological Interest
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
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to whether it is acceptable to amend the previously approved plans to include basement level accommodation within the proposed dwelling.

- 9.2. The principle of development here has been established through the approval of BH2023/00424. This proposal increases the proposed dwelling from a three-bedroom dwelling to a four-bedroom dwelling through the provision of a basement.

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).
- 9.6. As such, the provision of one dwelling would make a valuable, albeit minor contribution to the city's housing supply which must be given increased weight in considering the application.

Design and Appearance:

- 9.7. The addition of a basement would not change the approved frontage of the dwelling and would only be visible from the rear. No separate access to the basement is proposed, and the detailing would match the remainder of the dwelling and in terms of the wall/door window materials.
- 9.8. The proposed landscaping would remain largely unchanged and would be secured by condition. The slope of the rear garden would change to facilitate garden access from the proposed basement room, but this would not be significant and would not be visible from the street.
- 9.9. Overall, the minor changes to the design are considered acceptable and in accordance with policies DM21 and DM18 of the City Plan Part Two and CP12 of the City Plan Part One.

Standard of Accommodation:

- 9.10. Policy DM1 of CPP2 adopts the Nationally Described Space Standard (NDSS). The council will seek the delivery of a wide choice of high-quality homes which will contribute to the creation of mixed, balanced, inclusive and sustainable communities.

- 9.11. Under the amended floor plans a four-bedroom dwelling is being proposed over three storeys. The minimum space standard under the NDSS for a four bedroom, seven person dwelling is 121m². The proposed dwelling would have an area of 139m². Therefore it is considered suitable for the up to seven persons.
- 9.12. The layout of the ground and first floors is unchanged from the previous application. The basement proposed would provide a further bedroom with an ensuite. The bedroom area would be 21.1sqm and meet the minimum width of 2.55m for a double bedroom as set out in the NDSS.
- 9.13. Accordingly, the proposed layout would accord with DM1 of the City Plan Part Two as the overall size is in excess of the minimum space standard required.

Impact on Amenity:

- 9.14. The proposed basement level would not impact on neighbouring properties in terms of overlooking or overshadowing as the development would be below ground level. The slight increase in proposed occupation is not considered to result in a significant impact compared to what has already been approved.
- 9.15. Accordingly the proposals are considered to meet the aims of policy DM20 of the City Plan Part Two.

Other Matters:

- 9.16. The provision of an additional bedroom, resulting in a four-bedroom dwelling rather than the approved three-bedroom dwelling is not considered to alter vehicle movements to/from the property significantly, or to such a degree that additional car or cycle parking is required.
- 9.17. No concerns regarding impact on drainage have been raised by the Drainage Officers, and there are no concerns regarding land stability in this area.
- 9.18. Matters such as loss of property value and views, structural safety, and the impact of construction works are not material planning considerations.
- 9.19. As noted above this variation follows the previous application which considered all other matters in greater detail. This recommendation has only considered matters which change or have a different impact to that previously considered. Unchanged elements have not been reassessed and any conditions sought previously in relation to matters such as a ecology, transport, sustainability and archaeological have been re-attached to this recommendation even if the consultee has not been asked to comment again.

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.

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 £24,810.63. 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. Bridget Fishleigh

BH2024/00692 – 7 Saxon Close

23rd April 2024:

If officers recommend to grant or minded to grant this application then please can it come to committee for a decision.

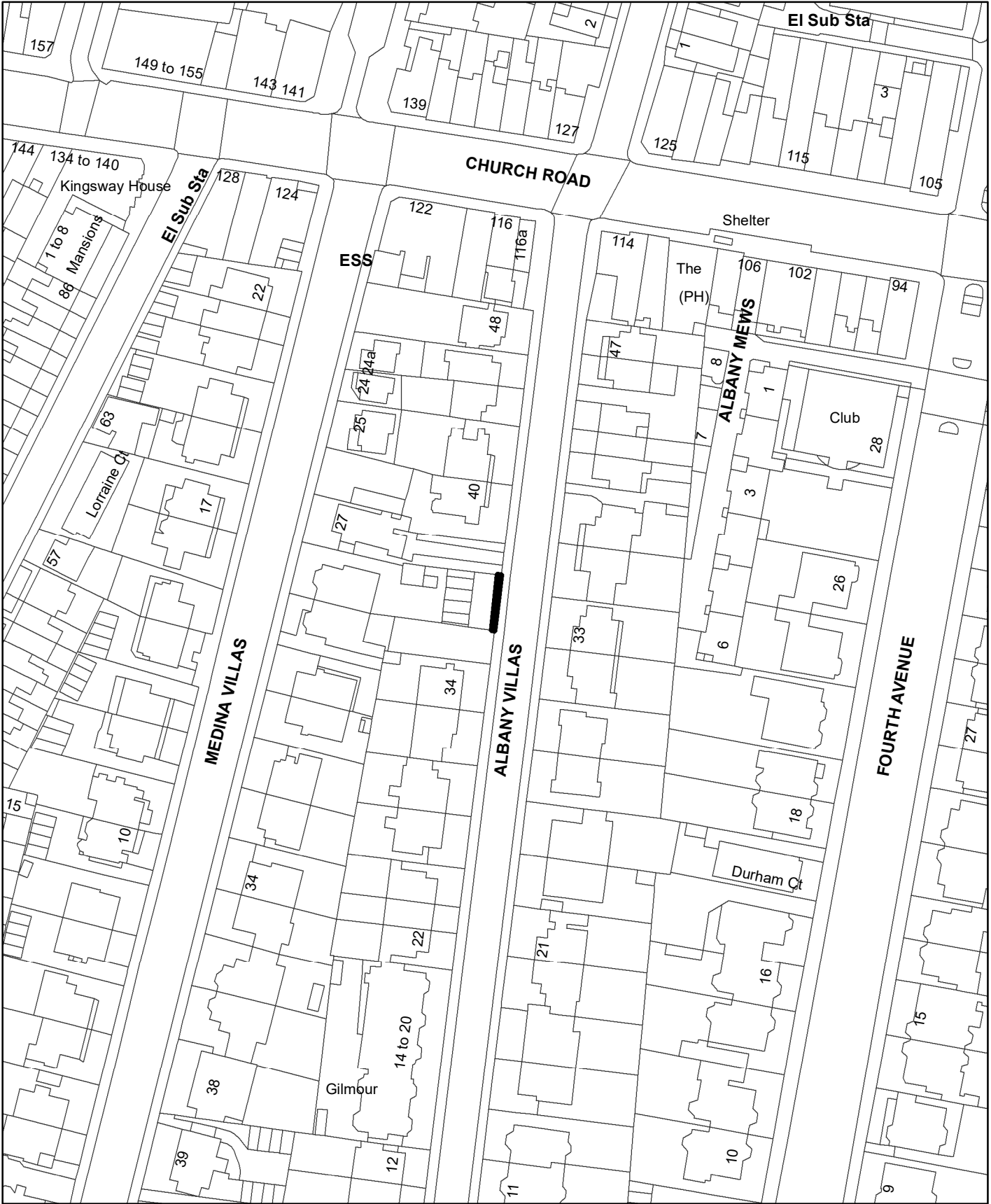
My concerns are around overdevelopment, and the likelihood of destabilising the land around the development which lies on a fairly steep slope.

ITEM I

**Land To Rear Of 28 Medina Villas
Fronting Albany Villas
BH2024/00984
Householder Planning Consent**

DATE OF COMMITTEE: 7th August 2024

BH2024 00984 - Land to Rear of 28 Medina Villas



Scale: 1:1,250

<u>18No:</u>	BH2024/00984	<u>Ward:</u>	Central Hove Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	Land To Rear Of 28 Medina Villas Fronting Albany Villas Hove		
<u>Proposal:</u>	Retrospective application for the installation of boundary wall and sliding entrance gate formed of railings to existing garages.		
<u>Officer:</u>	Jack Summers, tel: 296744	<u>Valid Date:</u>	09.05.2024
<u>Con Area:</u>	Cliftonville	<u>Expiry Date:</u>	04.07.2024
<u>Listed Building Grade:</u>	<u>EOT:</u>		
<u>Agent:</u>	Savills Runway East - York And Elder Works 50 New England Street Brighton BN1 4AW		
<u>Applicant:</u>	Two Mills Asset Management Ltd C/O Savills Runway East - York And Elder Works 50 New England Street Brighton BN1 4AW		

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 **REFUSE** planning permission for the following reasons:

Conditions:

1. The development has failed to preserve or enhance the historic significance of the Cliftonville Conservation Area by reason of its design and the disproportionate extent of gate compared to wall, which has led to an unbalanced, industrial appearance incongruous with the wider residential setting of Albany Villas and the heritage features of the conservation area. The development is therefore contrary to policies CP12 and CP15 of the Brighton and Hove City Plan Part One, and DM18, DM21 and DM26 of the Brighton and Hove 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. This decision is based on the drawings received listed below:

Plan Type	Reference	Version	Date Received
Location and block plan	101	B	19 April 2024
Existing Drawing	226	B	19 April 2024
Existing Drawing	228	-	19 April 2024
Existing Drawing	229	-	19 April 2024

2. SITE LOCATION

- 2.1. The application site is an area of land on the west side of Albany Villas occupied by a large double garage, within the Cliftonville Conservation Area. Planning permission has not been granted for this structure, either by express permission (an application) or via permitted development rights, but it appears that it is now lawful by reason of being immune from enforcement action, since it has been in situ for at least four years. A wall with piers has been erected fronting Albany Villas, with electronic vehicle gates, it is the subject of an ongoing enforcement investigation (ref. ENF2023/00476).
- 2.2. The site is subject to the Cliftonville, Denmark Villas and The Drive Article 4 Direction that has removed the right to erect or alter gates, fences or walls, or make access onto the highway.
- 2.3. A new dwelling built immediately south of the application site (known as no.36 Albany Villas) was not built in accordance with its permission but is now considered to be lawful by reason of being immune from enforcement action, as the unauthorised works have been substantially completed for four or more years, with no enforcement action being taken by the Local Planning Authority (LPA).
- 2.4. A second new dwelling has been erected immediately north of the application site.

3. STATEMENT OF SIGNIFICANCE

- 3.1. Medina Villas is predominantly lined on both sides by stucco fronted Victorian villas, arranged in semi-detached pairs with generous spacing between allowing access to the rear of the properties. The quality of detailing and materials remains important to the character of these historic buildings both in Medina Villas and Albany Villas.
- 3.2. 28 Medina Villas is part of a semi-detached pair at the northern end of the road. Originally houses with three-storeys over a raised basement, they are distinctive in the road for their height and rounded bays with a bottle balustraded parapet, unlike any others in Medina Villas.
- 3.3. The rear of the property fronts onto Albany Villas. This road faces the rear of some of the properties on Medina Villas but is a significant road in itself and not just developed for mews access and most of the buildings facing the street are separate from Medina Villas. The street has a suburban residential character with late nineteenth century detached and semi-detached white painted stucco houses. There is a strong suburban character to it with planted front gardens between the boundary walls and the houses.

4. RELEVANT HISTORY

- 4.1. **PRE2019/00031** Pre-application advice was given in February 2019 for refurbishment of the pre-existing garages and erection of a boundary wall and gates. The advice is summarised as follows:
- The garages are atypical of the streetscene and neither preserve nor enhance the historic significance of the conservation area.
 - A front boundary wall is welcomed in principle, but the proposed design is not considered to be suitable, the railings are too tall and closely spaced, and there is considered to be a disproportionate amount of gate to wall.
 - The resurfacing of the courtyard is acceptable in principle, subject to final details, materials and colour.
- 4.2. The present application is for the same scheme that this advice related to.

5. RELEVANT HISTORY AT OTHER SITES

- 5.1. **BH2019/03088 - Land to Rear of no.27 Medina Villas** Erection of 1no two storey plus basement dwellinghouse (C3) fronting Albany Villas. Approved
- 5.2. **BH2019/02452 - no.36 Albany Villas** Erection of two storey 4 bedroom detached dwelling. (Part retrospective) Refused for one reason:
- "1. The revisions to the dwelling, in particular (but not limited to) the window detailing and position; front garden layout/features/structures and the front boundary treatment, are considered inappropriate and harmful features that fail to respect the historic character of the immediate vicinity of the site. The development therefore causes harm to the character and appearance of the streetscene and the surrounding conservation area, contrary to policies CP12 and CP15 of the Brighton and Hove City Plan Part One and HE6 of the Brighton and Hove Local Plan."*

6. APPLICATION DESCRIPTION

- 6.1. Planning permission is sought retrospectively for the erection of a front boundary wall and gates. There are a total of five brick piers with decorative capstones, with total heights of around 2.0m; two pairs of these piers are linked with short brick wall sections featuring decorative flintwork. There are two openings to the site featuring sliding black metal railing gates, to a height of approximately 1.6m; the gates are approximately 5.6m and 2.8m wide, respectively, and take up the majority of the 13.5m wide boundary.
- 6.2. As noted above, the development matches the design for which pre-application advice was given in 2019.

7. REPRESENTATIONS

- 7.1. Seven (7) representations have been received, supporting the proposal on the following grounds:
- The garages are an improvement over the pre-existing development.

- The development has not contributed to parking stress by not developing the site as a dwellinghouse.
- The gates are attractive.
- The wall and gates have reduced antisocial behaviour on the site.

8. CONSULTATIONS

- 8.1. **Arboriculture Team:** Comment - A tree in the north corner of the application site has been removed; in accordance with the 5-day notice issued by the Council, the developer is required to re-plant within twelve months of the date of removal, which was in July 2023. Failure to do so could result in enforcement for non-compliance.

[Officer note: these issues relate to the separate Tree Preservation Order process].

- 8.2. **Conservation Advisory Group:** Object. Very wide sliding gate not of appropriate design or proportions. Refer to Heritage Officer comments.
- 8.3. **Heritage Officer:** Object. The high gates extend across the majority of the width of the property. These compare poorly with the suburban character of this part of the conservation area. They have a much more industrial character and with the landscape almost all covered with hard standing, it has more of the character of a goods yard than what would be expected in a residential area. The wide sliding gates and the extensive hard landscaping would therefore be harmful to the character and appearance of the conservation area and should be refused on heritage grounds.
- 8.4. Local Highway Authority: No Objection

9. MATERIAL CONSIDERATIONS

- 9.1. 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)

10. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
CP12	Urban Design
CP13	Public Streets and Spaces
CP15	Heritage

Brighton & Hove City Plan Part Two (CPP2)

DM18	High quality design and places
DM21	Extensions and alterations
DM26	Conservation Areas
DM33	Safe, Sustainable and Active Travel
DM36	Parking and Servicing

Supplementary Planning Documents

SPD09	Architectural Features
SPD12	Design Guide for Extensions and Alterations

Conservation Area Character Statements

Cliftonville (1997)

11. CONSIDERATIONS & ASSESSMENT

11.1. The main considerations in the determination of this application relate to the design and appearance of the development; the impact on heritage assets, and on highway safety.

11.2. A site visit was undertaken in May 2024.

Design and Appearance

11.3. The proposal includes the reinstatement of a front boundary enclosure. This is welcomed in principle - both in strengthening the definition between the public thoroughfare and the private frontages of the street, and for reducing the prominence of the garages themselves in views along Albany Villas. However, as highlighted in pre-application advice, there are concerns over the visual impact of the development and the related impact on heritage features.

11.4. It is considered that there is a disproportionate amount of gate to wall in the development that has been carried out, with the large sliding gates dominating the street frontage and appearing incongruous with the prevailing character of the streetscene. The disproportionately large gate, and sliding opening method, creates an industrial character which fails to soften the appearance of the site which, as a set of garages, already is at odds with the wider residential character of Albany Villas. Due to the large gates and small section of wall in the centre of the frontage, each gate would have to slide open over the other opening, perhaps indicative of the unsuitable proportions of the development.

- 11.5. In discussions during the application process, the applicant cited that the reason for the design is informed by the changing topography of the site, which reportedly restricts the installation of smaller gates and would disrupt the rhythm of a greater number of piers. However, the site does not feature significant topographical changes, and it is not understood why, if that was the case, that it would make small gates less practical.
- 11.6. On this basis, the design and appearance of the development is considered unacceptable, contrary to policies CP12 of City Plan Part One, and DM18 and DM21 of City Plan Part Two.

Impact on Heritage Assets

- 11.7. 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.
- 11.8. Case law has held that the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight". In accordance with paragraph 208 of the NPPF, 'great weight' should be given to the Conservation Area's preservation.
- 11.9. As noted above, the new boundary wall and gates sit prominently within the streetscene and thereby impact on the historic significance of the Cliftonville Conservation Area. Due to the abovementioned concerns with the appearance of the development, it is considered that it has resulted in less than significant harm to the historic significance of this designated heritage asset, with the slight public benefit of increased site security not considered to outweigh the harm.
- 11.10. It has also been noted that no heritage statement has been submitted with the application, and there is very little evidence that the impact of the development on the Cliftonville Conservation Area has been considered in the design. Paragraph 200 of the NPPF states that LPAs should require applicants to describe the significance of heritage assets affected by development, and '*As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.*'
- 11.11. On this basis the scheme is considered to have an unacceptable impact on the conservation area and its heritage features, contrary to policies CP15 of City Plan Part One and DM26 of City Plan Part Two.

Impact on the Public Highway

- 11.12. The development is not considered to have resulted in any detrimental impact on highway safety. Due to the design of the railings allowing through-views, vehicles leaving the site would have acceptable visibility splays and be able to react to pedestrian movements. The Local Planning Authority has no concerns in this regard.

Other Considerations

- 11.13. The scheme would have no impact on residential amenity.

- 11.14. A tree has been removed from the wider site, with the agreement from the Council that a replacement species would be planted within twelve months of the date of removal, which according to the Council's Arboriculture Team was in July. This tree falls outside the site boundary of the current application. Given this and the fact the Council can pursue enforcement relating to trees independent of the planning system, it is not considered that this matter need be given any significant weight in the current assessment.
- 11.15. Securing the site with a boundary wall will have reduced the availability of the open forecourt as a space for antisocial behaviour, which was a reported issue prior to the works being carried out. The reduction of crime and the fear of crime is a public benefit of the development and one of the aims of policy CP12 of the City Plan Part One.
- 11.16. Following the site visit it was noted that the central area of soft landscaping on the submitted plans does not exist. Given that this area falls largely outside the application site boundary and is not referenced in the application description, a corrected drawing is not considered to be essential.

Conclusion

- 11.17. The development as carried out is incongruous with the character of the wider streetscene and has had a detrimental impact on the historic significance of the Cliftonville Conservation Area. The public benefit of the scheme in terms of increased security for the site is acknowledged but is not considered to be significant enough to outweigh the harm to a designated heritage asset, which in accordance with the NPPF is given great weight in the planning balance. It is also considered that the public benefit could have been achieved with an alternative design that could have preserved or enhanced the significance of the conservation area.
- 11.18. The development has not raised any concerns with regards to highway safety, but lack of such harm can only be measured neutrally in the planning balance, and cannot serve to outweigh identified harm in terms of the design and appearance of the development. For the foregoing reasons the proposal is considered to be in conflict with policies CP12 and CP15 of the Brighton and Hove City Plan Part One, and DM18, DM21 and DM26 of the City Plan Part Two.

12. EQUALITIES

- 12.1. 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.

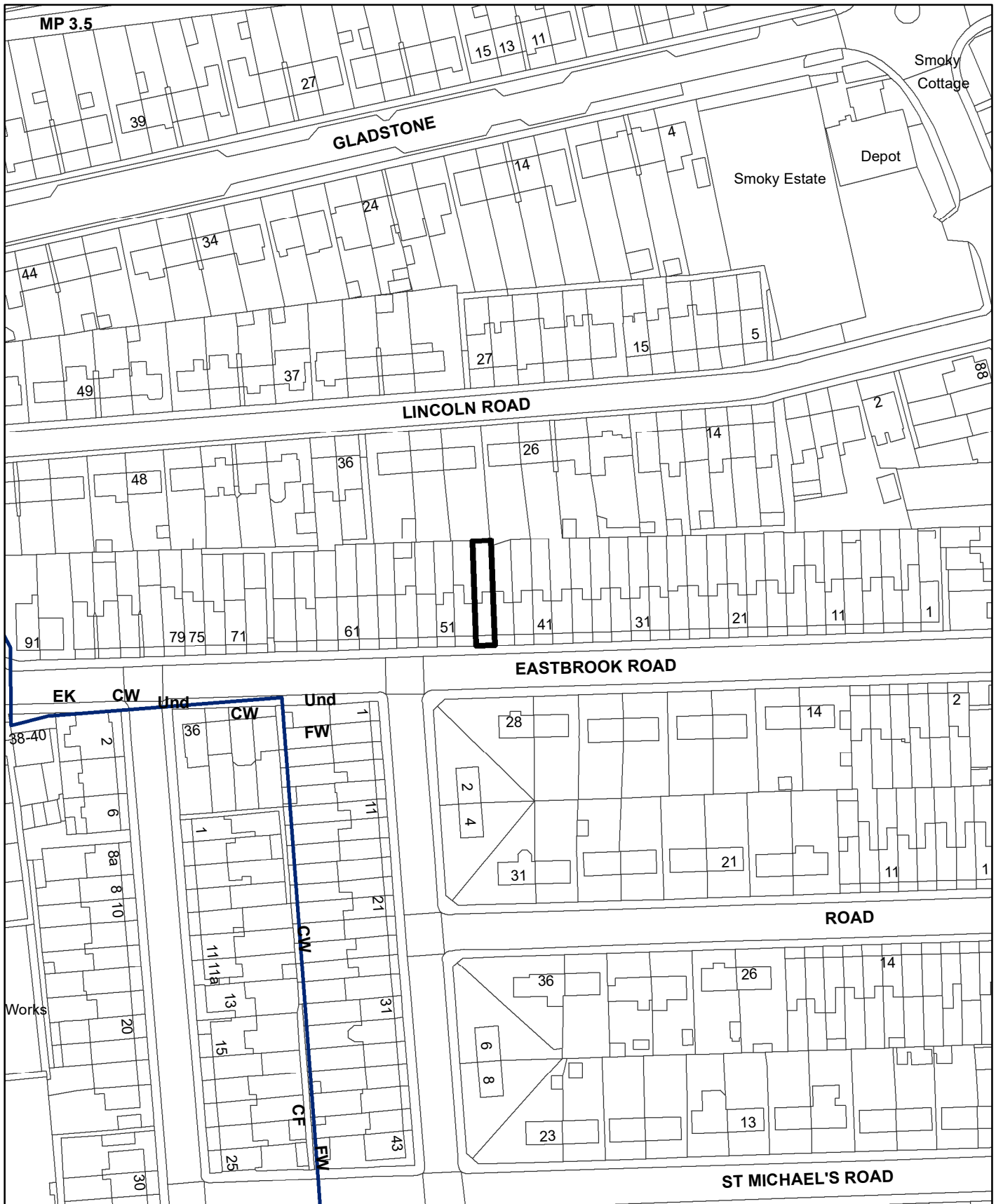
- 12.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected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

ITEM J

**47 Eastbrook Road
BH2024/00872
Householder Planning Consent**

DATE OF COMMITTEE: 7th August 2024

BH2024 00872 - 47 Eastbrook Road



N



Scale: 1:1,250

<u>No:</u>	BH2024/00872	<u>Ward:</u>	South Portslade Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	47 Eastbrook Road Portslade BN41 1LN		
<u>Proposal:</u>	Erection of single storey rear extension and roof alterations incorporating rear/side dormer and front rooflights.		
<u>Officer:</u>	Rebecca Smith, tel: 291075	<u>Valid Date:</u>	19.04.2024
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	14.06.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	CAT Architectural Services 2RQ	76 Hawth Park Road	Seaford BN25
<u>Applicant:</u>	WSE Property Services Ltd	36 Green Ridge	Brighton BN1 5LL

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:

- 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	01	V1	1 July 2024
Proposed Drawing	02	V2	18 July 2024
Block Plan	03	v1	1 July 2024

- 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.
- 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 DM21 of Brighton & Hove City Plan Part Two and CP12 of the Brighton & Hove City Plan Part One.
- 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 Two, Policy CP10 of the Brighton & Hove City Plan Part One 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. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees, hedgerows, scrub and potentially garden shrubs are all likely to contain nesting birds between 01 March and 31 August inclusive. A small section of dense shrubs/hedgerow are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
3. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. Southern Water requires a formal application for any new connection to the public sewer to be made by the applicant or developer.
To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on their website via the following link: southernwater.co.uk/developing-building/connection-charging-arrangements. For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119). Website: southernwater.co.uk or by email at: SouthernWaterPlanning@southernwater.co.uk
4. 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>

2. SITE LOCATION

- 2.1. This application relates to a two storey terraced property with rear outrigger, located on the northern side of Eastbrook Road. The site is not a listed building or within a conservation area, and is not subject to any Article 4 Directions relevant to the scheme.

3. RELEVANT HISTORY

- 3.1. **BH2024/00555** - Change of use from single dwelling house (C3) to flexible use residential and 6no bedroom small house in multiple occupation (C3/C4) with associated works including single storey rear extension and loft conversion with rear dormers and front rooflights. Withdrawn

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the erection of a rear extension and rear dormer, over the main and outrigger roofs, with rooflights to the front elevation.

5. REPRESENTATIONS

- 5.1. Representations have been received from **6 (six)** people, objecting to the proposed development for the following reasons:
- Noise, including from within the property.
 - Potential to be a HMO given layout - do not support HMO use
 - Too large for the site, over development, poorly designed
 - Overshadowing/loss of light
 - Overbearing – too tall
 - Loss of privacy
 - Increased traffic and parking demand
 - Problems with sewage
 - Too close to the boundary
 - Impacts on trees and biodiversity
 - Loss of view [not a material planning consideration]
 - Detrimental impact on property values [not a material planning consideration]

6. CONSULTATIONS

External:

- 6.1. **Southern Water:** Comment
It appears that the developer is intending to build-over a public foul sewer which is crossing the site, investigation required as not permitted.

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

CP15 Heritage

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

DM22 Landscape Design and Trees

DM37 Green Infrastructure and Nature Conservation

Supplementary Planning Documents:

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 design and appearance of the proposed extensions, impacts on neighbouring amenity the impact on the standard of accommodation, and biodiversity matters.

Design and Appearance:

- 9.2. The proposal includes works to extend into the loft space and create an L-shaped dormer. The dormer would be tile-hung to match the main roof, and would not exceed the maximum allowed under 'permitted development rights'

which for a terraced dwelling is 40 cubic metres with the scheme adding 23.7 cubic metres. At the front of the property two rooflights are proposed, which again would be considered to meet the requirements of 'permitted development rights'. Given these works could be undertaken under 'permitted development' rights, and would be to the rear of the dwelling with no impact on the streetscene or character of the area, they are considered acceptable.

- 9.3. A full-width single storey L-shaped extension is proposed to the rear of the dwelling with a depth of 6.1m and a maximum height of 3m to the top of the rooflights. The extension would be subservient to the main dwelling and entirely to the rear so would have no impact on the character of the area.
- 9.4. As noted above, materials would match the existing, which would be secured by condition.
- 9.5. Overall, the minor changes to the design are considered acceptable and in accordance with policies DM21 and DM18 of the City Plan Part Two and CP12 of the City Plan Part One.

Impact on Amenity:

- 9.6. The proposed dormers would not provide new views over neighbouring gardens which area not already possible from existing first floor windows so the degree of additional overlooking would not be significant, and as noted above, these works could be undertaken through 'permitted development' rights.
- 9.7. The rear extension has the potential for some increased impact given its 6m depth, but at single storey height the impact would be relatively limited. Further, the roofline has been amended so it would be hipped with a maximum height of 1.92m along the common boundary with no.49, reducing the potential impact on the adjoining neighbour.
- 9.8. There would be some loss of light to the rear window of no. 49 but the window is north-facing, and the same impact could result from a 2m high fence which could be erected under permitted development rights. There are no windows in the rear elevation of no. 45 to the east and it would extend only 3m along this common boundary so there are no concerns in terms of loss of light or increased sense of enclosure.
- 9.9. Accordingly, taking into account the permitted development fallback position of extension the dwelling, the proposals are considered to meet the aims of policy DM20 of the City Plan Part Two.

Standard of Accommodation:

- 9.10. Policy DM1 of CPP2 adopts the Nationally Described Space Standards (NDSS). The council will seek the delivery of a wide choice of high-quality homes which will contribute to the creation of mixed, balanced, inclusive and sustainable communities.

- 9.11. The proposal will create a four-bedroom dwelling over three storeys, with six bedspaces (two double and two single rooms), the minimum floor area required for this is 112sqm. The overall floor area would be 117.5sqm.
- 9.12. Accordingly the proposed standard of accommodation, with the extensions would create a layout which complies with policy Dm1 of the City Plan Part Two.

Biodiversity and Ecology:

- 9.13. The extension would be over grass/hardstanding so no impacts of concern. A condition is recommended requiring a bee brick to enhance nature conservation of the site.
- 9.14. One of the representations has raised concerns about trees in the garden but no trees would be affected by the scheme.

Other Considerations:

- 9.15. A number of the representations are concerned about the potential future use of the property as a House in Multiple Occupancy. However, changing the use of the property would require a full planning application so the acceptability of the use cannot be considered as part of this proposal. Such an application was submitted earlier in the year but withdrawn (BH2024/00555). A further application would need to be sought in the future, this application type does not allow for changes of use to be considered.
- 9.16. Matters such as loss of property value and views, structural safety, and the impact of construction works are not material planning considerations.

10. EQUALITIES

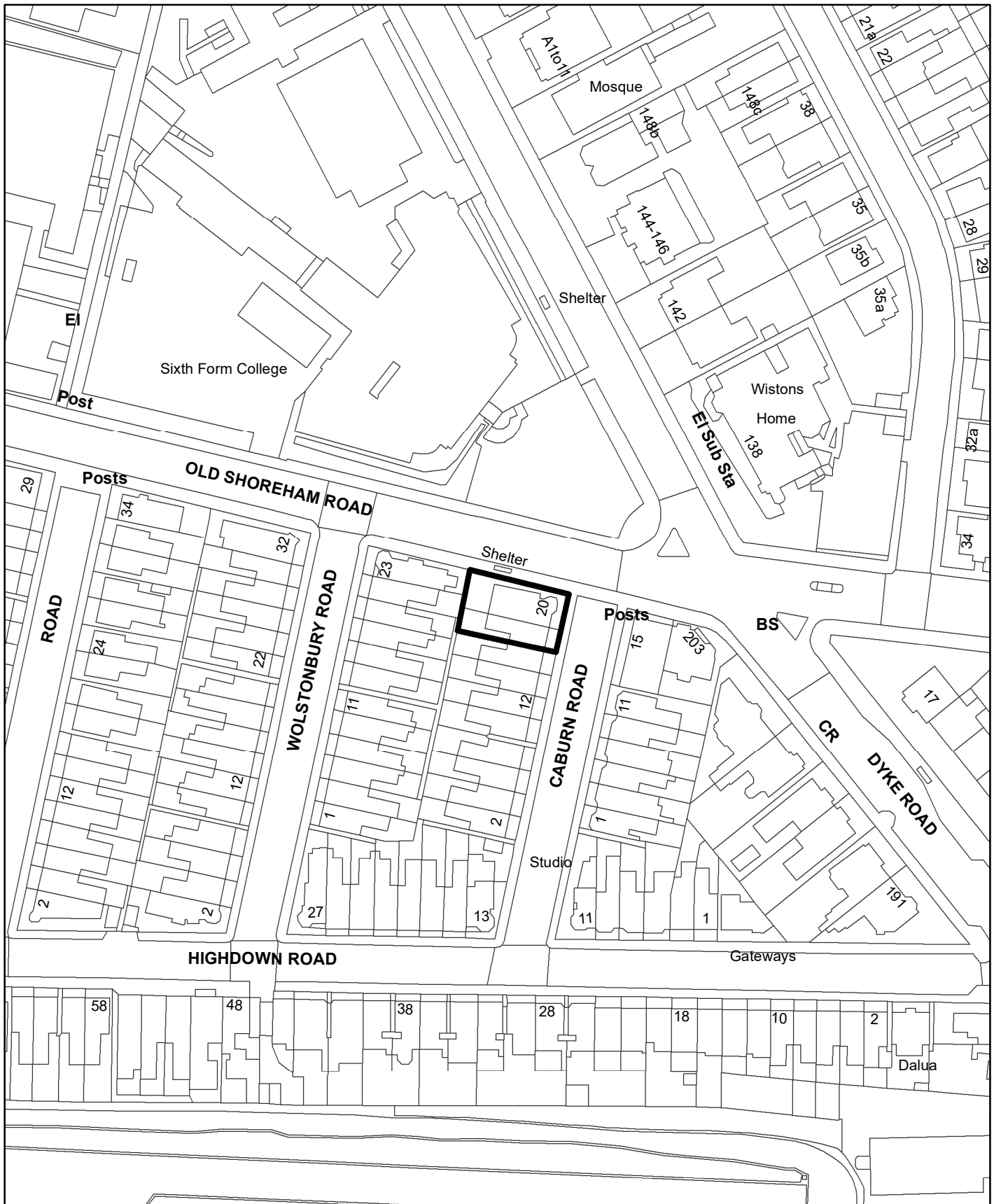
- 10.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of 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 K

**18-20 Caburn Road
BH2024/00443
Full Planning**

DATE OF COMMITTEE: 7th August 2024

BH2024 00443 - 18-20 Caburn Road



N



Scale: 1:1,250

<u>No:</u>	BH2024/00443	<u>Ward:</u>	Goldsmid Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	18 - 20 Caburn Road Hove BN3 6EF		
<u>Proposal:</u>	Change of use from adult care services (C2) to use as either a house in multiple occupation (Sui Generis) or as a Class C2 facility.		
<u>Officer:</u>	Michael Tucker, tel: 292359	<u>Valid Date:</u>	19.02.2024
<u>Con Area:</u>		<u>Expiry Date:</u>	15.04.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	17.05.2024
<u>Agent:</u>	Lewis And Co Planning SE Ltd Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	T And L Land Developments C/o Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **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	TA1501/01		19 February 2024
Proposed Drawing	TA1501/10	A	19 February 2024
Proposed Drawing	TA1501/11	B	19 February 2024
Proposed Drawing	TA1501/12	B	19 February 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 measures set out in the Management Plan received on 19th February 2024 shall be fully implemented and the occupation and use of the building as a Large HMO (Sui Generis) shall be in strict accordance with the approved management plan.

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

4. The internal layout detailed on the proposed floorplans TA1501/11 B and TA1501/12 B received on 19th February 2024 shall be implemented prior to first use of the building as a large HMO (Sui Generis) and shall be retained thereafter whilst in large HMO use. The rooms annotated as "Kitchen/dining", "Sitting room" and "Communal Utility" as set out on drawing TA1501/11 B received on the 19th February 2024 shall be retained as communal space and shall not be used as a bedroom at any time. Bedroom "2" on the ground floor and bedroom "5" on the first floor shall at no time be used as a double occupancy bedroom.
Reason: To ensure a suitable standard of accommodation for occupiers and to comply with Policies DM1 and DM20 of the Brighton & Hove City Plan Part Two.
5. The development hereby approved shall only be occupied by a maximum of fifteen (15) persons when in use as a large HMO (Sui Generis), and a maximum of twelve (12) persons when in use as adult care services (C2).
Reason: To ensure a satisfactory standard of accommodation for future occupiers and to comply with Policies DM1 and DM20 of the Brighton & Hove City Plan Part Two.
6. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development 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 dwelling shall be occupied as either a sole large House in Multiple Occupation (Sui Generis) or as a sole adult care services (C2) only unless otherwise agreed in writing by the Local Planning Authority and shall not be used as separate independent units of accommodation.
Reason: As this matter is fundamental to the acceptability of the permission hereby approved.

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. It is advised that an HMO Licence shall be required. An application can be made via the Council website.

2. SITE LOCATION

- 2.1. The application relates to a pair of two-storey terraced buildings on the western side of Caburn Road, at the corner with Old Shoreham Road. The area is residential in character, with rows of terraced two-storey buildings arranged

perpendicular to Old Shoreham Road. The Brighton, Hove and Sussex Sixth Form College (BHASVIC) is located on the opposite side of Old Shoreham Road to the north.

- 2.2. The two buildings are connected internally and have most recently been in use as a ten-bedroom adult care facility (C2), operated by St John's College. This use was granted planning permission in 1998 subject to a condition securing a maximum of twelve residents.
- 2.3. Planning permission (BH2023/02468) has recently been granted and is extant for a change of use of the site from adult care services (C2) to a ten-bedroom, fifteen-person house in multiple occupation (HMO) (Sui Generis). It is understood that this permission has not yet been implemented.

3. RELEVANT HISTORY

- 3.1. **BH2023/02468** - Change of use from adult care services (Class C2) to ten bedroom house in multiple occupation (Sui Generis). Approved 16/01/2024
- 3.2. **PRE2023/00116** - Change of use from adult mental health care home (Class C2) to suis generis HMO (11 bedrooms). Note that existing facility has a planning condition (BH1998/01314) limiting occupancy to 12 persons. Can the Council also comment on the level of shared internal space (see ground floor plan) that is proposed for the 11 bedrooms. Response issued
- 3.3. **BH1998/01314/FP** - Change of use from hotel/guest house (Use Class C1) to residential care home (Use Class C2). Approved

4. APPLICATION DESCRIPTION

- 4.1. The current application seeks planning permission for a change of use from adult care services (planning use class C2) to a flexible use as either a ten-bedroom, fifteen-person HMO (Sui Generis – outside of any use class) or as adult care services (C2). No external works are proposed.
- 4.2. The proposed 'flexible' use is defined within Schedule 2, Part 3, Class V of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This allows for the use of the building to convert, subject to any attached conditions, between the two specified uses (in this case as adult care services (C2) or a ten-bedroom HMO (Sui Generis)) for a period of ten years. After this period, the lawful use of the building would become whichever of the two was last in place.

5. REPRESENTATIONS

- 5.1. **Six (6)** letters of objection have been received raising the following issues:
 - Loss of property value

- Further information required regarding proposed uses
 - Noise disturbance in a family street
 - Concerns regarding potential future occupiers of a C2 use
 - More letters should have been sent to local residents
- 5.2. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

- 6.1. **Housing:** No comment received
- 6.2. **Planning Policy:** No objection. The site already has an extant planning consent granted under BH2023/02468, to change use from C2 to HMO and this is a material consideration. The principle of the loss of C2 facility and change of use to HMO has already been accepted.
- 6.3. The proposal is considered to be in compliance with DM5.2 (a), (b) and (d).
- 6.4. **Public Health:** No comment received
- 6.5. **Private Sector Housing:** Comment: Should the application be approved then the applicant will need to apply for a HMO Licence via the council's website.
- 6.6. **Social Care & Housing:** No comment received
- 6.7. **Southern Water:** Comment: Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.
- 6.8. **Sustainable Transport:** Verbal comment: No objection SPD14 requires a minimum of 1 cycle parking space per 2 beds for a long stay, so 7 cycle spaces are needed for this development. The applicant is proposing 8 cycle parking spaces: 4 in a cycle store at the rear garden and 4 in uncovered cycle parking in front of the property. This is acceptable. However, the Local Highway Authority expects the proposed cycle store to be covered. Full details of cycle storage should be secured by 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

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP9	Sustainable transport
CP12	Urban design
CP21	Student housing and Housing in Multiple Occupation

Brighton & Hove City Plan Part Two

DM1	Housing Quality, Choice and Mix
DM5	Supported Accommodation (Specialist and Vulnerable Needs)
DM7	Houses in Multiple Occupation
DM20	Protection of Amenity
DM33	Safe, Sustainable and Active Travel

Supplementary Planning Documents:

SPD14	Parking Standards
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, the impact upon neighbouring amenity, the standard of accommodation to be provided and transport matters.

Background:

- 9.2. The change of use of the site from adult care services (planning use class C2) to a ten-bedroom, fifteen-person HMO (Sui Generis) has already been approved, in January 2024, under planning permission reference BH2023/02468. This permission is extant and must be afforded significant weight. As part of this previous application, the loss of the C2 use was justified in accordance with the requirements of Policy DM5 of the City Plan Part Two, and the proposed HMO use was demonstrated to meet the tests set out in Policy CP21 of the City Plan Part One and Policy DM7 of the City Plan Part Two.
- 9.3. The current proposal differs in that it is for a flexible C2/HMO use. This means that the use of the site could fluctuate between adult care services (C2) and a large HMO (Sui Generis) for a period of ten years. However, both uses would operate with the same internal layout as indicated on the proposed plans.

Principle of Development:

- 9.4. No objection is raised to the principle of the proposed flexible C2/Sui Generis HMO use. The loss of the existing C2 use was established as acceptable as part of the extant permission (BH2023/02468), and its temporary or permanent loss as part of the current proposal would therefore not be objectionable. The evidence that was provided by the applicant for BH2023/02468 to satisfy Policy DM5 can be summarised as:
- the existing site layout was not ideal
 - the sale of the site would allow for the provision of higher quality supported accommodation elsewhere by the same operator
- 9.5. This evidence was reviewed by the Planning Policy and Adult Social Care consultees who raised no objections.
- 9.6. In terms of the proposed Sui Generis HMO use, Policy CP21 of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use to planning use class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation and states that:
- "In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in Multiple Occupation) use, a mixed C3/C4, or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:*
- *More than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use."*
- 9.7. A mapping exercise has been undertaken which indicates that there are 53 residential properties and flats within a 50m radius of the application property, two of which have been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is 3.8%. The existing percentage of neighbouring properties in HMO use is less than 10%, and the change of use of the property to a Sui Generis HMO would therefore not conflict with the aims of policy CP21.
- 9.8. Policy DM7 of CPP2 includes additional criteria to those set out in Policy CP21, and states the following:
- "Applications for new build HMOs, and applications for the change of use to a C4 use, a mixed C3/C4 use or to a sui generis HMO use, will be permitted where the proposal complies with City Plan Part One Policy CP21 and all of the following criteria are met:*
- a) fewer than 20% of dwellings in the wider neighbourhood area are already in use as HMOs;*
 - b) the proposal does not result in a non-HMO dwelling being sandwiched between two existing HMOs in a continuous frontage;*
 - c) the proposal does not lead to a continuous frontage of three or more HMOs;*
 - d) the internal and private outdoor space standards provided comply with Policy DM1 Housing Quality, Choice and Mix;*

e) *communal living space and cooking and bathroom facilities are provided appropriate in size to the expected number of occupants."*

- 9.9. Criterion a) has been assessed and the percentage of dwellings in the wider neighbourhood area has been calculated at 2.1% and therefore criterion a) has been met.
- 9.10. Criterion b) has been assessed and it is confirmed that the proposal would not 'sandwich' a non-HMO between two existing HMOs; and would not lead to a continuous frontage of three or more HMOs so accords with criterion (c). There are two HMOs to the east (contiguous with each other) however given that the application site is separated from these by Caburn Road it is considered that a continuous frontage would not be created.
- 9.11. Considerations regarding amenity space and communal living (criteria d) and e)) are set out below.
- 9.12. The proposed Sui Generis HMO use would therefore be acceptable in principle.
- 9.13. The development is therefore considered to comply with relevant tests of Policies DM5, DM7 and CP21 and is acceptable in principle.

Impact on Amenity:

- 9.14. The proposal would result in an increase in occupants on site, from ten under the existing use to fifteen as proposed under the Sui Generis HMO use. However, it is noted that the current C2 use is limited by planning condition to a maximum of twelve care-receiving occupants on site. Additional care-giving staff would reasonably be expected to be on site for care for the residents, and this would result in a higher number of occupants on site that could be accommodated under the existing use that would be broadly comparable to the proposed HMO occupancy in terms of overall resident numbers and visitor numbers.
- 9.15. Potential noise and disturbance can be described as *"functions of the way particular residents behave rather than being inherently dependant on the status of the property as a dwellinghouse or HMO"*, as noted by an Inspector in a previous appeal decision (APP/Q1445/W/20/3254632 relating to application BH2019/01490 at 64 Islingword Road). On the above basis of the proposed number of occupants being comparable to those potentially able to be accommodated under the existing use, it is considered it would be unreasonable to refuse this development on the assumption that future residents would behave in a problematic manner.
- 9.16. The application includes a Management Plan (for HMO use) setting out measures to reduce the noise impact of the development. Measures identified with the Management Plan include vetting of prospective tenants, details of the managing agent for neighbours to contact in the case of disturbance, a complaints procedure for neighbours, and the use of noise dampening door closers and carpets. Compliance with the Management Plan can be secured by condition.

- 9.17. It is noted that an HMO would require licensing by the Council's Private Sector Housing team and thus be required to comply with management standards as well as other requirements. Additionally, the granting of this planning permission would not prohibit the Environmental Health team acting against 'statutory nuisance' under the Environmental Protection Act 1990 if this was required in the future.
- 9.18. Refuse storage would occur as at present and there would not be a significantly different impact compared to the existing use.
- 9.19. Accordingly, the proposed use of the property as a large HMO for up to 15 persons is considered unlikely to be detrimental to neighbouring amenity or the amenity of the area. It is also a material consideration that there is an extant planning permission for a 15-person HMO.
- 9.20. Were the use of the building to revert back to a C2 use at a later date this would be unlikely to have any greater impact on neighbouring amenity than the existing use, subject to a condition restricting maximum occupancy to twelve residents as has been the case previously. The concerns raised in public representations are acknowledged, however as the site has been established in C2 use for over two decades it is considered that it would be unreasonable to take the position that a reversion to C2 use would result in a significant harmful impact.
- 9.21. Therefore, on this basis the proposal is considered to be in accordance with Policy DM20 of the City Plan Part Two.

Standard of Accommodation:

- 9.22. It should be noted that as a proposed flexible use, the proposed internal layout must be suitable as both a Sui Generis large HMO and C2 adult care services use.
- 9.23. The proposed internal layout would comprise 315sqm of accommodation set over two storeys, with ten bedrooms of (excluding en-suites):

Ground floor:

17sqm, 17sqm, and 10sqm

First floor:

19sqm, 17sqm, 17sqm, 15sqm, 14sqm, 11sqm, and 9sqm

- 9.24. Each of the bedrooms would be of regular proportions allowing space for furniture and circulation and would have access to natural light and outlook. Every bedroom would have access to an en-suite W/C with further communal W/C facilities on each floor. Five of the bedrooms are proposed as double rooms and it is considered that there are enough bedrooms of a sufficient size and proportion to accommodate this.

- 9.25. There are proposed communal areas comprising a 21sqm kitchen/dining space and a 23sqm lounge. There is also a further 19sqm communal area, for a total of 63sqm of communal space.

As an HMO:

- 9.26. Policy DM1 of the City Plan Part 2 adopts the Nationally Described Space Standards (NDSS). The proposals are also considered against DM7 which sets the expected standards of accommodation for HMOs.
- 9.27. The proposed HMO would be a ten-bedroom, fifteen-person dwelling across two storeys. The NDSS gives no direct comparator, however the proposal would comfortably exceed an extrapolation from a six-bedroom, eight-person figure of 132sqm.
- 9.28. No section drawings have been provided to demonstrate the available headroom within the building. The building is however established for a residential use and it is considered that the headroom requirements of an HMO would not be dissimilar to those of the existing use within Class C2.
- 9.29. On the basis of fifteen-person occupancy, the proposal would be in accordance with Policy DM7 which seeks to secure a minimum of 4sqm of communal space per occupant. Occupancy levels and the continued retention of the communal areas can be secured by a recommended condition.
- 9.30. The rear communal area would double as an access to the outdoor garden area, however this is not the sole communal area and as such this is considered not to be an objectionable arrangement.
- 9.31. Some outdoor amenity space (32sqm) would be available to residents in the form of the rear patio and garden. Whilst not of a particularly generous size, this would be useable and would provide benefit to residents and is therefore considered not to be an objectionable element of the scheme. The other outdoor areas such as the vehicle parking area and front/side gardens are considered to be less useable due to their proportions and being heavily overlooked from the street. It is also noted that the site benefits from being located close to a local park for amenity.
- 9.32. Overall, it is considered that the proposed layout would provide an acceptable standard of accommodation as a Sui Generis HMO for the number of occupants proposed, in accordance with policies DM1 and DM7 of the City Plan Part Two. It should also be noted that a separate HMO license would be required from the council, that regulates basic standards and minimum room sizes.

As a C2 use:

- 9.33. The proposed layout is similar to the existing layout. The outdoor space and number of bedrooms would be unchanged, and whilst two small office rooms would be lost, these would be replaced by an enlarged communal area on the ground floor and a larger bedroom on the first floor.

- 9.34. Part of the justification for the loss of the existing C2 use was that the existing internal layout was not ideal. The items raised by the applicant and by the Council's Adult Social Care team were:
- the limited outdoor space
 - the limited internal communal spaces
 - the high number of bedrooms (and therefore occupants) both within the building and on the first floor specifically.
- 9.35. Whilst the proposed layout does little to address these shortcomings, the suitability of the layout is considered not to be materially any worse than the existing layout.
- 9.36. Accordingly it is considered that the proposed layout would, overall, be acceptable for a C2 use in view of the shortcomings of the existing layout which could otherwise be retained in the future.

Sustainable Transport:

- 9.37. The proposal is considered unlikely to result in a significant increase in trip generation or to have a severe highways impact.
- 9.38. The retention of the existing on-site car parking area and vehicle access off Old Shoreham Road is proposed. This would allow for approximately one to two vehicles and would be in compliance with SPD14 maximum standards. The site is located within a Controlled Parking Zone (CPZ) and so any demand for on-street car parking can be managed through the CPZ system.
- 9.39. Eight cycle parking spaces are proposed, four covered spaces at the rear and four uncovered spaces to the front of the site. This is in accordance with SPD14 standards which would require eight cycle parking spaces for the development (as a fifteen-bedroom HMO - fewer as a C2 use), and is considered acceptable. It is noted that only four of the spaces proposed are covered, whereas ideally all the proposed spaces would be. However, a covered store to the front would have an increased visual impact, and an enlarged store to the rear would reduce the available outdoor amenity space for occupiers. It is considered that the proposal strikes a reasonable balance between providing sufficient cycle parking, making best use of the limited outdoor space on site, and preserving the appearance of the site.

10. CONCLUSION:

- 10.1. No objection is raised to the principle of the development proposed. The loss of the existing adult care services (C2) use has previously been justified in compliance with Policy DM5 of the City Plan Part Two as part of application BH2023/02468, and this reasoning would still hold. Were the use of the building to revert back to a C2 adult care services use during the flexible period this would similarly not be objectionable. Subject to conditions securing compliance with an HMO management plan and limiting the number of occupiers of the proposed uses, no significant impact upon neighbouring amenity is anticipated over and above the extant permission for an HMO. The standard of accommodation for

the proposed HMO use is considered acceptable, and would not be materially worse than the existing layout for C2 use. Matters relating to sustainable transport are considered acceptable.

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.

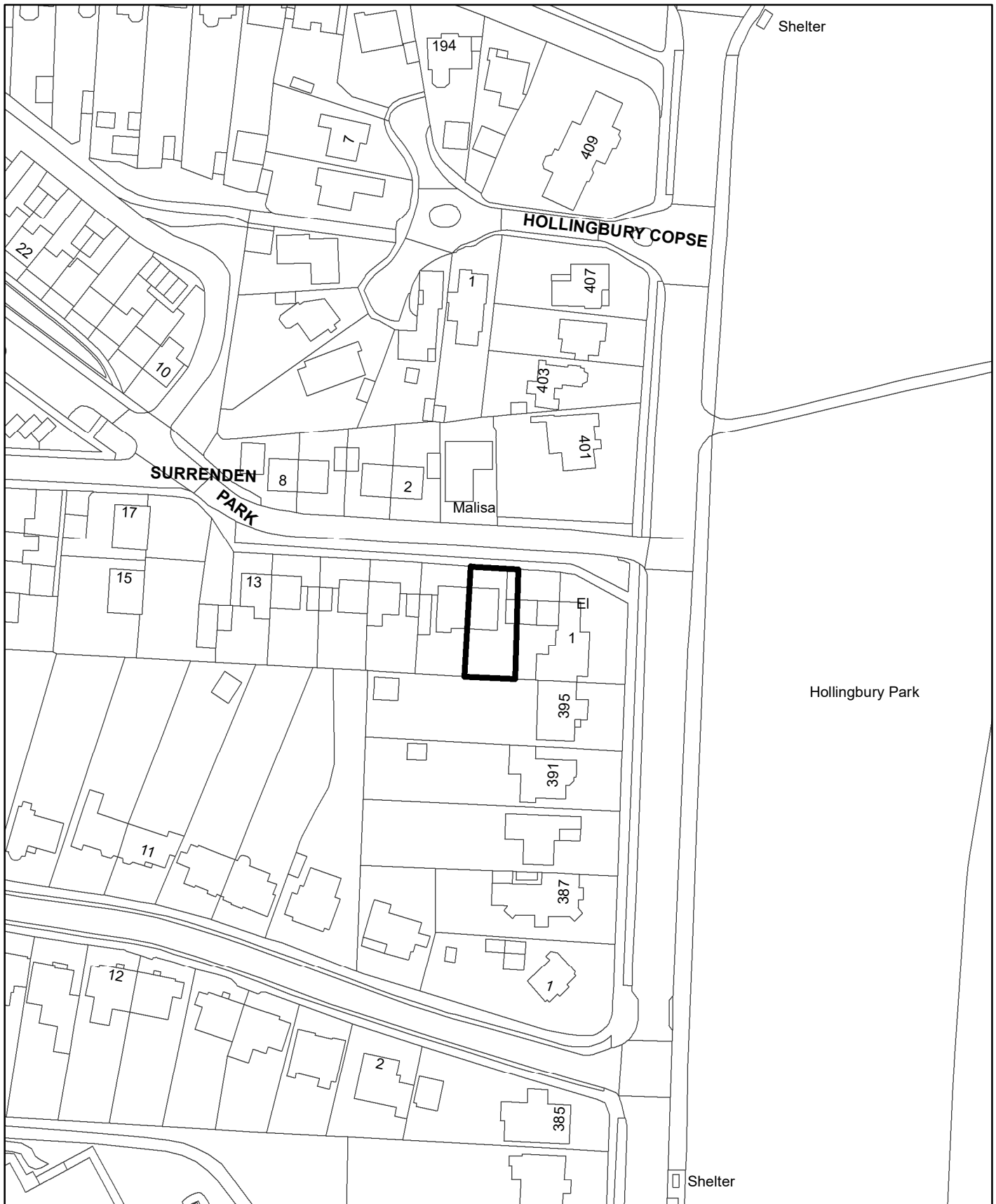
11.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics. The site does not provide level access to the upper floors, however given the small scale of the development and that it is a conversion of an existing building, this is considered not to be objectionable in this case. One of the rooms would have an accessible en-suite w/c.

ITEM L

**3 Surrenden Park
BH2024/00879
Householder Planning Consent**

DATE OF COMMITTEE: 7th August 2024

BH2024 00879 - 3 Surrenden Park



N



Scale: 1:1,250

<u>No:</u>	BH2024/00879	<u>Ward:</u>	Hollingdean & Fiveways Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	3 Surrenden Park Brighton BN1 6XA		
<u>Proposal:</u>	Erection of a 2no storey side extension and associated alterations.		
<u>Officer:</u>	Charlie Partridge, tel: 292193	<u>Valid Date:</u>	19.04.2024
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	14.06.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	07.08.2024
<u>Agent:</u>	Mr James Burton 1 12 whittingehame gardens Brighton BN1 6PU United Kingdom		
<u>Applicant:</u>	Mrs Emma Lucas-Kirkwood 3 Surrenden Park Brighton Brighton & Hove BN1 6XA		

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	2023/100		8 April 2024
Proposed Drawing	2023/101	C	7 June 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. A 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 CP10 of the Brighton & Hove City Plan Part One, DM37 of the Brighton & Hove City Plan Part Two and SPD11 Nature Conservation and Development.

4. A swift brick or box 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 and DM37 of the Brighton & Hove City Plan Part Two, and 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. 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 above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place.

2. SITE LOCATION

- 2.1. The application site relates to a two-storey semi-detached dwellinghouse on the south side of Surrenden Park. The site is not within a conservation area and there are no Article 4 Directions covering the site relating to extensions or alterations.

3. RELEVANT HISTORY

- 3.1. **BH2001/02028/FP** Erection of single storey extension to rear of garage. Approved 05.11.2001
- 3.2. **96/1116/FP** Amendment to previous consent (96/0830/FP) for the erection of a two storey rear extension involving alteration to flat roof. Approved 04.02.1997
- 3.3. **96/0830/FP** Erection of rear two-storey extension. Approved 11.09.1996

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the erection of a two-storey side extension and associated alterations.
- 4.2. During the course of determining the application, the proposal was amended to add glazing bars to the proposed first floor front windows and replace the proposed first floor rear Juliet balcony with a window. A proposed roof plan was also added to the drawings.

5. REPRESENTATIONS

- 5.1. Six (6) representations have been received, objecting to the proposed development on the following grounds:
 - Inappropriate height
 - Overdevelopment
 - Rainwater issues
 - 'Proposed' floor plans labelled as 'existing'
 - Not in keeping with estate
 - Poor design
 - Lack of glazing bars on front elevation window
 - Proximity to substation
- 5.2. Three (3) representations have been received in support of the proposed development for the following reasons:
 - Good design
 - Local precedent for extensions
 - No harm to appearance of estate
 - Covenant outdated and not relevant to planning
- 5.3. One (1) representation has been received stating that the Surrenden Park Residents' Association neither objects nor supports the proposed development.
- 5.4. One (1) representation has been received from the UK Power networks, objecting to the proposed development by reason of its proximity to the existing substation. The objection noted the need for a Party Wall Notice.

6. CONSULTATIONS

- 6.1. **Sustainable Transport:** Acceptable subject to cycle parking scheme condition
 - The applicant does not indicate any cycle parking for this proposal. Parking Standards SPD14 requires a minimum of 2 cycle parking spaces for 3 - 4+bedroom dwellings. A minimum of 2 cycle parking spaces are required. There appears to be space on site for secure cycle parking. Cycle parking scheme condition to be attached.
 - The proposed amendments to the garage are considered acceptable.

- The proposed changes are likely you increase the number of trips to the site however, those are unlikely to generate reason for objection.

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
CP15	Heritage

Brighton & Hove City Plan Part Two:

DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM26	Conservation Areas
DM33	Safe, Sustainable and Active Travel
DM37	Green Infrastructure and Nature Conservation

Supplementary Planning Document:

SPD09	Architectural Features
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 scheme's impact on the character and appearance of the area, and on

neighbouring amenity. The impact of the proposal on biodiversity and the public highway also requires consideration. A site visit was undertaken as part of the assessment of this application.

Impact on Character and Appearance of the Area:

- 9.2. The extension is considered to relate well to the existing features of the house and would remain subservient to it. It would be set back from the front elevation, set down from the ridge and would extend the main eaves of the property. The main roof of the extension would be tiled and hipped, and the walls of the extension would be finished in brickwork to match the existing external finishes of the dwellinghouse. It would feature a garage door and first floor window to the front and two ground floor and one first floor windows to the rear.
- 9.3. The original design of the proposal included a Juliet balcony which was subsequently amended to a window in response to officer concerns regarding overlooking of neighbours' gardens. The proposed front window did not originally feature any glazing bar subdivisions. This was also amended to include a similar glazing bar arrangement to the existing front windows. Following these amendments, the scheme is considered acceptable in terms of its design.
- 9.4. As this property is situated at the end of the group of houses, a sizeable gap exists between it and the adjacent property to the east No.1 Surrenden Park so there is considered to be scope for a two-storey side extension in this location. Whilst it is noted that the appearance of the nearby properties is relatively uniform when viewed from the streetscene, due to its location at the end of the group, the proposed two storey side extension would not interrupt the visual rhythm of the pairs of semi-detached houses and single storey garages between them. Furthermore, many of the properties have been extended to the side and rear within the immediate vicinity of the site, so the addition of the two-storey side extension is unlikely to be overly detrimental to the appearance of the host property or wider streetscene.
- 9.5. It has been asserted in the representations received that the proposed development would constitute an overdevelopment of the site. Whilst the proposed two storey extension would add significant mass to the property, the total footprint of the house would not significantly increase as it would involve the replacement of the existing garage.
- 9.6. The proposal would therefore be in accordance with Brighton & Hove City Plan Part Two policies DM21 and DM26.

Impact on Residential Amenity:

- 9.7. With regard to amenity, no significant adverse impacts are expected as a result of the proposed development.
- 9.8. The proposed extension would not feature any side windows and the proposed first floor rear window is not expected to provide overlooking beyond that expected in such a residential area. This opening was originally proposed to be a Juliet balcony however this was amended to a window to reduce the potential for harmful overlooking.

- 9.9. No overbearing impact is expected to occur to the adjacent or adjoining neighbouring properties. The proposed two storey extension would be on the opposite side of the dwelling from the adjoining neighbour No.5 Surrenden Park, so no impacts are expected to occur to the occupants of this property.
- 9.10. Due to its proximity to the shared boundary, it may result in some loss of outlook to the nearest adjacent neighbour at No.1 Surrenden Park. However, it would be set away at least 7.5m from the neighbouring ground floor rear extension. As such, any overbearing impact or loss of light would not be considered significant enough to warrant a refusal of the application, particularly as the proposed extension would be situated to the northwest of No.1.
- 9.11. The extension would not be in proximity to any other neighbouring properties so no further impacts relating to neighbouring amenity are expected to occur. It is considered that for the reasons set out above, the proposed development would not cause harm to the amenity of neighbours and would comply with policy DM20 of the Brighton and Hove City Plan Part 2.
- 9.12. The proposal facilitates the provision of an additional bedroom to this property so the acceptability for its residents must be considered. It would be at first floor level and would benefit from sufficient outlook and natural light via the proposed rear window. It would have an internal floor which exceeds the standard for two bedspaces of 11.5m². The space created would therefore be in general accordance with CPP2 Policy DM1.

Transport

- 9.13. The Local Highways Authority (LHA) was consulted on the application and did not object subject to the imposition of a cycle parking scheme condition. The agent confirmed that the applicants intend to store their bicycles in the new garage in the ground floor of the proposed extension, so this condition was not considered necessary. No impacts to the safety of the public highway have been identified.

Biodiversity

- 9.14. 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 the installation of both a bee brick and a swift brick/box 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.

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.

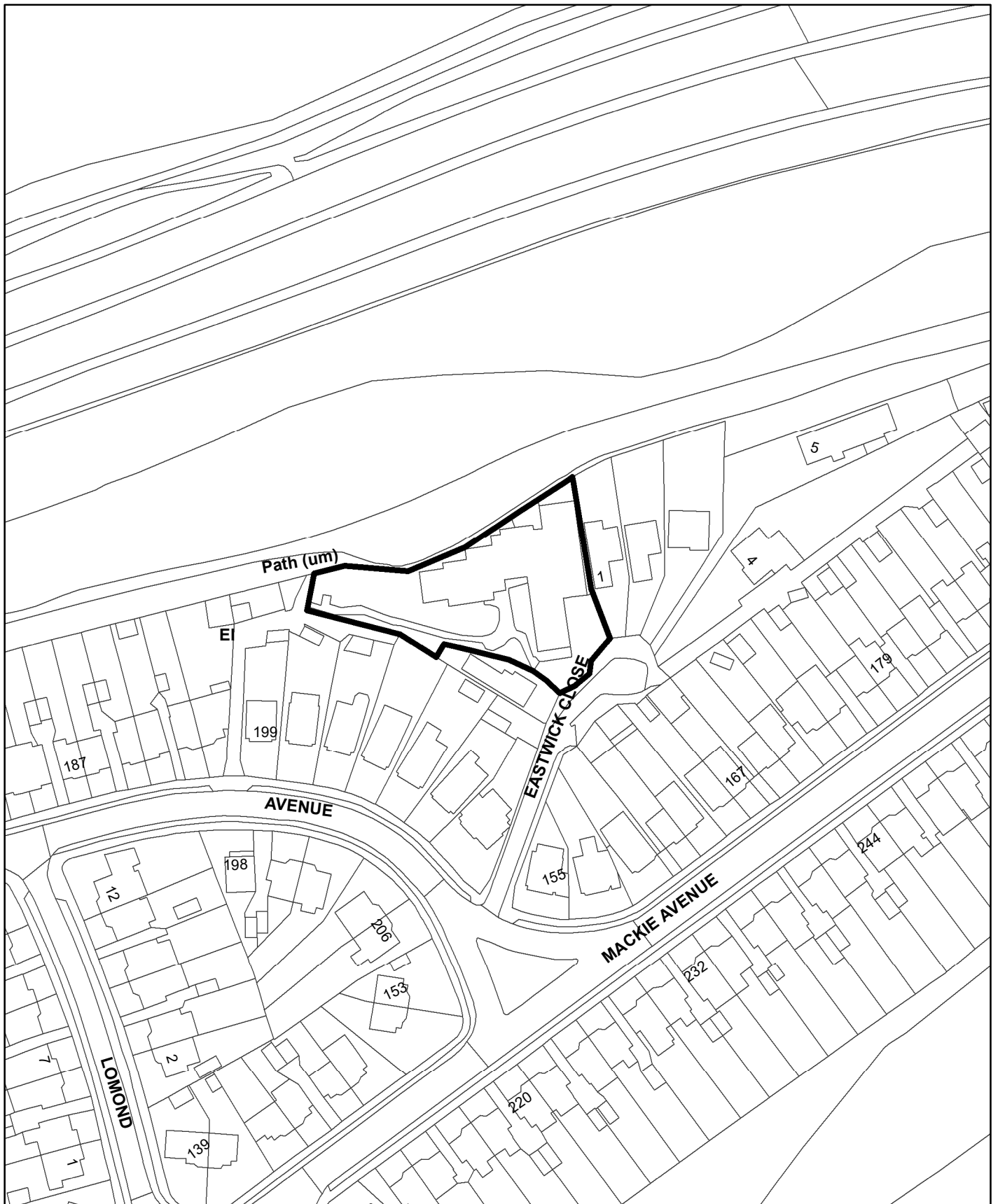
10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

ITEM M

**Patcham Nursing Home, Eastwick Close
BH2024/00825
Full Planning**

DATE OF COMMITTEE: 7th August 2024

BH2024 00825 - Patcham Nursing Home, Eastwick Close



N



Scale: 1:1,250

<u>No:</u>	BH2024/00825	<u>Ward:</u>	Patcham & Hollingbury Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Patcham Nursing Home Eastwick Close Brighton BN1 8SF		
<u>Proposal:</u>	Conversion of existing kitchen and office space to form 4no additional bedroom units (C2) and associated works.		
<u>Officer:</u>	Steven Dover, tel:	<u>Valid Date:</u>	07.05.2024
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	02.07.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	16.08.2024
<u>Agent:</u>	Worke & Bussell Architects 72 Summerlee Avenue East Finchley N2 9QH		
<u>Applicant:</u>	KMG C/O Healthcare Management Ltd 302 Alcester Road Birmingham B47 6JR		

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			7 May 2024
Proposed Drawing	05	C	7 May 2024
Proposed Drawing	08	B	7 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. Prior to first occupation of the rooms created by the development hereby permitted, a car park layout plan shall have been submitted to and approved in writing by the Local Planning Authority. The approved plan shall be implemented in full prior to first occupation of the rooms created, and maintained thereafter.

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.

4. Prior to the first occupation of the rooms created by the development hereby approved a Parking Strategy & Management Plan shall be submitted to and approved in writing by the Local Planning Authority, which includes details of management of:
 - Staff and visitor travel and parking;
 - Deliveries and residents' pick-ups including type of vehicle parking and frequency;
 All parking shall thereafter be carried out in accordance with the approved plan.
Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policies CP9 of the Brighton & Hove City Plan Part One, policy DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.

5. No deliveries to the premises shall take place between 19:00 and 07:00.
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.

6. The rooms created by the development hereby permitted shall not be first occupied until a scheme for the control of fumes, smells and odours has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in strict accordance with the approved details prior to the first use of the development hereby approved, and shall thereafter be retained as such.
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.

7. The rooms created by the development hereby permitted shall not be first occupied until a scheme for the sound insulation of the odour control equipment referred to in condition 6 has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

8. The rooms created by the development hereby permitted shall not be first occupied until:
 - i) details of external lighting, which shall include details of; levels of luminance, hours of use, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation and details of maintenance have been submitted to and approved in writing by the Local Planning Authority.
 - ii) the predicted illuminance levels have been tested by a competent person to ensure that the illuminance levels agreed in part1 are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part i).
 The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.
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.

9. 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. 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.
3. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
4. 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>
5. The carparking plan required by condition 3 should include details of existing and proposed cycle parking, car parking, electric vehicle parking and charging, mobility scooter parking and charging, disabled parking, loading bays, ambulance / taxi pick-up and drop off, service and delivery areas and signage (markings and signs) for the management of all forms of parking and stopping as appropriate (such as numbered spaces and Department for Transport approved names and symbols (e.g. for a disabled bay) inside and outside of the space).

2. SITE LOCATION

- 2.1. The application relates to Patcham Nursing Home, which is a converted barn, located on the north side of Eastwick Close. The Nursing Home (planning use class C2) is accessed via a front carpark on Eastwick Close and currently contains 30 bedspaces. The large detached property is surrounded by detached residential dwellings and is located adjacent to the South Downs National Park and designated open space areas.

3. RELEVANT HISTORY

- 3.1. BH2020/01824 - Conversion of existing kitchen and office space to form 4no additional bedroom units (C2) and associated works. Approved (Planning Committee) 11.03.2021.
- 3.2. 96/0433/FP- Conservatory extension on ground floor and 1st floor extension over entrance to form 4 additional bedrooms with laundry room beneath. Approved 25.06.1996.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks consent for the conversion of the existing kitchen and office space to form four additional bedroom units and associated works. The external works would include infilling the existing undercroft to facilitate the relocated kitchen/office/laundry room, a change to the fenestration of the building and the installation of an extract flue.
- 4.2. The existing nursing home currently has 30 beds and proposes the additional 4 no. bedrooms to address a current demand. It has been confirmed that no additional staff would be required.
- 4.3. The application is very similar to the development approved under application BH2020/01824, which is no longer extant.

5. REPRESENTATIONS

- 5.1. In response to publicity, responses were received from **two (2)** comments (excluding repeats from same interested parties) received objecting and raising the following issues:
 - Traffic and parking issues including existing insufficient parking
 - Block close with deliveries, ambulance and vehicles
 - Noise nuisance from deliveries
 - On-going issue with delivery and ambulance vehicles
 - Increasing the capacity of the nursing home will increase problems
 - Access and road not wide enough
 - Infrastructure is already insufficient for the current number of residents
 - Unsuitable for expansion
 - The title of application deceptive
 - Ventilation close to residential properties
 - Light and noise pollution
 - Conversion works will reduce the level of parking
 - The property is already overdeveloped
- 5.2. **UK Power Networks:** No objection.

- 5.3. **Councillor Alistair McNair** has objected to the proposed development and asked that it be determined by the Planning Committee. A copy of this correspondence is attached.

6. CONSULTATIONS

6.1. Environmental Health:

No objections subject to recommended conditions in relation to:

- Odour control details from proposed flues for approval by the LPA
- Sound control details from proposed flues for approval by the LPA
- External lighting details for approval by the LPA
- No deliveries to take place between 19:00 and 07:00

6.2. Sustainable Transport:

No objections subject to recommended conditions in relation to:

- Car park layout plan for approval by the LPA
- Parking Strategy & Management Plan for approval by the LPA

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 & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
SA5	The Setting of the South Downs National Park
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP16	Open Space

Brighton & Hove City Plan Part Two

DM1	Housing Quality, Choice and Mix
DM5	Supported Accommodation (Specialist and Vulnerable Needs)
DM20	Protection of Amenity
DM21	Extensions and alterations
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

Supplementary Planning Documents

SPD11	Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the impacts on the character and appearance of the host building and wider area, as well as on the amenities of local residents and transport considerations.
- 9.2. As set out above, the application follows the approval of an earlier application for a very similar development, but which is no longer extant (ref. BH2020/01824, approved 11 March 2021). That approval must be given weight in considering this application given it was relatively recent, albeit at that time Brighton & Hove Local Plan was part of the development plan, with City Plan Part 2 did not yet adopted.

Design and Appearance:

- 9.3. The external works would include infilling the undercroft to facilitate the relocated kitchen, office and laundry room and a minimal change to the fenestration on the building and the installation of an extract flue. Three new windows would be installed within the rear elevation to serve bedroom 1 and 2, and the existing rear fenestration would be altered to serve bedrooms 3 and 4. New fenestration would be installed within the front elevation (of the infilled undercroft) to serve the kitchen. The extract flue would be located upon the flat roof section of the roof from the kitchen room and a bin area would be located to the front of the kitchen.
- 9.4. The building would retain the overall form and scale of the existing Nursing Home and the overall appearance of the development would result in no harm to the host property, street scene or to the character of the wider area.
- 9.5. The addition of the extract flue, given its location, size and projection, would not result in harm to the appearance of the host building or surrounding area.
- 9.6. The development is therefore acceptable in terms of design and appearance.

Impact on Amenity:

- 9.7. Policy DM20 of City Plan Part Two states that planning permission for any development or change of use would be granted where it would not 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.
- 9.8. The external works, including additional windows and the reconfiguration of the internal space would not result in amenity harm. The infilling of the undercroft to facilitate the internal works would not result in additional bulk or massing to the existing building and therefore the proposed alterations would not result in overshadowing, loss of light or loss of outlook for neighbouring properties. The proposed fenestration serving the re-located kitchen would not result in overlooking and the windows serving bedrooms 1,2,3 and 4 would face onto existing boundary treatment/open space to the rear of the site and would not result in overlooking or loss of privacy to neighbouring properties.
- 9.9. The provision and location of the bin storage area is considered adequate for the development and is not considered to result in amenity harm.
- 9.10. The reconfiguration of the internal layout to provide 4no. additional bedrooms for the existing Nursing Home would provide adequate bedroom sizes and would be a functional layout, with all having ensuite facilities and access to the communal lounge. The development is therefore considered to meet the requirements of policy DM1 and DM5 for the standard of accommodation for future residents.
- 9.11. The flue, positioned away from neighbouring properties, is unlikely to have a significant detrimental impact on neighbouring amenity by way of noise, vibration or odour disturbance. The Environmental Health Officer has commented that subject to compliance with appropriately worded conditions, the kitchen extract would not have an adverse impact in terms of noise or odour as the details would need to be approved by the Local Planning Authority (LPA) prior to first use.
- 9.12. Concerns have been raised by residents regarding the existing noise output of the Nursing Home and that this could be exacerbated by the increased number of residents. It is not considered that an increase of 4no beds would result in increased noise or disturbance to warrant refusal of the application.
- 9.13. However, it is recognised that complaints have been made in respect of deliveries and a condition would be attached limiting the hours in which these can take place (i.e. to between 07:00 and 19:00 on any day). In addition, any external lighting would be conditioned for approval by the LPA to ensure that it does not affect surrounding residents.

Sustainable Transport :

- 9.14. The provision of four additional bed spaces is not considered to be a significant increase in trip generation from the development particularly given that there would be no increase in staff numbers.

- 9.15. However, the proposed development is located outside of a controlled Parking Zone (CPZ). The on-site parking is accessed from a residential cul-de-sac and the current parking on site does result in overspill parking on-street. The applicant is proposing to address this problem by marking out specific bays, but the proposed layout and arrangement is not considered satisfactory due to some of the bays creating manoeuvring issues that may cause safety and obstruction issues. It is, however, considered that this can be overcome and therefore, a revised parking layout would be secured via condition.
- 9.16. The applicant has offered to produce a parking strategy document which is welcomed as it would ensure that staff, visitor and deliveries/ ambulances are managed to reduce any on-street impact. A parking strategy/management plan condition has therefore been attached and would need to be agreed before first use of the proposed development. This should include disabled parking and a dedicated ambulance/emergency services parking area according to Transport Officers comments to remove congestion/blockage of the road during emergencies.
- 9.17. No cycle parking is indicated and therefore the provision and detail of this will be secured via condition.

Biodiversity

- 9.18. 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. A suitably worded condition will be attached to secure an appropriate number of bee 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.

Other Considerations:

- 9.19. The proposed development to the site, although in close proximity to the South Downs National Park (SDNP) which is located 100m to the north on the opposite side of the A27, would not be visible in close or long views due the ground levels with sharply rising slopes to the rear, and that the A27 Highway is situated in between.
- 9.20. Concerns have been raised by local residents that the current undercroft is used for the storage of refuse bins and that the relocated bins would reduce the existing parking area. The development is attempting to rectify the parking issues by marking out bays and the size of the bin store would not impact this. The Highways Officer has not raised an objection to this.
- 9.21. Issues have been raised during the consultation process relating to the existing situation at the Nursing Home and the application is deceptive as the undercroft will form part of the development. This application for the addition of 4no bedspaces (including internal and external alterations) has been fully assessed and subject to conditions 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 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.
- 10.3. No disabled user parking bay has been provided, but this would be sought as part of the car park layout plan and parking strategy/ management plan condition.



PLANNING COMMITTEE LIST

Brighton & Hove City Council COUNCILLOR REPRESENTATION

Cllr. Alistair McNair

BH2024/00825 – Patcham Nursing Home, Eastwick Close

25th May 2024:

Please accept this letter as an objection to this planning application. We have three strong reasons for objecting: the current overdevelopment of the site; limited parking; potential light pollution.

This letter sets out objections to the plans of Wren Retirement Living, not the nursing home staff or residents. It is Wren Retirement Living which has requested this extension, not the staff at the Nursing Home who have been very helpful with our queries. We also do not wish to involve residents at the nursing home who deserve to be looked after as well as possible.

Wren Retirement Living is situated in Eastwick Close, which is a very small, secluded close with very restricted access (see Fig. 1). Residents chose to live in Eastwick Close because it was secluded, green and quiet. The nursing home used to be a private house, but has since been extended three times, in 2002, 2006, 2009. Fortunately, the plans in 2021 for eight additional bedrooms were withdrawn. Since the development of the nursing home, it has become increasingly busy and overdeveloped.



Fig. 1: the only access to the nursing home and Eastwick Close

If this new proposal is approved, the home would increase from 30 bedrooms, according to its website, to 34 bedrooms in total. This development, in our and residents' opinions, is already an overdevelopment, with too little parking provision and too little recreational space for residents.

While nuisance deliveries to the nursing home have declined in frequency – they often happened at 2am waking residents up – and ambulances block the Close less frequently – residents were having to wait for up to 40 minutes while ambulances blocked their exit from the close which was clearly unacceptable and led to heated exchanges – residents are right to be concerned that an increase in the number of residents will yet again increase the risk of restricted access for residents to their properties. For example, Patcham Nursing Home has at times moved their minibus into the main vehicular access (one of only two vehicular accesses) taking up two of only six car spaces resulting in more cars parking in the Close and potentially blocking access to private drives. Currently industrial sacks of building material are taking up valuable parking space.

No mention is made in the Design & Access Statement regarding parking. Clearly, with four additional rooms, and increased guests, there will be increased visitors and ambulance trips. Yet, no plans have been put forward to mitigate parking overflow.

There is very limited parking in Eastwick Close. As can be seen in Fig. 2 below, double yellow lines surround the close, yet visitors have parked there for long periods of time blocking driveways.



Fig. 2: Eastwick Close aerial view

With an increase in bedrooms, will there also be an increase in staff and visitors? Where will they park? Currently staff and visitors appear to park in the surrounding streets such as Braeside Avenue and Mackie Avenue which are themselves overcrowded with vehicles.

Eastwick Close is very narrow, and when cars, delivery lorries and ambulances park in the road they block residents from entering and exiting (see Fig. 3). Residents have been frequently disturbed by deliveries at 6am. While there has been a welcome reduction in the disturbance, residents are worried an increase in rooms will reverse the progress. If successful, the home may well apply for even further growth. Residents also worry that emergency vehicles, such as fire engines, will have difficulty accessing residents and the care home. We believe Eastwick Close does not have the required turning circle for fire appliances. Also, there would be very limited escape routes for the care home residents. Where will the residents wait in a fire drill?





Brighton & Hove COUNCILLOR REPRESENTATION
City Council

PLANNING COMMITTEE LIST

Fig. 3: ambulance blocking Eastwick Close

On p.6 of the access statement, reference is made to external lighting. External lighting has caused much annoyance to residents in Braeside Avenue. Residents have contacted us about intrusive security lighting, which was keeping residents awake in the early hours of the morning. The care home has tried to resolve the situation. However, the Design and Access Statement does not clearly show how external lighting will affect neighbouring properties.

Regarding residents, consideration needs to be given to the amount of construction traffic and lack of useable access to the site. This would be a major construction, but there is only one narrow access point to the nursing home and the close (see Fig. 1). How will ambulances carrying vulnerable patients, delivery lorries, construction vehicles and residents' vehicles all have safe and open access? There is potential risk to public safety.

Wren Retirement Living has already overdeveloped the site. Parking provision is already inadequate; noise has at times been unacceptable; intrusive lighting has been a real nuisance. Despite progress with the nursing home, residents are very worried about a return to former levels of disruption.

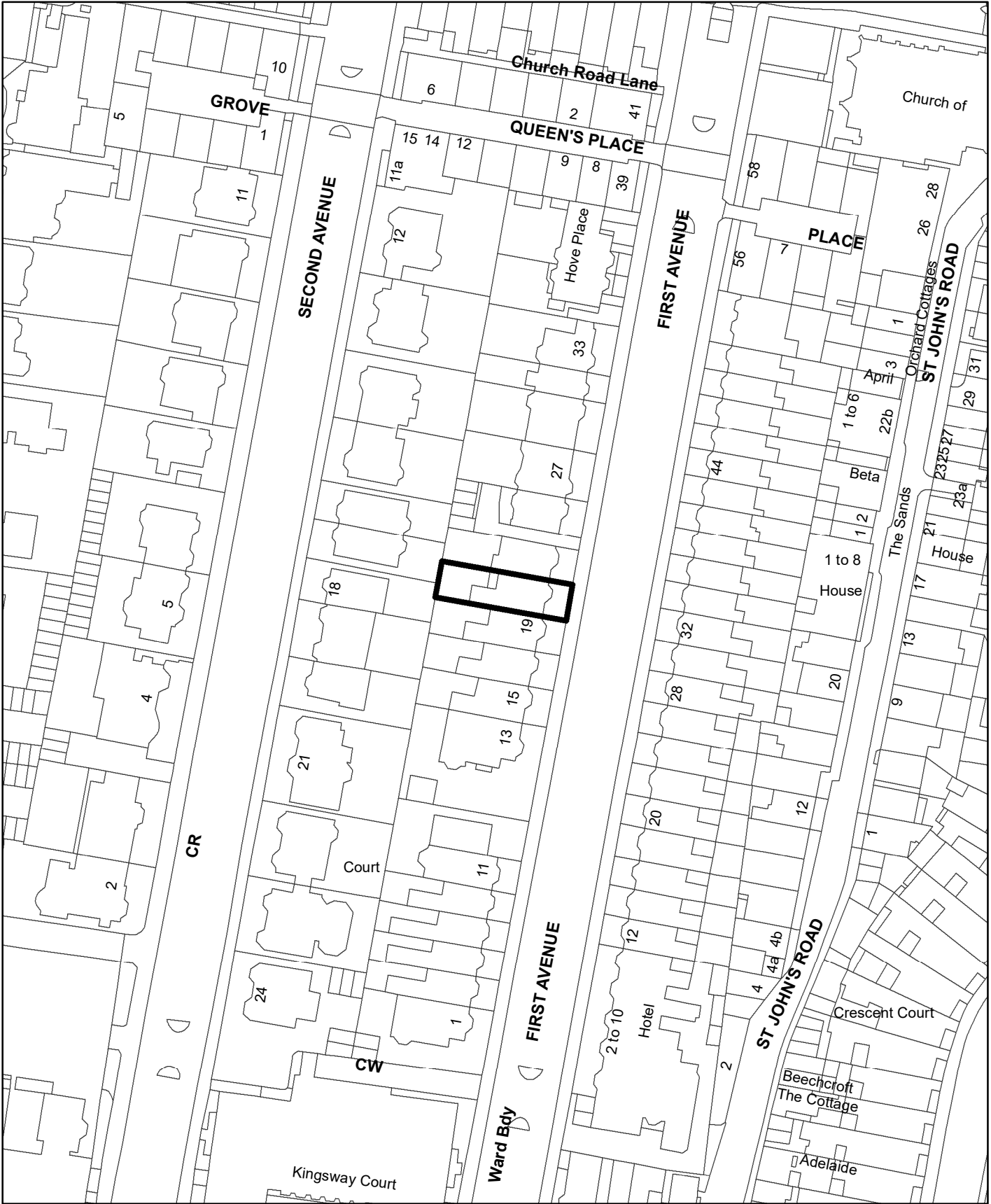
Should the Local Planning Authority consider granting this application, we request that it is brought to Planning Committee for determination where we reserve our right to speak to our letter and the application.

ITEM N

**Flat 2, 21 First Avenue
BH2024/00734
Full Planning**

DATE OF COMMITTEE: 7th August 2024

BH2024 00734 - Flat 2, 21 First Avenue



Scale: 1:1,250

<u>No:</u>	BH2024/00734	<u>Ward:</u>	Brunswick & Adelaide Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Flat 2 21 First Avenue Hove BN3 2FH		
<u>Proposal:</u>	Installation of an external stairlift to front access steps.		
<u>Officer:</u>	Helen Hobbs, tel: 290585	<u>Valid Date:</u>	08.04.2024
<u>Con Area:</u>	The Avenues	<u>Expiry Date:</u>	03.06.2024
<u>Listed Building Grade:</u>	<u>EOT:</u>		
<u>Agent:</u>	Brighton & Hove City Council Disabled Facilities Grant Team Hove Town Hall Norton Road BN3 3BQ		
<u>Applicant:</u>	Mr Michael Sutherland Flat 2 21 First Avenue Hove BN3 2FH		

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	212/FAH/001		20 March 2024
Proposed Drawing	212/FAH/004		20 March 2024
Proposed Drawing	212/FAH/005		20 March 2024
Proposed Drawing	212/FAH/006		8 April 2024
Proposed Drawing	212/FAH/007		8 April 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 stairlift hereby permitted shall be removed and any tiles affected by its installation restored or replaced within three months of no longer being needed, or within three years of the date of this permission, whichever is soonest.

Reason: The stairlift hereby approved is not considered suitable as a permanent form of development to safeguard the Conservation Area and to comply with policies DM26 of Brighton & Hove City Plan Part 2 and CP15 of the Brighton & Hove City Plan Part One.

Informatives:

4. 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 ground floor flat within a four-storey building with basement. The site lies within The Avenues Conservation Area but is not listed.

3. RELEVANT HISTORY

- 3.1. BH2024/00891 Installation of an external stairlift to rear elevation. Approved 31.05.2024.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks planning permission for the installation of stair lift to the front of the building to provide access into the raised ground floor entrance.

5. REPRESENTATIONS

- 5.1. In response to publicity, responses were received from six (6) individuals, objecting to the application and raising the following issues:
- The stairlift would be out of keeping and would have a harmful impact on the conservation area.
 - Impact/damage to the steps and tiles
 - It would cause an obstruction to the entrance
 - Where would the electrical supply come from and would the cables cause further obstruction

6. CONSULTATIONS

- 6.1. **Heritage:** No objection. The information provided is satisfactory to determine that the development is acceptable in relation to impacts on heritage.

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
CP12	Urban Design
CP15	Heritage

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

Supplementary Planning Document:

SPD12	Design Guide for Extensions and Alterations
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9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the design and appearance of the proposed stairlift and whether it would have a detrimental impact on neighbouring amenity.

Design and Appearance

- 9.2. 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.
- 9.3. Case law has held that the desirability of preserving the character or appearance of a conservation area must be given "considerable importance and weight".
- 9.4. Whilst the site lies within The Avenues Conservation Area, it is not a listed building. However, it still forms part of an attractive terrace, which retains a number of original features and contributes to the character and appearance of the area.
- 9.5. The stairlift would not be a conventional feature on the building but would be a relatively small element which would enable the applicant and those with mobility issues to access their home, and would be reversible when no longer needed.

As noted in Heritage Officer comments, the heritage harm would be minimal. The public benefit of the stairlift must be given some weight as it would allow those with mobility issues to enter the building.

- 9.6. To minimise heritage harm, given it is an incongruous, albeit small addition, a condition would be attached requiring the removal of the structure within three years or sooner if no longer needed.
- 9.7. On balance, subject to condition, the works are not considered to cause unacceptable harm to the character and appearance of the site, streetscene or the surrounding conservation area, and the public benefit of improved access must be given some weight.

Impact on Amenity

- 9.8. Given the modest nature and siting of the proposed development on an existing set of steps, which would not be altered, the stairlift is unlikely to impact on neighbouring amenity.
- 9.9. Concerns have been raised that the entrance way would be obscured. The chair would reduce the width of the steps, however it is a fairly modest addition and would still allow sufficient width for other occupiers and visitors to access the front entrance.
- 9.10. Neighbours have also raised concerns over where the electrical supply will be provided from. Whilst this is not a planning matter, the documents submitted with the application confirm that the electrical supply will come from the applicant's residence.

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, and the need of the applicant has been considered and given significant weight. The proposal would provide level access to and from the raised ground floor entrance, benefiting those with mobility issues.

ITEM O

**70A Clarendon Villas
BH2024/00941
Full Planning**

DATE OF COMMITTEE: 7th August 2024

BH2024 00941 - 70A Clarendon Villas



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Scale: 1:1,250

<u>No:</u>	BH2024/00941	<u>Ward:</u>	Central Hove Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	70A Clarendon Villas Hove BN3 3RA		
<u>Proposal:</u>	Replacement of existing uPVC windows and doors with new aluminium windows and doors to side and rear elevations.		
<u>Officer:</u>	Charlie Partridge, 292193	tel: <u>Valid Date:</u>	10.05.2024
<u>Con Area:</u>		<u>Expiry Date:</u>	05.07.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	
Agent:			
Applicant:	Mr Leon Donald 70A Clarendon Villas Hove BN3 3RA		

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	PL-10		10 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.

Informatives:

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

2. SITE LOCATION

- 2.1. The application relates to the lower ground floor flat within a two storey above basement semi-detached building on the south side of Clarendon Villas.

- 2.2. The site is not within a conservation area and there are no Article 4 Directions covering the site relating to extensions or alterations.

3. RELEVANT HISTORY

None

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the replacement of the existing white uPVC windows and doors with new anthracite aluminium windows and doors to the side and rear elevations.
- 4.2. The planning application has been submitted by an employee of the Brighton & Hove City Council's Planning Service so cannot be delegated but has to be determined by the Planning Committee.

5. REPRESENTATIONS

None received

6. CONSULTATIONS

None

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
CP12	Urban Design

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

Supplementary Planning Document:

SPD12	Design Guide for Extensions and Alterations
SPD17	Urban Design Framework

Hove Station Neighbourhood Plan:

8	Design and Public Realm
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9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the design and appearance of the proposed alterations and whether they would have a detrimental impact on neighbouring amenity. The assessment of the proposal can be adequately made using the drawings and photographs provided.

Impact on Character and Appearance:

- 9.2. The proposed replacement windows and doors are considered acceptable. The front elevation of the building would remain unchanged, and none of the openings would be enlarged. The proposed windows would have a generally similar appearance to the existing units but replacing white with anthracite, with the majority replicating the existing glazing bar arrangement. The change in colour would not be detrimental to the appearance of the host building.
- 9.3. The existing rear doors currently feature top lights and the proposed replacement doors would not. This is considered to be a relatively minor alteration which would not harm the appearance of the host building. The proposed replacement fenestration would be aluminium framed, no objection is made to this. As the application property is a lower ground floor flat, the proposed replacement windows to the side and rear would not be readily visible from the public realm so they would have a negligible impact on the streetscene.
- 9.4. The proposed replacement fenestration is considered suitable and would not harm the appearance of the host building nor that of the wider area, in accordance with policy DM21 of City Plan Part 2 and SPD12 guidance.

Impact on Residential Amenity:

- 9.5. With regard to amenity, no adverse impacts are expected as a result of the proposed development as the application relates solely to fenestration, with no new structures or window openings proposed. The proposed development

would not cause harm to the amenity of neighbours and would comply with policy DM20 of the Brighton and Hove City Plan Part 2.

Conclusion:

- 9.6. The proposed replacement windows are considered acceptable and would not harm the appearance of the host building or that of the wider area and would have no impact on neighbouring amenity thereby complying with policy DM20 and DM21 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.

PLANNING COMMITTEE

Agenda Item 7

Brighton & Hove City Council

NEW APPEALS RECEIVED

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

COLDEAN & STANMER

BH2024/00299

14 Standean Close Brighton BN1 9EU

Prior Approval for the erection of an additional storey.

APPEAL IN PROGRESS

05/06/2024

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

KEMPTOWN

BH2023/01659

6B College Place Brighton BN2 1HN

Demolition of existing garage, storage and workshop buildings and erection of terrace of 3no. residential units (C3) and an office unit (E).

APPEAL IN PROGRESS

17/05/2024

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

ROTTINGDEAN & WEST SALTDEAN

BH2023/03428

7 Dower Close Brighton BN2 7BW

Erection of partial upper ground floor extension with landscaping and associated alterations.

APPEAL IN PROGRESS

09/05/2024

Not Assigned

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WEST HILL & NORTH LAINE

36 Kensington Gardens Brighton BN1 4AL

Appeal against

APPEAL IN PROGRESS

05/06/2024

Not Assigned

WARD

APPEALAPPNUMBER

ADDRESS

WHITEHAWK & MARINA

BH2023/02688

11 Wilson Avenue Brighton BN2 5PA

<u>DEVELOPMENT DESCRIPTION</u>	Erection of single-storey rear and side extension, removal of existing rear garden garage/store and associated hard standing, replacement windows to main house, removal of chimney stacks and increased parking area to front drive.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	22/05/2024
<u>APPLICATION DECISION LEVEL</u>	Delegated
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<u>WARD</u>	WISH
<u>APPEALAPPNUMBER</u>	BH2023/02451
<u>ADDRESS</u>	407 Portland Road Hove BN3 5SG
<u>DEVELOPMENT DESCRIPTION</u>	Change of use from 5 bedroom dwelling (C3) to 5 bedroom small house in multiple occupation (C4).
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	14/05/2024
<u>APPLICATION DECISION LEVEL</u>	Delegated
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PLANNING COMMITTEE

Agenda Item 9

Brighton & Hove City
Council

APPEAL DECISIONS FOR THE PERIOD BETWEEN 22/05/2024 AND 23/07/2024

<u>WARD</u>	BRUNSWICK AND ADELAIDE
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00007
<u>ADDRESS</u>	57-59 Brunswick Street West Hove BN3 1EL
<u>DEVELOPMENT DESCRIPTION</u>	Demolition of existing buildings and erection of two to three storey terrace of 4no residential units (C3) and 1no office suite (E).
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2022/02836
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	CENTRAL HOVE
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00023
<u>ADDRESS</u>	26 Church Road Hove BN3 2FN
<u>DEVELOPMENT DESCRIPTION</u>	Installation of 2no. air extraction systems comprising canopy, extractor duct, silencer and exhaust air cowl and 2no. fresh air systems with high pressure fan to rear elevation. (Retrospective)
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2023/00622
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	GOLDSMID
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00035
<u>ADDRESS</u>	5 Champions Row Wilbury Avenue Hove BN3 6AZ
<u>DEVELOPMENT DESCRIPTION</u>	Erection of single storey rear extension and associated works.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL ALLOWED
<u>PLANNING APPLICATION NUMBER</u>	BH2024/00033
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	PATCHAM & HOLLINGBURY
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00022
<u>ADDRESS</u>	29 Wilmington Way Brighton BN1 8JH
<u>DEVELOPMENT DESCRIPTION</u>	Erection of 1no detached, two storey, two bedroom house (C3) including a lower ground floor, fronting Mayfield Close.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2023/01928
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	PATCHAM & HOLLINGBURY
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00029
<u>ADDRESS</u>	3 Galliers Close Brighton BN1 8TR
<u>DEVELOPMENT DESCRIPTION</u>	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.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2023/03219
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	PRESTON PARK
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00036
<u>ADDRESS</u>	Port Hall 170 Dyke Road Brighton BN1 5AA
<u>DEVELOPMENT DESCRIPTION</u>	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.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2023/02814
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	PRESTON PARK
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00037

<u>ADDRESS</u>	Port Hall 170 Dyke Road Brighton BN1 5AA
<u>DEVELOPMENT DESCRIPTION</u>	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.
<u>APPEAL TYPE</u>	Cert Lawful LB-against refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2023/02815
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	QUEEN'S PARK
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00031
<u>ADDRESS</u>	3 Windmill Street Brighton BN2 0GN
<u>DEVELOPMENT DESCRIPTION</u>	Erection of single storey infill extension to rear. Roof alterations incorporating rear dormer, front roof light and associated works. (Part Retrospective)
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL ALLOWED
<u>PLANNING APPLICATION NUMBER</u>	BH2024/00177
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	REGENCY
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00003
<u>ADDRESS</u>	Basement Flat 3 Vernon Terrace Brighton BN1 3JG
<u>DEVELOPMENT DESCRIPTION</u>	Removal of internal staircase.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2023/01123
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	REGENCY
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00040
<u>ADDRESS</u>	The Garden Villa 11C Montpelier Villas Brighton BN1 3DG

<u>DEVELOPMENT DESCRIPTION</u>	Erection of single storey side extension at first floor level.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2023/03066
<u>APPLICATION DECISION LEVEL</u>	Planning (Applications) Committee
<u>WARD</u>	REGENCY
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00041
<u>ADDRESS</u>	The Garden Villa 11C Montpelier Villas Brighton BN1 3DG
<u>DEVELOPMENT DESCRIPTION</u>	Erection of single storey side extension at first floor level.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL DISMISSED
<u>PLANNING APPLICATION NUMBER</u>	BH2023/03067
<u>APPLICATION DECISION LEVEL</u>	Planning (Applications) Committee
<u>WARD</u>	WISH
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00005
<u>ADDRESS</u>	Saxon Works, Land To The Rear Of 303-305 Portland Road Portland Road Hove BN3 5SE
<u>DEVELOPMENT DESCRIPTION</u>	Demolition of existing buildings and erection of 2 to 5 storey residential building (C3) including basement vehicle parking and 3 storey commercial building comprising flexible Class E floorspace, with associated cycle and bin storage, landscaping and associated works. (For information: proposal is for 26no. residential units and 219sqm of commercial floorspace). (Revised description and drawings)
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL ALLOWED
<u>PLANNING APPLICATION NUMBER</u>	BH2021/04068
<u>APPLICATION DECISION LEVEL</u>	Planning (Applications) Committee
<u>WARD</u>	WOODINGDEAN
<u>APPEAL APPLICATION NUMBER</u>	APL2024/00020
<u>ADDRESS</u>	Garage Rear Of 542A Falmer Road Brighton BN2 6ND
<u>DEVELOPMENT DESCRIPTION</u>	Conversion of single storey garage to two storey store.
<u>APPEAL TYPE</u>	Against Refusal
<u>APPEAL DECISION</u>	APPEAL ALLOWED

PLANNING APPLICATION NUMBER BH2023/00303

APPLICATION DECISION LEVEL Delegated
