

# Planning Committee

Date: **1 October 2025**

Time: **2.00pm**

Venue **Council Chamber, Hove Town Hall**

Members: **Councillors:** Thomson (Chair), Cattell, Earthey, Nann, Parrott, Robinson, Shanks, Sheard, C Theobald and Winder

Conservation Advisory Group Representative

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# AGENDA

## 130 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.*

## 131 MINUTES OF THE PREVIOUS MEETING

7 - 10

Minutes of the meeting held on 3 September 2025.

## 132 CHAIR'S COMMUNICATIONS

## 133 PUBLIC QUESTIONS

**Written Questions:** to receive any questions submitted by the due date of 12 noon on 25 September 2025.

## 134 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

## 135 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 4 working days before the meeting (the Committee usually meet on a Wednesday, which means the notice has to be received by 12 noon the preceding Thursday).

To register to speak please email Democratic Services at: [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk) Speakers are 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 may be elected by communal consent to speak for all.

### MAJOR APPLICATIONS

- |      |   |                |
|------|---|----------------|
| A    | BH2025/01627 - Royal Pavilion Gardens, Pavilion Buildings, Brighton - Removal or Variation of Condition | <b>11 - 32</b> |
| <br> |   |                |
| B    | BH2025/01359 - Kap Ltd, Newtown Road, Hove - Removal or Variation of Condition                          | <b>33 - 52</b> |

### MINOR APPLICATIONS

- |      |   |                |
|------|---|----------------|
| C    | BH2025/00747 - BHCC Household Waste Recycling Site, Modbury Way, Hove - Full Planning | <b>53 - 68</b> |
| <br> |   |                |
| D    | BH2025/01338 - 10 Dukes Lane, Brighton - Removal or Variation of Condition            | <b>69 - 80</b> |
| <br> |   |                |
| E    | BH2025/00802 - 12 Nevill Way, Hove - Householder Planning Consent                     | <b>81 - 92</b> |

## **INFORMATION ITEMS**

### **136 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

**93 - 94**

(copy attached).

### **137 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

None for this agenda.

### **138 APPEAL DECISIONS**

**95 - 96**

(copy attached).

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

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings. 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.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested. Infra-red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.

### **FURTHER INFORMATION**

For further details and general enquiries about this meeting contact Shaun Hughes (01273 290569, email: [shaun.hughes@brighton-hove.gov.uk](mailto:shaun.hughes@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

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Therefore, by entering the meeting room and using the seats in the chamber you are deemed to be consenting to being filmed and to the possible use of those images and sound recordings for the purpose of web casting and/or Member training. If members of the public do not wish to have their image captured, they should sit in the public gallery area.

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- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and
- Do not re-enter the building until told that it is safe to do so.

Date of Publication - Tuesday, 23 September 2025



**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 3 SEPTEMBER 2025**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors: Cattell, Earthey, Nann, Parrott, Robinson, Shanks, Sheard, C Theobald and Winder

**Apologies:** Councillor Thomson

**Officers in attendance:** Matthew Gest (Planning Manager), Alison Gatherer (Senior Legal Officer), Rebecca Smith (Planning Officer), Mark Thomas (Senior Planning Officer) and Shaun Hughes (Democratic Services)

**PART ONE**

**121 PROCEDURAL BUSINESS**

**a) Declarations of substitutes**

121.1 None

**b) Declarations of interests**

121.2 None

**c) Exclusion of the press and public**

121.3 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.

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

**d) Use of mobile phones and tablets**

121.5 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'.

**122 MINUTES OF THE PREVIOUS MEETING**

- 122.1 **RESOLVED:** The minutes of the meeting held on 6 August 2025 were agreed.

**123 CHAIR'S COMMUNICATIONS**

- 123.1 The deputy chair addressed the committee stating the following: Unfortunately, Councillor Thompson has had to step out this afternoon due to a family emergency and has asked me to step in in her place as deputy chair. On her behalf, Councillor Thompson has asked me to remind all members that we have training in relation to affordable housing on the 18<sup>th</sup> of September, so members are up to date on this key part of planning law, and can all members make sure they complete the relevant online training so we come into the session on an even keel.

**124 PUBLIC QUESTIONS**

- 124.1 There was no public involvement.

**125 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

- 125.1 There were no request for site visits.

**126 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS**

- 126.1 The Democratic Services officer noted that item A – BH2025/01191 had been withdrawn after the agenda had been published and there were two items left on the agenda, both minor applications, neither of which had speakers. The committee called the two minor applications for discussion.

**A BH2025/01191 - Esplanade South of Brunswick Lawns, Kingsway, Hove - Full Planning**

1. The application was withdrawn after the publication of the agenda.

**B BH2025/01377 - 7 Saxon Close, Saltdean, Brighton - Removal or Variation of Condition**

1. The case officer introduced the application to the committee.

**Answers to Committee Member Questions**

2. Councillor Theobald was informed that there were no changes proposed as part of this application to the turning head of the road, neither were there any access changes. The inclusion of a heat pump was permitted development and not part of the application.

**Debate**



3. Councillor Cattell noted the development was already approved and the committee were looking at the changes proposed in this application. The representations appeared to be the same as the ones submitted for the original application. The councillor supported the application.
4. Councillor Theobald considered the proposed amendments not to be too bad as they were minor changes. The councillor supported the application.
5. Councillor Robinson considered the representations to be relevant to the first application and therefore were not relevant to this application. The councillor supported the application.
6. Councillor Earthey considered there were no material changes. The councillor supported the application.
7. Councillor Sheard considered the changes were not material, and were minor, reducing the impact of the development. The councillor supported the application.

#### Vote

8. A vote was held and the committee agreed unanimously to grant planning permission.
9. **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.

#### **C BH2025/01527 - Brighton Dome, Church Street, Brighton - Full Planning**

1. The case officer introduced the application to the committee.

#### Answers to Committee Member Questions

2. Councillor Shanks was informed that the materials would require approval by condition and test areas were to be submitted to the case officer for approval before works started.
3. Councillor Theobald was informed that the paint colour match will be approved by condition. The planning manager confirmed the proposed repair works could not be undertaken without planning committee approval as this was a listed building and a significant landmark in the city.

#### Debate

4. Councillor Theobald considered the repair works to be a good thing and noted that other buildings required repairing as well. The councillor supported the application.
5. Councillor Robinson noted that Historic England had not objected to the repair works, and this would be a plus for the city. The councillor supported the application.

6. Councillor Cattell was happy the repairs works were being done. The councillor supported the application.
7. Councillor Sheard considered it was good to carry out the repair works and supported the application.

Vote

8. A vote was held, and the committee agreed unanimously to grant Listed Building consent.
9. **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** Listed Building Consent subject to the Conditions and Informatives in the report.

## **127 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

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

## **128 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

- 128.1 There were none for this agenda.

## **129 APPEAL DECISIONS**

- 129.1 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 2.32pm

Signed

Chair

Dated this

day of

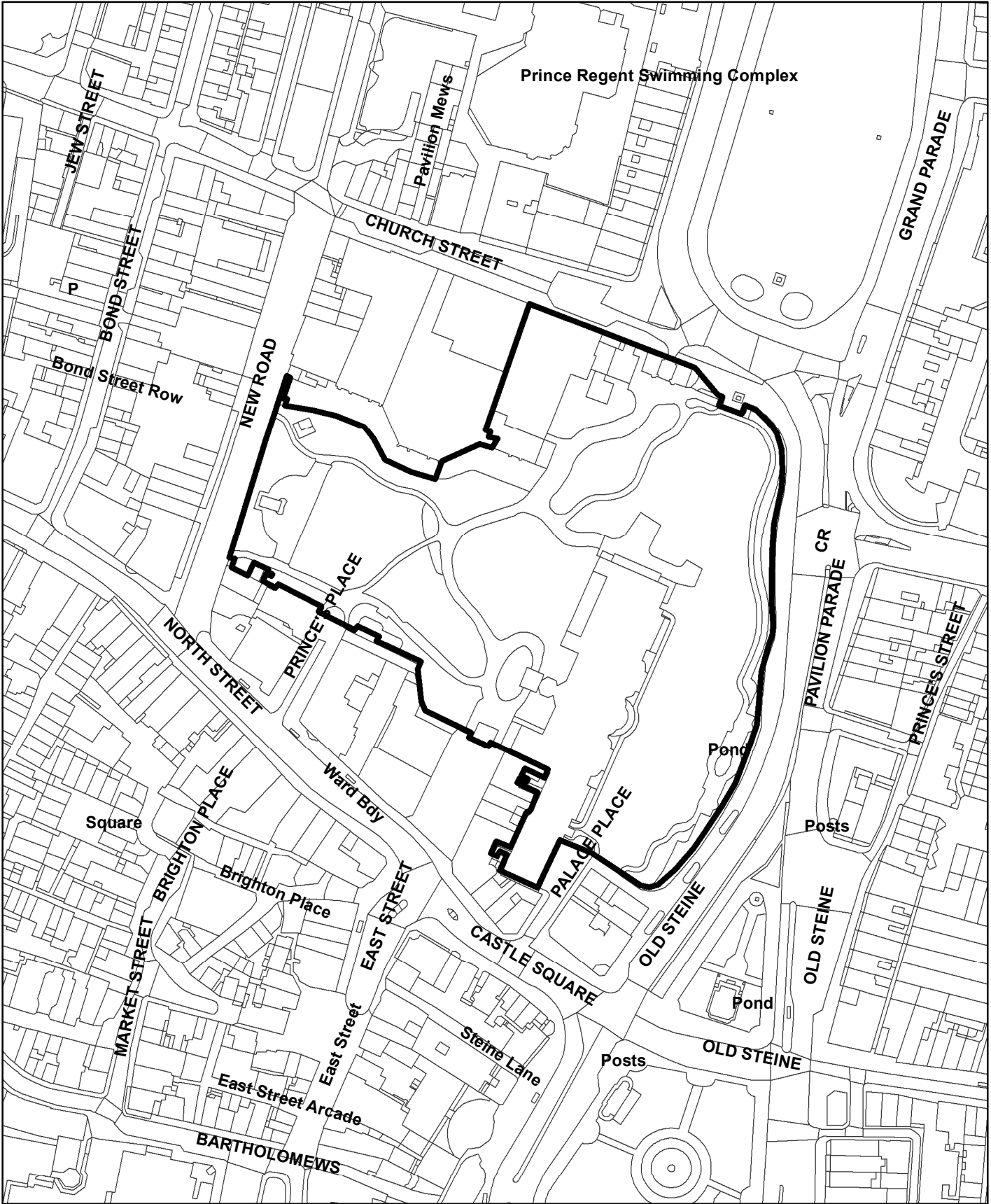
# **ITEM A**

**Royal Pavilion Gardens,  
Pavilion Buildings  
BH2025/01627  
Removal or Variation of Conditions**

**DATE OF COMMITTEE: 1<sup>st</sup> October 2025**



BH2025 01627 - Royal Pavilion Gardens, Pavilion Buildings



**Brighton & Hove  
City Council**



**Scale: 1:2,000**



<b><u>No:</u></b>	BH2025/01627	<b><u>Ward:</u></b>	West Hill & North Laine Ward
<b><u>App Type:</u></b>	Removal or Variation of Condition		
<b><u>Address:</u></b>	Royal Pavilion Gardens Pavilion Buildings Brighton BN1 1EE		
<b><u>Proposal:</u></b>	Application to vary condition 4 of planning permission BH2023/02835 that required an Ecological Design, Management and Monitoring Strategy (EDMMS) including to remove the provision of a minimum 10% biodiversity net gain within a 30-year period.		
<b><u>Officer:</u></b>	Steven Dover, tel: 01273 291380	<b><u>Valid Date:</u></b>	30.06.2025
<b><u>Con Area:</u></b>	Valley Gardens Conservation Area	<b><u>Expiry Date:</u></b>	29.09.2025
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Allen Scott Landscape Architects 44 Newton Road Tunbridge Wells TN1 1RU		
<b><u>Applicant:</u></b>	Brighton And 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	LETTER FROM CITY OPERATIONS		03-Sep-25
Report/Statement	GREENSPACE ECOLOGICAL SOLUTIONS LETTER		03-Sep-25
Report/Statement	Preliminary Ecological Assessment	J21177_R EV B	23-Oct-23
Report/Statement	Arboricultural Impact Assessment	J21177_Ar b_B Rev. B	01-Aug-24
Report/Statement	DEVELOPMENT STAGE DESIGN REPORT	725-501	24-Jun-24
Proposed Drawing	725-101		24-Jun-24

Proposed Drawing	725-102		24-Jun-24
Proposed Drawing	725-103		24-Jun-24
Proposed Drawing	725-104		24-Jun-24
Proposed Drawing	725-100	B	24-Jun-24
Proposed Drawing	725-202		24-Jun-24
Proposed Drawing	725-205		24-Jun-24
Proposed Drawing	725-204		24-Jun-24
Proposed Drawing	725-207		24-Jun-24
Proposed Drawing	725-350		24-Jun-24
Proposed Drawing	725-213		23-Oct-23
Proposed Drawing	725-211		23-Oct-23
Proposed Drawing	725-214		23-Oct-23
Proposed Drawing	725-212		23-Oct-23
Proposed Drawing	725-354		23-Oct-23
Proposed Drawing	725-209		24-Jun-24
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2000 P1		23-Oct-23
Proposed Drawing	725-357		24-Jun-24
Proposed Drawing	725-210		24-Jun-24
Proposed Drawing	725-367	B	18-Mar-25
Proposed Drawing	725-358		24-Jun-24
Proposed Drawing	725-351		24-Jun-24
Proposed Drawing	725-359		24-Jun-24
Proposed Drawing	725-352		23-Oct-23
Proposed Drawing	725-360		24-Jun-24
Proposed Drawing	725-353		23-Oct-23
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2001 P1		23-Oct-23
Proposed Drawing	725-361		23-Oct-23
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2004 P1		23-Oct-23
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2100 P1		23-Oct-23
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2200 P1		23-Oct-23
Proposed Drawing	P1154-RHP-TB-XX-DR-A-4000 P1		23-Oct-23
Location Plan	725-001		23-Oct-23
Proposed Drawing	Tree Works Summary	Rev. B	01-Aug-24
Proposed Drawing	725-105		24-Jun-24

2. The development hereby permitted shall be commenced on or before 09.08.2027.  
**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).



**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), 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;
  - b) Identification of adequate baseline conditions (for management and monitoring purposes) prior to the start of works;
  - 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 habitats and other ecological features (where present) and remedial measures.

The EDMMS shall also set out (where the results from monitoring show that conservation aims and objectives of the EDMMS 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 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 biodiversity and ensure that the development contributes to ecological enhancement and sustainability on the site in accordance with policy DM37 of Brighton & Hove City Plan Part 2, and CP10 of the Brighton & Hove City Plan Part One.

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 bio-diversity 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.

**Biodiversity Net Gain**

Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or

transitional arrangements are considered to apply. These can be found in the Environment Act 2021.

- 1.2. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that, unless an exception or a transitional arrangement applies, the planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless:
  - (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
  - (b) the planning authority has approved the plan.

## **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. **BH2023/02835** - 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. Approved 09.08.2024.
- 3.2. **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. (Listed Building Consent). Granted 09.08.2024.

- 3.3. **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.
- 3.4. **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.
- 3.5. **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.
- 3.6. **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.
- 3.7. **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.
- 3.8. **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.
- 3.9. **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.
- 3.10. **91/0756/LB** - Restoration of the Nash Garden scheme in the Royal Pavilion grounds. (LBC) Approved 02.07.1991.
- 3.11. **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. This application seeks approval for a S73 application to vary condition 4 of planning permission BH2023/02835 that required an Ecological Design, Management and Monitoring Strategy (EDMMS), to remove the provision of a minimum 10% biodiversity net gain within a 30-year period. The other elements of the EDMMS would remain.

**5. REPRESENTATIONS**

None received.

**6. CONSULTATIONS**

Internal:

- 6.1. **Heritage:** No objection (verbal comments)

The proposed variation to remove BNG, with no changes to the approved plans, would have no adverse effect on the designated heritage assets over that already considered as part of the original application BH2023/02835. The amount of onsite BNG to meet 10% would likely be detrimental to the setting of the designated heritage assets due to the significant tree planting required, resulting in decreased views through the site and a +loss of funding for current heritage benefits. The costs associated with offsite BNG would again result in a loss of funding for the heritage assets and is considered detrimental.

- 6.2. **Sustainability:** Comment

The application relates to BNG and should be directed to East Sussex County Council.

External:

- 6.3. **County Ecologist:** No objection subject to conditions

As the requirement for applications prior to the commencement of mandatory biodiversity net gain (BNG) to provide a minimum net gain of 10% was a matter of local policy and guidance, the decision as to whether it is appropriate to deviate from it in this specific case is ultimately one for the Council. From an ecological point of view, providing that there are no significant changes to the habitat creation and enhancement scheme proposed as part of BH2023/02835, we would be satisfied. However, given that our advice of 24/01/24 raised various queries regarding the creation and enhancement measures proposed, our advice is that a condition requiring an EDMMS is still required (even if the 10% net gain requirement is removed).

- 6.4. **Historic England:** Comments awaited

- 6.5. **Sussex Gardens Trust:** No objection

Continue to support the successful restoration of the site to ensure removal from the "Heritage at Risk Register" of Historic England.

- 6.6. **The Gardens Trust:** No objection



- 6.7. Concur with Sussex Gardens Trust and continue to support the successful restoration of the site to ensure removal from the "Heritage at Risk Register" of Historic England.
- 6.8. Full details of consultation responses received can be found online on the planning register, with the exception of the verbal responses noted above.

## **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

#### Other Documents

Valley Gardens Conservation Area Study

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The original approved scheme, as set out above in the history section (BH2023/02835) was granted on 09.08.2024. The Local Planning Authority considered the scheme to be acceptable in all regards and secured various details and measures by planning conditions. As this application is made under Section 73 of the Town and Country Planning Act, consideration is limited to those matters which vary compared to the extant permission. The considerations to be taken into account in this application solely relate to the variation of condition 4 of application of application BH2023/02835.
- 9.2. In this case, the main considerations in the determination of this application relate to the visual, ecological and heritage impacts.
- 9.3. Condition 4 currently states;  
*"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)".*

## **10. STATEMENT OF SIGNIFICANCE**

- 10.1. 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.

- 10.2. 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.
- 10.3. 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**

- 10.4. The main aims of the works to the Royal Pavilion Gardens, approved under application BH2023/02835 and the associated approved Listed Building Consent application (BH2023/02836) was to enhance and protect the heritage of the site, so that it can be removed from the Heritage at Risk register. The project is mainly funded by a grant that required the project team to meet the heritage aims in full.
- 10.5. Following the approval of the previous application it has become apparent that in order to meet the heritage aims of the scheme, it will not be possible to provide 10% biodiversity net gain currently required in condition 4, as this would have required a level of tree planting that was so significant that it would have compromised how the Pavillion and the gardens were experienced as important heritage assets and thus would not have met the conditions for the grant funding.
- 10.6. The proposal for 10% BNG was put forward by the applicant as part of the application rather than being a mandatory national requirement. The original was submitted prior to the 12th of February 2024 when a 10% Biodiversity Net Gain became compulsory through national legislation.
- 10.7. The application seeks to vary the wording of condition 4 of the approved application BH2023/02835 to remove all references to the provision of a 10% BNG uplift, and any monitoring associated with it. The other requirements of Condition 4, which require the provision of and Ecological Design,

Management and Monitoring Strategy (EDMMS), which includes the measures in the Preliminary Ecological Appraisal, would still apply.

- 10.8. No changes or physical alterations would occur or are proposed as part of this application to that which has already been approved under BH2023/02835.
- 10.9. The present scheme, with the proposed variation, would continue to 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:**

- 10.10. 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.
- 10.11. 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".
- 10.12. 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.
- 10.13. There is no objection to the variation of condition 4, on the basis of heritage impacts, as no changes are proposed to the approved plans and the impacts remain the same as those considered previously and found acceptable. The proposal has been considered by Conservation Officers, and they are of this opinion too, and that the level of onsite tree planting required would have a detrimental effect on the setting and significance of the heritage assets. The additional cost of BNG, whether onsite or offsite could also impact on the deliverability of the scheme and as such this would result in the proposed heritage benefits being unrealised. and if provided offsite, the associated costs would have negative impacts. Historic England have confirmed that they have no comment to make in respect of the application.
- 10.14. The siting, scale and appearance of the proposal with the variation to condition 4 remains as approved under BH2023/02835 and is therefore considered acceptable in that it seeks to reconnect, conserve and better integrate the existing historic buildings and the surrounding landscaped areas.

**Ecological impacts:**

- 10.15. The reason the BNG 10% uplift cannot be provided onsite is twofold. Firstly, following further investigations by the ecological consultants, due to changes in the way that the Statutory Metric handles the loss of individual trees, the development no longer provides the 10% biodiversity net gain required under the planning permission and in fact now has a small loss of 1.14% (-0.25 habitat units). The provision of the amount of biodiversity to achieve a 10% uplift would mean a very significant increase in the number of trees (148 estimated or equivalent 2.1 habitat units) which would need to be provided onsite. This would undermine the premise and delivery of the approved application which seeks to open up views of the park, improve security and increase visibility of the heritage assets in proximity.
- 10.16. Secondly, the costs associated with the delivery of the amount of onsite BNG are considered significant and would mean the allocation of funds towards elements which would undermine the premise of the approved application as identified above, and reduce the funding available for the other elements of the approved scheme, diminishing further the heritage improvements provided, and wider public benefits.
- 10.17. The provision of offsite BNG, to meet the 10% uplift, has been explored and the costs associated with it are again significant and, as with onsite BNG, would mean the allocation of funds towards elements which would undermine the premise of the approved application as identified above, and reduce the funding available for the other elements of the approved scheme, diminishing further the heritage improvements provided, and wider public benefits.
- 10.18. Therefore, the provision of BNG uplift is considered to reduce the heritage improvements which the approved scheme delivers, risking not enhancing or better revealing their significance, and the wider public benefits.
- 10.19. The County Ecologist has confirmed that the variation or removal of the need to provide onsite BNG is a matter for the Local Planning Authority (LPA) to judge, as the application was submitted prior to the commencement of mandatory biodiversity net gain (BNG), and therefore any provision of BNG was informed by local policy, in particular CP10 of City Plan Part One and DM37 of City Plan Part Two, and any variation of the requirement to provide BNG remains in the judgement of the LPA. The County Ecologist has requested that all other elements of condition 4, not related to the provision of BNG and monitoring, remain.
- 10.20. The variation of condition 4 to this effect, and the loss of the assumed 10% uplift in BNG onsite is regrettable, as the provision weighed in favour of the application being in accordance with policy CP10 and DM37 by providing net gains for biodiversity. If the variation is approved then the application would no longer provide BNG, but the other elements that were secured and considered as part of the development and the preliminary ecological assessment would remain. The development team has confirmed the intent is to achieve BNG uplift wherever possible during the course of the development, and if achieved would accord with DM37.

- 10.21. The loss of the 10% BNG uplift, and no longer being fully compliant with CP10 and DM37, must be considered against the overall negatives and positive benefits of the scheme previously assessed and the planning balance reconsidered with this new information.
- 10.22. The development, without BNG, would continue to generate increased accessibility and use of the gardens, particularly for those with protected characteristics such as reduced mobility.
- 10.23. The works still 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 still 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.
- 10.24. In the event that 10% onsite BNG was provided, due to the cost and the amount of planting (trees) required, the openness of the park would be compromised initially and would become more so over time as the planting matures. This would undermine the premise of the original application which was to open and secure views of the Royal Pavilion and the surrounding heritage assets, with a more accessible public park. The costs associated with the provision of onsite BNG and particularly offsite BNG would comprise the delivery of elements of scheme which bring the predicted cultural, heritage and tourism benefits.

**Conclusion and Planning Balance:**

- 10.25. The loss of the 10% BNG uplift is considered regrettable but supportable, as at the time of application the 10% BNG uplift was not mandatory (as set out in national legislation), and the development would continue to deliver all the other positive impacts previously considered, including ecological improvements onsite and as the proposal still accords with the thrust of CP10 and DM37. If the variation to the condition is not agreed then some of the positive benefits of the scheme would be significantly reduced, particularly the heritage, cultural and tourism impacts. On balance the application to vary condition 4 is considered acceptable. Whilst the wording of condition 4 is varied as well as the timeframe condition updated, all other conditions remain as per the original permission.

**Biodiversity Net Gain**

- 10.26. This scheme is now considered exempt from the need to secure mandatory biodiversity net gain (BNG) under Schedule 7A of the TCPA, as section 73 permissions, where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024, are not liable to any mandatory BNG.

## **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.

11.3. 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.



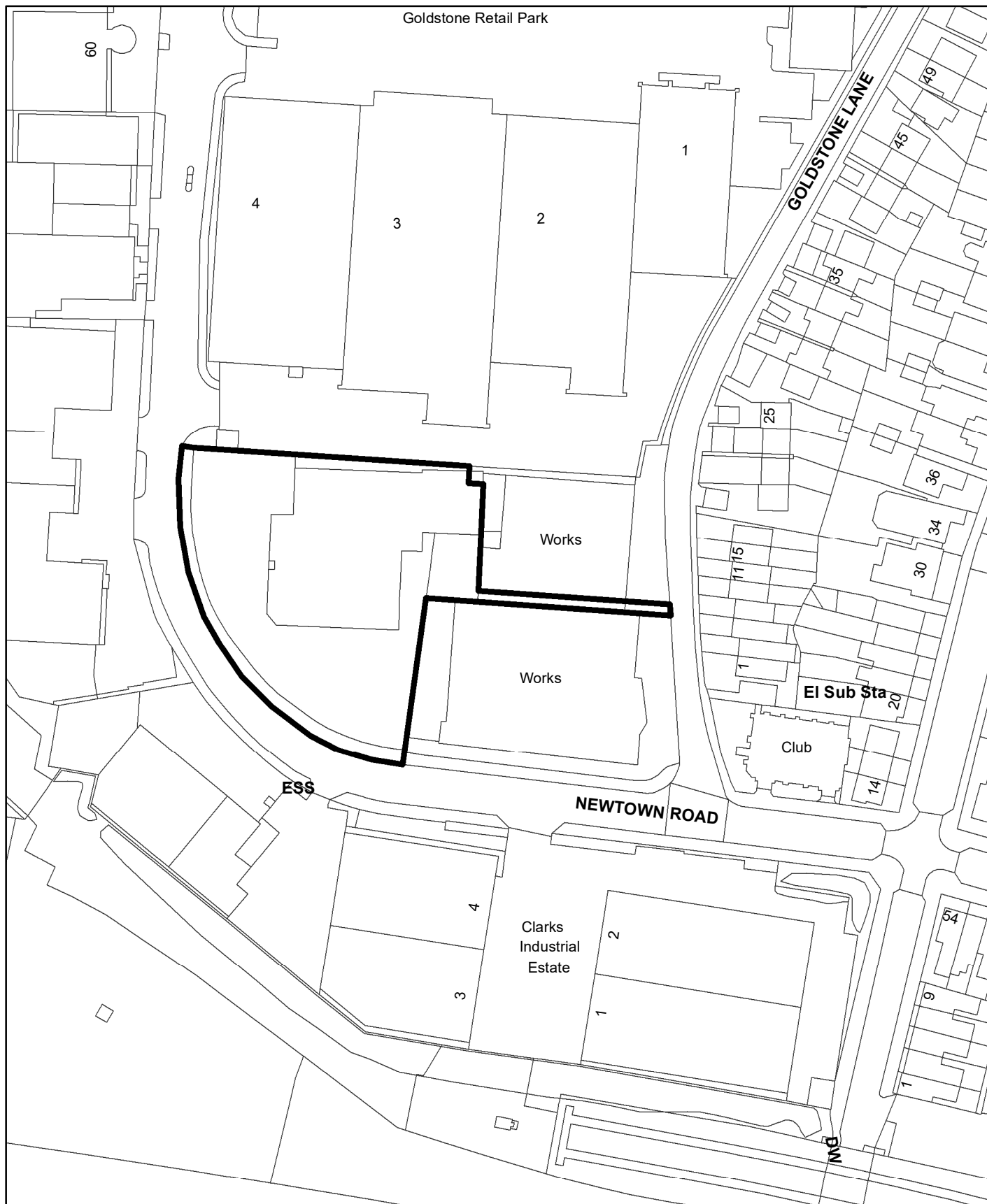
# **ITEM B**

**Kap Ltd, Newtown Road  
BH2025/01359  
Removal or Variation of Conditions**

**DATE OF COMMITTEE: 1<sup>st</sup> October 2025**



# BH2025 01359 - Kap Ltd, Newtown Road



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2025/01359</b>	<b><u>Ward:</u></b>	<b>Goldsmid Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Kap Ltd Newtown Road Hove BN3 7BA</b>		
<b><u>Proposal:</u></b>	<b>Application to vary condition 14 of planning permission BH2018/03356 to change the minimum BREEAM new construction rating from 'Excellent' to a 'Very Good' rating.</b>		
<b><u>Officer:</u></b>	Michael Tucker, tel: 292359	<b><u>Valid Date:</u></b>	27.05.2025
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	26.08.2025
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	ECE Planning Limited 64-68 Brighton Road Worthing BN112EN		
<b><u>Applicant:</u></b>	Blue Goldstone Ltd C/o ECE Planning Ltd 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
Other		XDA Letter	27-May-25
Proposed Drawing	PROPOSED CYCLE STORE ELEVATIONS	YO269_264	9 January 2020
Proposed Drawing	PROPOSED ROOF PLAN	YO269_130_Rev A	9 January 2020
Proposed Drawing	PROPOSED THIRD FLOOR PLAN	YO269_123_Rev K	9 January 2020
Proposed Drawing	PROPOSED LOWER GROUND FLOOR PLAN	YO269_119_Rev G	9 January 2020
Proposed Drawing	PROPOSED GROUND FLOOR PLAN	YO269_120_REV K	11 March 2020
Proposed Drawing	PROPOSED FIRST FLOOR PLAN	YO269_121_REV J	11 March 2020
Proposed Drawing	PROPOSED SECOND FLOOR PLAN	YO269_122_REV I	9 January 2020

Proposed Drawing	PROPOSED FOURTH FLOOR PLAN	YO269_12 9_REV I	9 January 2020
Proposed Drawing	PROPOSED FIFTH/SIXTH FLOOR PLAN	YO269_12 4_REV K	9 January 2020
Proposed Drawing	PROPOSED SEVENTH FLOOR PLAN	YO269_12 5_REV I	9 January 2020
Proposed Drawing	PROPOSED EIGHTH/NINTH FLOOR PLAN	YO269_12 6_REV H	9 January 2020
Proposed Drawing	PROPOSED TENTH FLOOR PLAN	YO269_12 8_REV H	9 January 2020
Proposed Drawing	PROPOSED NORTH ELEVATION_BLOCK A	YO269_25 0_REV C	16 October 2019
Proposed Drawing	PROPOSED SOUTH ELEVATION_BLOCK A	YO269_25 1_REV E	2 December 2019
Proposed Drawing	PROPOSED EAST ELEVATION_BLOCK A	YO269_25 2_REV C	2 December 2019
Proposed Drawing	PROPOSED WEST ELEVATION_BLOCK A	YO269_25 3_REV C	8 October 2019
Proposed Drawing	PROPOSED NORTH ELEVATION_BLOCK B	YO269_25 5_REV D	9 January 2020
Proposed Drawing	PROPOSED SOUTH ELEVATION_BLOCK B_COLOUR	YO269_25 4_REV G	9 January 2020
Proposed Drawing	PROPOSED EAST ELEVATION_BLOCK B	YO269_25 6_REV E	9 January 2020
Proposed Drawing	PROPOSED WEST ELEVATION_BLOCK B	YO269_25 7_REV E	2 December 2019
Proposed Drawing	PROPOSED NORTH ELEVATION_BLOCK C	YO269_25 8_REV C	9 January 2020
Proposed Drawing	PROPOSED SITE ELEVATION 1_COLOUR	YO269_26 0_REV D	16 October 2019
Proposed Drawing	PROPOSED SITE ELEVATION 2	YO269_26 1_REV E	9 January 2020
Proposed Drawing	PROPOSED SITE ELEVATION 3	YO269_26 2_REV C	9 January 2020
Proposed Drawing	PROPOSED SITE ELEVATION 4	YO269_26 3_REV E	9 January 2020

Location and block plan	SITE BLOCK AND LOCATION PLAN	YO269_001_REV A	9 January 2020
Location Plan	SITE PLAN	YO269_005_REV A	9 January 2020
Other	SITE ELEVATIONS	YO269_0600	31 October 2019
Proposed Drawing	PROPOSED SITE PLAN	YO269_110_Rev D	9 January 2020

2. Not used.
3. The development hereby permitted shall be carried out in accordance with the details of the external materials approved under application BH2023/02568.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies CP12 and CP13 of the Brighton & Hove City Plan Part One.
4. The scheme for the storage of refuse and recycling approved under application BH2024/02277 shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with Policy CP8 of the Brighton & Hove City Plan Part One, Policy DM20 of the Brighton & Hove City Plan Part Two and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
5. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policy CP12 of the Brighton & Hove City Plan Part One.
6. The office floorspace (E(g(i))) hereby permitted shall be used solely as an office (Use Class E(g(i))) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions 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), no change of use shall occur without planning permission obtained from the Local Planning Authority.  
**Reason:** The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the supply of office floorspace in the city given the identified shortage, to comply with policies CP3 and DA6 of Brighton & Hove City Plan Part One.
7. The scheme for landscaping approved under application BH2024/02277 shall be implemented in full accordance with the approved details in the first planting

season after completion or first occupation 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 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 CP12 and CP13 of the Brighton & Hove City Plan Part One and policy DM22 of the Brighton & Hove City Plan Part Two.

8. The cycle parking facilities approved under application BH2024/02277 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 and paragraph 110b of the National Planning Policy Framework.

9. The scheme of management and layout of the vehicle parking areas approved under application BH2024/02794 shall be implemented prior to the occupation of the building and thereafter be retained and maintained.

**Reason:** To ensure the development maintains a sustainable transport strategy and to comply with Policy CP9 of the Brighton & Hove City Plan Part One and Policies DM33 and DM36 of the Brighton & Hove City Plan Part Two.

10. All waste, recycling and associated storage and collection activities shall be carried out in accordance with the Waste & Recycling Management Plan approved under application BH2024/02600.

**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 DM20 and DM33 of the Brighton & Hove City Plan Part Two and the Waste and Minerals Plan for East Sussex, South Downs and Brighton & Hove.

11. The wheelchair accessible dwelling(s) hereby permitted as detailed on the approved drawings shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

12. Not used.



13. 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.
14. Within 6 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' shall be submitted to, and approved in writing by, the Local Planning Authority. In addition, it shall be demonstrated that the available mandatory credits required for a BREEAM rating of 'Excellent' as set out in Table 2.5 "Minimum BREEAM standards by rating level" of BREEAM UK New Construction Version 6.1 Technical Manual SD5079, and as identified in the submitted supporting letter as being targeted (XDA Consulting, received 27th May 2025), have been achieved.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.
15. The energy plant room(s) hereby permitted shall be carried out in accordance with the details approved under application BH2021/03304.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policies DA6 and CP8 of the Brighton & Hove City Plan Part One.
16. The rooftop photovoltaic array shall be installed in accordance with the details approved under application BH2024/02277.  
**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.
17. All separating walls and floors between the residential units and commercial floorspace, plant rooms, recycling and refuse stores and vehicle and cycle parking areas shall be designed to achieve a sound insulation value of 5dB better than that required by Approved Document E of the building regulations performance standards for airborne and impact noise.  
**Reason:** To safeguard the amenities of the future occupiers and to comply with policy DM20 of the Brighton & Hove City Plan Part Two.
18. The development hereby permitted shall be carried out in strict accordance with the scheme for the treatment of plant and machinery against the transmission of sound and/or vibration approved under application BH2021/02110. The implemented measures shall be retained as such thereafter.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.

19. The external lighting shall be installed, operated and maintained in accordance with the details approved under BH2024/02277 and thereafter retained.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to protect light sensitive biodiversity and to comply with policy CP10 of the Brighton and Hove City Plan and policies DM20 and DM37 of the Brighton & Hove City Plan Part Two.
20. The development hereby permitted shall be carried out in accordance with the Site Waste Management Plan approved under application BH2021/03901.  
**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.
21. The scheme for ventilation to each residential unit approved under application BH2023/01434 shall be implemented prior to occupation of each residential unit hereby permitted and retained as such thereafter.  
**Reason:** To safeguard the amenities of the occupiers of the development and to comply with policy DM20 of the Brighton & Hove City Plan Part Two.
22. The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report in accordance with the details approved under application BH2021/03305 that the remediation scheme has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:
- a) built drawings of the implemented scheme;
  - b) photographs of the remediation works in progress;
  - c) certificates demonstrating that imported and/or material left in situ is free from contamination.
- Reason:** To safeguard the health and amenity of future residents or occupiers of the site and neighbouring residents and to comply with policies DM20, DM40 and DM41 of the Brighton & Hove City Plan Part Two.
23. If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to and approved in writing by the Local Planning Authority. The remediation measures shall be carried out as approved and in accordance with the approved programme.  
**Reason:** To safeguard the health of future residents or occupiers of the site from unidentified contamination and to ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution or risk to public health from previously unidentified contamination sources at the development site and to comply with policies DM20, DM40 and DM41 of the Brighton & Hove City Plan Part Two and the terms of paragraph 170 of the National Planning Policy Framework.

24. The Acoustic Report and Acoustic Design Statement approved under application BH2021/2110 shall be implemented prior to occupation of any of the development and shall be permanently retained thereafter. Prior to occupation the development details shall be submitted to the Local Planning Authority certifying that the agreed noise mitigation measures have been achieved and installed.  
**Reason:** To protect the amenity of future residential and commercial occupiers of the development and also to protect the amenity nearby residents, in accordance with policy DM20 of the Brighton & Hove City Plan Part Two.
25. Noise associated with plant and machinery 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 representative background noise level. Rating Level and existing representative background noise levels to be determined as per the guidance provided in BS 4142:2014. In addition, there should be no significant adverse impacts from low frequency noise.  
**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy DM20 of the Brighton & Hove City Plan Part Two.
26. The management of the communal external amenity spaces, including roof terraces, smoking arrangements for commercial operations and management of on-site events hereby permitted shall be carried out in accordance with the Noise Management Plan approved under application BH2024/02277.  
**Reason:** To protect the amenity of future residential and commercial occupiers of the development and also to protect the amenity nearby residents, in accordance with policy DM20 of the Brighton & Hove City Plan Part Two.
27. The drainage scheme approved under application BH2021/03469 shall be implemented fully in accordance with the approved details.  
**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy DM43 of the Brighton & Hove City Plan Part Two.
28. The development shall be carried out in accordance with the foul water drainage strategy and timetable approved under application BH2021/03469.  
**Reason:** To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy DM43 of the Brighton & Hove City Plan Part Two.
29. The remediation strategy approved under application BH2021/03305 shall be implemented in full accordance with the approved details.  
**Reason:** As this matter is fundamental to the acceptable delivery of the permission and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policies DM40 and DM41 of the Brighton & Hove City Plan Part Two and paragraph 170 of the National Planning Policy Framework.
30. Not used.

31. Not used
32. Piling using penetrative methods shall not be carried out other than with the written consent of the local planning authority unless in full accordance with the details of piling methods approved under application BH2022/02126.  
**Reason:** To ensure that the proposed development, does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework and Position Statement of the 'The Environment Agency's approach to groundwater protection' and to comply with policy DM42 of the Brighton & Hove City Plan Part Two.
33. The scheme for managing boreholes approved under application BH2021/03027 shall be implemented prior to the occupation of the development hereby approved.  
**Reason:** To ensure that the proposed development, does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework and Position Statement of the 'The Environment Agency's approach to groundwater protection' and to comply with Policy DM41 of the Brighton & Hove City Plan Part Two.
34. Prior to first occupation the ecological design strategy (EDS) approved under application BH2021/02638 shall be implemented in full 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.
35. The development hereby permitted shall be carried out in accordance with the scheme for compensatory bird, bat and insect bricks / boxes approved under application BH2024/02600. The implemented measures shall be retained as such thereafter.  
**Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with 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.
36. The development hereby permitted shall be carried out and completed fully in accordance with the details of windows, including reveals and cills and commercial ground floor frontages, approved under application BH2024/01434 and shall be retained as such thereafter.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton & Hove City Plan Part One.
37. All boiler flues shall have vertical termination above roof.  
**Reason:** To safeguard the amenities of the local residents and minimise air pollution and to comply with policy CP8 of the Brighton & Hove City Plan Part One and policy DM20 of the Brighton & Hove City Plan Part Two.

38. Prior to occupation of the development hereby permitted a wind mitigation scheme outlining specific landscaping and screening to ensure the safe use of the public realm and the external amenity areas shall be submitted to and approved in writing by the Local Planning Authority.  
**Reason:** To ensure the safety and amenity of future occupiers and comply with policy DM20 of the Brighton and Hove City Plan Part Two.
39. The crime prevention measures approved under application BH2024/02600 shall be implemented prior to first occupation of the development hereby permitted and retained thereafter.  
**Reason:** In the interests of crime prevention, to comply with policy CP12 of the Brighton and Hove City Plan Part One.
40. The glazed frontages to the ground floor office use adjacent to Newtown Road, other than for plant / storage shall be fitted with clear glass which shall be retained and kept unobstructed at all times.  
**Reason:** To ensure an active frontage is maintained and to comply with policy CP12 of the Brighton and Hove City Plan Part One.
41. The green roofs shall then be constructed in accordance with the details approved under BH2023/02818 and shall be retained as such thereafter.  
**Reason:** To ensure that the development contributes to ecological enhancement on the site and in accordance with policy CP10 of the Brighton & Hove City Plan Part One.
42. Planters and screening to balconies and flat roofs shall be constructed in accordance with the details approved under application BH2023/01434 and shall be retained as such thereafter.  
**Reason:** To ensure that the development is in accordance with policy QD27 of the Brighton & Hove City Local Plan.
43. Not used.
44. The construction hereby permitted shall be carried out in accordance with the Construction Environmental Management Plan (CEMP) approved under application BH2021/02563.  
**Reason:** As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies DM20, DM33 and DM40 of Brighton & Hove City Plan Part Two, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.
45. Prior to the first occupation of the development hereby approved a Delivery & Service Management Plan, which includes details of the types of vehicles, time and method of deliveries, servicing and refuse collection will take place and the frequency of those vehicle movements shall be submitted to and approved in writing by the Local Planning Authority. All deliveries servicing and refuse collection 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 DM20, DM33 and DM40 of 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. Crime prevention measures could be evidenced by a Secure By Design Developers Award Certificate or equivalent.
3. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
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. The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: [ehlpollution@brighton-hove.gov.uk](mailto:ehlpollution@brighton-hove.gov.uk) website: [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)).
6. The applicant is advised that under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting wild birds, their nests and eggs is a criminal offence. The nesting season is normally taken as being from 1st March - 30th September. The developer should take appropriate steps to ensure nesting birds, their nests and eggs are not disturbed and are protected until such time as they have left the nest.
7. The applicant is advised that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a

sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or [www.southernwater.co.uk](http://www.southernwater.co.uk)

8. Planning permission is no defence against a statutory noise nuisance investigation. The council is required to investigate under the provisions of the Environmental Protection Act 1990 to determine whether or not a statutory nuisance is occurring and if any action is appropriate.
9. Not used.
10. 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.
11. The applicant is advised that Part L – Conservation of Fuel and Power of the Building Regulations 2022 now requires non-residential development to have achieved a 27% improvement on the carbon emissions against Part L 2013

## **2. SITE LOCATION**

- 2.1. The application relates to a redevelopment site on the northern/western side of Newtown Road. The former KAP garage, planning permission (BH2018/03356) was granted in 2020 for the following:  
*Demolition of existing buildings in association with car dealership (sui generis) to facilitate the erection of a mixed use redevelopment to provide 148 dwellings (Class C3), 954sqm of office floorspace (Class B1), within a scheme of 3no Blocks ranging from 4 to 11 storeys in height with associated underground car parking, cycle parking and landscaping and 22 sqm of cafe floorspace (Class A3).*
- 2.2. The permission provides for a residential led mixed-use development including 148 dwellings and 954sqm of office floorspace, arranged within three blocks ranging from four to eleven storeys in height.
- 2.3. The development has commenced, and works are well underway on site.

## **3. RELEVANT HISTORY**

- 3.1. **BH2018/03356** - Demolition of existing buildings in association with car dealership (sui generis) to facilitate the erection of a mixed use redevelopment to provide 148 dwellings (Class C3), 954sqm of office floorspace (Class B1), within a scheme of 3no Blocks ranging from 4 to 11 storeys in height with associated underground car parking, cycle parking and landscaping and 22 sqm of cafe floorspace (Class A3). Approved.

- 3.2. There have also been numerous applications to discharge conditions and to make non-material amendments to the above scheme.

#### **4. APPLICATION DESCRIPTION**

- 4.1. The application seeks to vary condition 14 of BH2018/03356, to change the minimum BREEAM new construction rating from 'Excellent' to 'Very Good'. The reasons for this change are set out in the Considerations & Assessment section below.

#### **5. REPRESENTATIONS**

None received.

#### **6. CONSULTATIONS**

##### **Sustainability / Net Zero:**

- 6.1. No objection, subject to an additional proviso that the applicable individual minimum requirements for Excellent, as set out in Table 2.5 of BREEAM New Construction 2018, are still met.

#### **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, revised October 2024);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour Joint Area Action Plan (adopted October 2019).
  - Hove Station Neighbourhood Plan (made March 2024)

#### **8. POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP8	Sustainable buildings



## 9. CONSIDERATIONS & ASSESSMENT

- 9.1. As this is an application under Section 73 of the Town and Country Planning Act, consideration is limited to those matters which vary compared to the extant permission. In this case this would be the sustainability credentials of the development.

### **Sustainability:**

- 9.2. Condition 14 of BH2018/03356 set a target BREEAM rating of 'excellent' for the non-residential part of the development:

*'Within 6 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment has issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of "Excellent" and such certificate has been submitted to, and approved in writing by, the Local Planning Authority.'*

**Reason:** *To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One'.*

- 9.3. The current application seeks to vary the wording of this condition to lower the target BREEAM New Construction rating to 'Very Good'.
- 9.4. The reasoning given within the submission is that the previous developer (who submitted the original planning application) failed to record evidence of a number of early-stage BREEAM actions. These BREEAM credits can only be achieved during early design stages. This would have been RIBA stage 1 and 2, prior to submission of the planning application. These credits are no longer available to the current developer, who took on the site after planning permission was obtained. As a result of this, although the original planning application details on sustainability state that BREEAM 'Excellent' could be achieved, without these early credits, the applicant has set out that this is no longer technically feasible.
- 9.5. The application includes an assessment that identifies both the credits that were missed and the credits that are still being targeted. The scheme as proposed is now targeting BREEAM 'Very Good' with an overall score of 59.2%, which is approximately 1/3rd into the 'Very Good' bracket (which extends from 55%-69%). The scheme is also still targeting all remaining relevant credits that would have been mandatory for the scheme to achieve BREEAM 'Excellent', including five credits relating to the reduction of energy use and carbon emissions. These are the largest category of mandatory credits and ensuring that these credits are achieved would further the Council's ambition to become carbon neutral by 2030.

- 9.6. This assessment has been reviewed by the Council's Net Zero team who have raised no objection, subject to the proviso that the condition wording also be varied to require these additional energy related credits are to be achieved. The Net Zero team have also confirmed that it would be difficult for the scheme to achieve 'Excellent' without the early-stage credits which can no longer be obtained.
- 9.7. It is disappointing that the original developer did not take the necessary actions to register the early-stage credits that would have enabled the original target of BREEAM 'Excellent' to be achieved. However, the scheme would still include other sustainability measures such as energy and water efficiency standards for the residential component in accordance with Policy CP8 of the City Plan Part One, and PV arrays to the rooftops of the new buildings.
- 9.8. Policy CP8 of the City Plan Part One sets the BREEAM target of 'Excellent' for non-residential development, but does also allow for flexibility where it can be demonstrated that achieving 'Excellent' is not technically feasible. In this case it is considered that these circumstances would apply to this S73 application.
- 9.9. The new wording of condition 14 is proposed to be:  
*Within 6 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' shall be submitted to, and approved in writing by, the Local Planning Authority. In addition, it shall be demonstrated that the available mandatory credits required for a BREEAM rating of 'Excellent' as set out in Table 2.5 "Minimum BREEAM standards by rating level" of BREEAM UK New Construction Version 6.1 Technical Manual SD5079, and as identified in the submitted supporting letter as being targeted (XDA Consulting, received 27th May 2025), have been achieved.*  
**Reason:** *To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.*
- 9.10. It is noted that the conditions associated with the original application have been updated as necessary to relate to any details that have already been approved and discharged via previous conditions applications. Any planning permission granted will also be subject to the s106 agreement (and any subsequent variations to this agreement) attached to the original planning permission.
- Conclusion:**
- 9.11. The application has provided evidence to demonstrate that it would not be technically feasible for the development to achieve BREEAM 'Excellent'. It is considered that lowering the requirement to BREEAM 'Very Good' would be acceptable, on the proviso that the remaining available credits that would be mandatory for BREEAM 'Excellent' are also achieved. The Net Zero do not object to the proposal and overall, it is considered that the development is in accordance with the thrust of policy CP8 and the recommendation is to approve.

## **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.



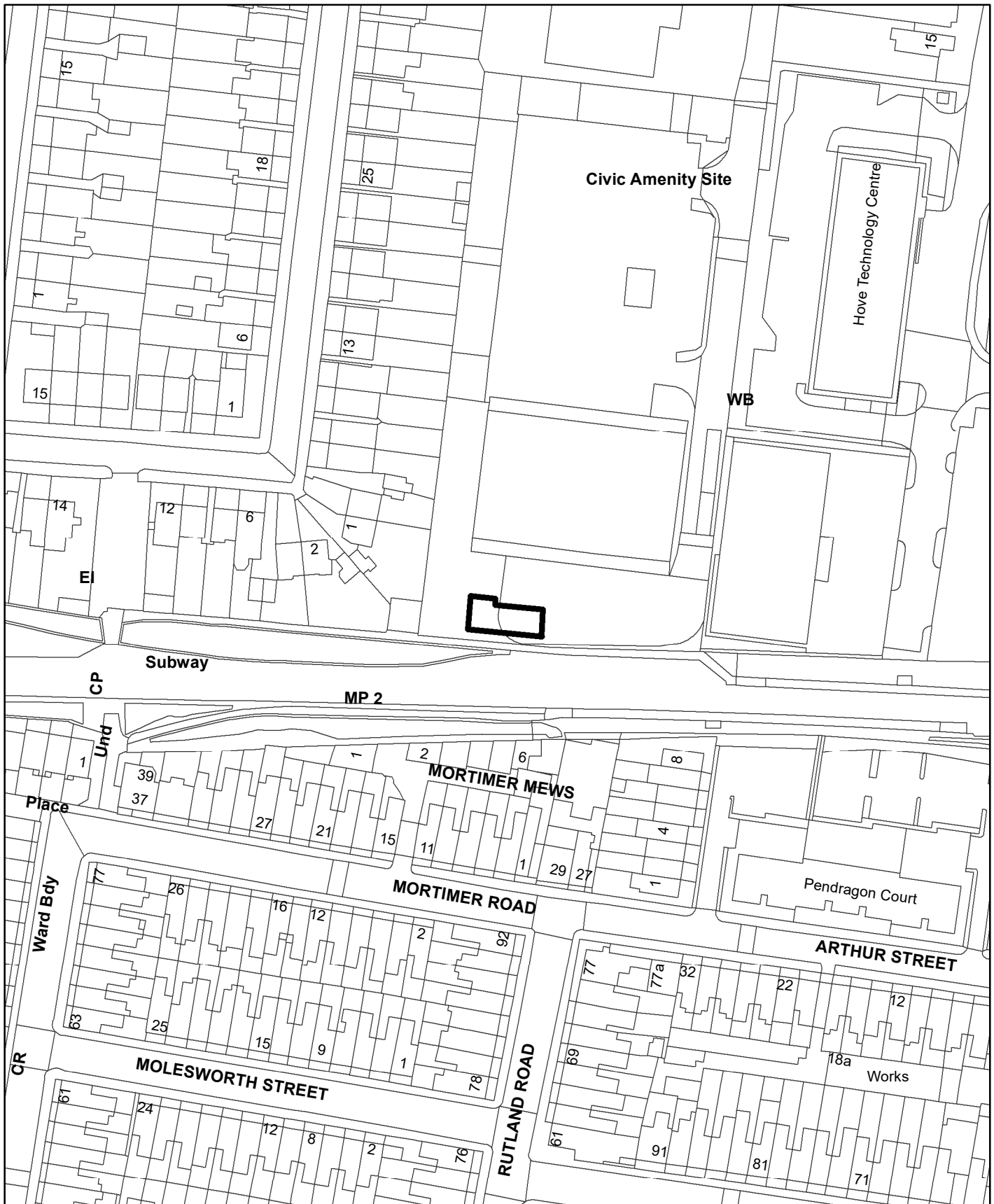
# **ITEM C**

**BHCC Household Waste Recycling Site  
Modbury Way  
BH2025/00747  
Full Planning**

**DATE OF COMMITTEE: 1<sup>st</sup> October 2025**



BH2025 00747 -  
BHCC Household Waste Recycling Site, Modbury Way



**Brighton & Hove  
City Council**

N



**Scale: 1:1,250**





<b><u>No:</u></b>	<b>BH2025/00747</b>	<b><u>Ward:</u></b>	<b>Westdene &amp; Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>BHCC Household Waste Recycling Site Modbury Way Hove BN3 7DU</b>		
<b><u>Proposal:</u></b>	<b>Installation of a fire tank and pumphouse.</b>		
<b><u>Officer:</u></b>	Helen Hobbs, tel: 290585	<b><u>Valid Date:</u></b>	01.04.2025
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	27.05.2025
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	31.08.2025
<b>7Agent:</b>	Veolia ES (UK) Ltd    Springfield Farm Quarry    Broad Lane Beaconsfield    HP9 1XD		
<b>Applicant:</b>	Veolia ES (South Downs) Ltd    210 Pentonville Road    London    N1 9JY		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	VES_TD_LEIGH_200_003	A	10-Jul-25
Block Plan	VES_TD_LEIGH_200_000	A	10-Jul-25
Proposed Drawing	VES_TD_LEIGH_200_002		01-Apr-25
Proposed Drawing	VES_TD_LEIGH_200_004		01-Apr-25

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

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

3. The development hereby permitted shall implement the following precautionary working methods during site clearance to minimise the likelihood of harm to protected species;

- a) Vegetation shall be cleared in two phases, with the direction of clearance towards open ground/permeable boundary features to allow any animals

present to safely disperse. The first cut shall be no lower than 15cm with a second cut 25 hours later to ground level; and

- b) Any piles of spoil or other materials shall be carefully dismantled by hand.

**Reason:** To ensure that any adverse impacts on protected species from development activities are mitigated and works comply with the Protection of Badgers Act 1992, Wildlife and Countryside Act 1981, as amended and the Conservation of Habitats and Species Regulations 2017, as amended and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

- 4. The development hereby permitted shall not be first used until a Completion Report, evidencing the habitat enhancements set out in the approved Biodiversity Gain Plan and Habitat Management and Monitoring Plan, has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the development delivers biodiversity net gain in accordance with Schedule 7A of the Town and Country Planning Act, Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

- 5. No development shall take place until a Habitat Management and Monitoring Plan (HMMP) has been submitted to and approved in writing by the Local Planning Authority. The HMMP shall accord with the approved Biodiversity Gain Plan (BGP) and include:

- i) A non-technical summary
- ii) The roles and responsibilities of the people or organisations delivering the HMMP
- iii) The planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan
- iv) The management measures to maintain habitat in accordance with the approved BGP for a period of 30 years from the first use of the development
- v) The monitoring methodology and frequency in respect of the created or enhanced habitat
- vi) Provision for the identification, agreement and implementation of contingencies and/or remedial actions where the results from monitoring show that the conservation aims and objectives of the HMMP are not being met.

The created/enhanced habitat specified in the approved BGP shall be provided and thereafter managed and maintained in accordance with the approved HMMP. The habitat monitoring shall be submitted to and approved in writing by the Local Planning Authority in accordance with the methodology and frequency specified in the approved Habitat Management and Monitoring Plan.

**Reason:** To ensure the development delivers biodiversity net gain in accordance with Schedule 7A of the Town and Country Planning Act, Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove

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

6. The development hereby permitted shall not be first used until a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration 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.

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. No development (including any demolition, site clearance or enabling works) shall take place until:
  - (a) A Biodiversity Gain Plan (BGP) has been prepared in broad accordance with the Biodiversity Net Gain Assessment dated July 2025 and prepared by Steven Pagett Ecological Services Ltd; and
  - (b) The BGP has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** Based on the information available, this permission will require the approval of a Biodiversity Gain Plan by the local planning authority before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply. The effect of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 is that planning permission granted for the development is deemed to have been granted subject to the condition ("the biodiversity condition")

3. The Biodiversity Gain Plan must relate to development for which planning permission is granted, and specify as a minimum the following matters:
  - i) Information about the steps taken or to be taken to minimise the adverse effect of the development on biodiversity,
  - ii) A completed Metric tool calculation
  - iii) The pre-development biodiversity value of the onsite habitat (shown on scaled plans),
  - iv) The post-development biodiversity value of the onsite habitat (shown on scaled plans),
  - v) Any registered offsite biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development,
  - vi) Any biodiversity credits purchased for the development.
  - vii) Any such other matters as the Secretary of State may by regulations specify including the requirements of Article 37 C of the Town and

Country Planning (Development Management Procedure) (England)  
Order 2015 (as amended)

Commencing development which is subject to the biodiversity gain condition without an approved Biodiversity Gain Plan could result in enforcement action for breach of planning control.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. The Hove Household Waste Recycling Site is approximately 2.0 ha with a building with the floor area of 2800m<sup>2</sup>. The site is accessed from the south side of Old Shoreham Road between No.198 and the Barker and Stonehouse Furniture show room (Nos 184-185) via a long access road. To the north are industrial buildings, to the east is the Hove Technology Centre. The west flank of the site is backed on by residential dwellings with gardens in Aldrington Avenue. At the southern end of the site is a large shed where domestic refuse and the recyclable material is collected and sorted.
- 2.2. The application seeks permission for the installation of a fire tank and pumphouse, to be located in the southwest corner of the site. The proposed fire tank would measure 10m by 5.5m and 4m in height. The proposed pumphouse measures 6m by 4m and 4m in height. These facilities are required to comply with the Environment Agency Fire Protection Plan (FPP) legislation and to be used in an emergency should there be a fire at the site.

## **3. RELEVANT HISTORY**

- 3.1. **BH2020/03516** - Variation of conditions 5, 6, 7, 14 and 21 of application BH2016/01592 (Application for variation of condition 3 of application BH2015/00180 to allow the transfer facility to accept street cleansing waste, waste from communal bin operations, cardboard, green garden waste from Brighton & Hove City Council collections, re-usable, recyclable, recoverable and residual waste arising from Household Waste Recycling Sites, commercial recyclable waste and commercial residual waste for energy recovery or landfill. (Retrospective)) to allow change of hours and where materials are stored. Approved 12/03/2021.
- 3.2. **BH2016/01592** - Application for variation of condition 3 of application BH2015/00180 to allow the transfer facility to accept street cleansing waste, waste from communal bin operations, cardboard, green garden waste from Brighton & Hove City Council collections, re-usable, recyclable, recoverable and residual waste arising from Household Waste Recycling Sites, commercial recyclable waste and commercial residual waste for energy recovery or landfill. (Retrospective). Approved 14/09/2016.
- 3.3. **BH2015/00180** - Application for variation of condition 3 of application BH2010/03611 to allow the importation and transfer of commercial waste through the transfer station at the site. Approved 01/05/2015

- 3.4. **BH2010/03611** - Application for variation of condition 1 of permission BH2008/03960 to allow the additional use of the waste management site as a transfer facility for cardboard and green waste recycling. Approved 04/03/2011
- 3.5. **BH2008/03960** - Application for the variation of the following conditions attached to planning permission BH1997/00778/FP:
1. Condition 3 amended to allow the use of the waste transfer building for general household waste and the receipt of dry recyclables.
  2. Condition 5 amended to allow extended hours of operation, from 0800-1700 hrs Monday to Friday and 0800-1300 hrs on Saturdays.
  3. Condition 6 amended to permit the use of HGVs for operational purposes (other than street cleansing) from 0800-1800 hrs Monday to Friday and 0900-1300 hrs on Saturdays and Sundays.
  4. Condition 7 amended to enable use of mechanical shovels and loaders between 0800-1800 hrs Monday to Friday and 0900-1300 hrs on Saturdays and Sundays.
  5. Condition 10 amended to allow the site to accept 25,000 tonnes per annum.
  6. Condition 11 amended to allow HGV parking along the eastern side of the waste transfer hall.
  7. Condition 17 amended to permit the fitting of a low level reversing safety alarm to transfer station loading plant.
  8. Condition 27 amend the wording of this condition, which restricts sale of recycled materials to a designated area, by the addition of the phrase "except where agreed in writing by the Waste Planning Authority".
  9. Condition 28 amended to allow the placement on the ground of metal items delivered by the public, prior to loading into waste containers on a permanent basis.
  10. Condition 30 amended to permit the positioning of waste containers in the approved designated areas (drawing LEIG/04/001/C) except where otherwise agreed in writing with the Local Planning Authority.
  11. Condition 35 amended to permit the development to be carried out in accordance with the approved plans, or where otherwise agreed in writing by the Local Planning Authority. Approved 20/04/2009
- 3.6. **BH2006/03620** - Renewal of temporary planning permission BH2004/02838/FP to allow continued interim recycling and transfer activities until 31 December 2008. Approved 15/12/2006
- 3.7. **BH2004/02838/FP** Temporary variation of conditions attached to planning permission BH1997/00778/FP to facilitate the provision of interim facilities for municipal waste recycling & transfer comprising:
1. Condition 3 amended to permit the transfer of collected household waste and the receipt of dry recyclables.
  2. Condition 5 amended to allow extended hours of operation, from 0800 - 1800 Monday - Friday and 0800 -1300 on Saturdays.
  3. Condition 6 amended to permit the use of HGVs for operational purposes (other than street cleansing) from 0730-1800 Monday to Friday and 0800 -1300 on Saturdays.

4. Condition 7 amended to enable use of plant from 0730-1800 Monday to Friday and from 0800 - 1300 on Saturdays and Sundays.
  5. Condition 10 amended to allow an increase in tonnage restriction to 40,000 tonnes per annum.
  6. Condition 17 amended to permit the fitting of a low level reversing safety alarm to transfer station loading plant.
  7. Condition 28 amended to allow the placement on the ground of metal items delivered by the public, prior to loading into waste containers.
  8. Condition 30 amended to permit the positioning of waste containers in the approved designated area (drawing AL-100G) except where otherwise agreed in writing with the Local Planning Authority.
  9. Condition 35 amended to permit the development to be carried out with the approved plans, or where otherwise agreed in writing by the Local Planning Authority. Approved 01/12/2004
- 3.8. **BH1997/00778/FP** - Demolition of existing buildings and the erection of new civic amenity facility incorporating waste transfer, recycling and associated works. Approved 26/09/97

#### 4. REPRESENTATIONS

- 4.1. In response to publicity, responses were received from **eleven (11)** individuals, objecting to the proposed development for the following reasons:
- Increase in noise and vibration
  - Increase in smells and flies
  - Visual impact
  - No justification for the location and need of the tank
  - Proximity to neighbours
  - Impact on neighbour garden walls
  - The applicant has not consulted with residents
- 4.2. **Councillor Bageen** has objected to the application. The full representation is attached to this report.
- 4.3. Full details of representations received can be found online on the planning register.

#### 5. CONSULTATIONS

- Internal:
- 5.1. **Environmental Health: Comment**  
Veolia ES (South Downs) Ltd (Veolia) operates the Integrated Waste Management Service for East Sussex County Council (ESCC) and Brighton & Hove Council. It is proposed to erect a fire tank and pumphouse on site to comply with Environment Agency Fire Protection Plan (FPP) legislation. This would be located close to the southern boundary of the wider site.

- 5.2. Several objections have been submitted in relation to this application. The objections relate mainly to noise of the development, odour and visual amenity of the area.
- 5.3. Conditions are recommended for the site to safeguard the amenity of neighbouring properties.
- 5.4. **Planning Policy:** No Comment received.
- 5.5. **Sustainable Transport:** No objection  
The site is located outside of the public highway, so the proposed development is not expected to have any impact on the public highway.
- External:
- 5.6. **Environment Agency:** No Objection  
Advice is provided for the applicant to review in regard to any hazardous waste that might be found on site.
- 5.7. **Ecology:**  
Initial Comment 2/07/2025  
Insufficient information has been provided to assess the potential impacts on biodiversity and to inform appropriate mitigation, compensation and enhancement.
- Final Comment 22/08/2025
- 5.8. The additional information is satisfactory and the proposed development is likely to have an impact on biodiversity, those impacts can be mitigated through the application of planning conditions securing Biodiversity Net Gain and Ecological enhancements.
- 5.9. Full details of consultation responses received can be found online on the planning register, with the exception of the verbal responses noted above.

## 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; revised October 2024; revised October 2024);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

- Shoreham Harbour JAAP (adopted October 2019).

## 7. RELEVANT POLICIES & GUIDANCE

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One:

CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
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
DM40	Protection of the Environment and Health - Pollution and Nuisance

## 8. CONSIDERATIONS & ASSESSMENT

- 8.1. The principle of the use of the site for waste management purposes has been long established, and appropriate mitigation measures put in place such as limiting the hours of operation, the type of waste that can be managed on the site and acoustic fencing. As set out above, the proposed facilities, namely a fire tank and pumphouse, are required to comply with the Environment Agency Fire Protection Plan (FPP) legislation.

- 8.2. The main considerations in the determination of this application relate to the impact on the character and appearance of the site and surrounding area from the proposed additional facilities, the impact on neighbouring amenity and any biodiversity/transport impacts.

### **Design and Appearance**

- 8.3. It is proposed to erect a fire tank and pumphouse on site to comply with the Environment Agency Fire Protection Plan (FPP) legislation. These facilities would be located close to the southern boundary of the wider site. The proposed fire tank would measure 10m in length, 5.5m in width and 4m in height. The proposed pumphouse would measure 6m in length, 4m in width and 4m in height. They would sit on a plinth slightly larger than the overall dimensions to provide a stable base. The materials proposed include galvanised steel with the fire tank coloured grey and the pump house coloured green.
- 8.4. The development would not be highly visible due to its siting away from public vantage points, as well as the existing boundary treatments. Even when visible



from neighbouring properties, they would not look out of keeping given the use and other buildings / structures on the wider site.

- 8.5. Overall, it is considered that the proposal would not therefore adversely harm the character and appearance of the site or the wider area and would comply with design policies above.

**Impact on Amenity:**

- 8.6. The development would be located approximately 12m from the side boundary of the site which borders with No. 1 and 3 Aldrington Avenue and no. 2 Amherst Avenue. The properties have long rear gardens, with no. 1 having a large garden studio built adjacent to the shared boundary with the application site.
- 8.7. The height and scale of the structures, given their siting and height, would not significantly detract from the amenity of these neighbouring properties. They are unlikely to result in any significant loss of light, outlook or have an unneighbourly, overbearing or enclosing impact. It is also noted that this section of shared boundary benefits from substantial planting and tree coverage which will further minimise any impacts of the development.
- 8.8. A number of representations from neighbouring properties have raised concerns regarding additional noise, additional odours and air pollution. The development is unlikely to result in a significant increase in these concerns. Environmental Health have commented on the application and have recommended conditions to secure noise levels of the plant and machinery incorporated within the development and hours of use which are to coincide with the site opening times. The agent has confirmed that the development will remain dormant unless required for emergencies. There is a weekly test which would last approximately 20 minutes once a week and which would not be carried out within unsociable hours. It is therefore considered that it is not reasonable to control the hours of use, as the primary function of the development is for use during an emergency. Overall, it is considered that the any additional noise from the development would not be significant. To further safeguard the neighbouring properties, a condition will be imposed to secure further details of soundproofing and suitable treatment of sound and/or vibration, as no details have been submitted with the application.
- 8.9. Subject to compliance with the conditions, it is considered that the development would not have a significantly harmful impact on neighbouring amenity.

**Biodiversity:**

- 8.10. Further information has been provided by the applicant since submission, which confirms that a total of two trees will be removed to facilitate the proposal (one sapling and one semi-mature sycamore, which are not covered by any Tree Preservation Orders). Sufficient evidence has been provided by the applicant to assess that neither of these trees has the potential for roosting bats.

- 8.11. The revised Biodiversity Metric is considered sufficient by the County Ecologist. It is proposed to plant ten small trees in the southwest corner of the site; however, the County Ecologist has raised some concerns regarding the number of trees within the identified area, which could compromise the long-term viability of the new trees. The final BNG approach however will be secured by condition (and the final number of replacement trees agreed), and the applicant should review the full comments of the County Ecologist. It may be the case that the applicant will need to purchase units from a Habitat Bank or Statutory Biodiversity credits to make up the 10% BNG.
- 8.12. The County Ecologist has recommended a condition to ensure that precautionary working methods are followed during site clearance due to the potential for the site to house opportunistic mobile species such as reptiles and hedgehogs.

**Sustainable Transport:**

- 8.13. Given the nature of the development and the location of the site, there would be no significant impacts on the transport network and the application is acceptable in this regard.

## **9. EQUALITIES**

- 9.1. 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.
- 9.2. 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. Samer Bagaeen**

**BH2025/00747– BHCC Household Waste Recycling Site, Modbury Way**

**13<sup>th</sup> April 2025**

Stance: Customer objects to the Planning Application

Comment Reasons:

- Noise
- Poor design
- Residential Amenity
- Too close to the boundary

Comment: Given ongoing and unresolved issues with respect to noise on the Veolia site, I have spoken to residents and agree that this proposed addition in this location, both during construction and after commissioning, presents overdevelopment on the site that is too close to the boundary of neighbouring properties existing concerns about noise and activities close to the boundary. I have therefore cited noise, poor design, residential amenity, and the closeness to the boundary as reasons for objecting.

I would also want this referred to planning committee if the officer recommendation is minded to grant.



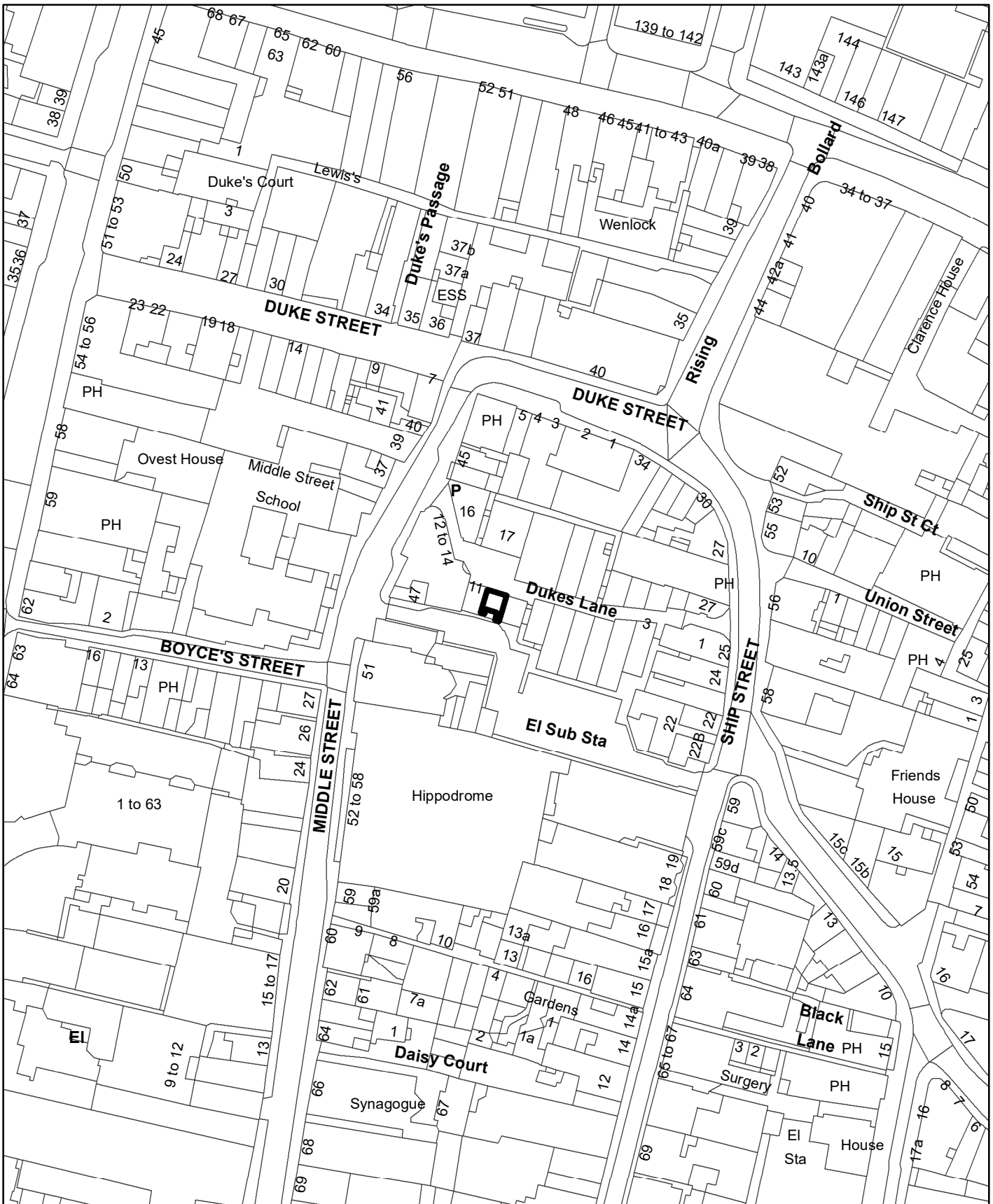
# **ITEM D**

**10 Dukes Lane  
BH2025/01338  
Removal or Variation of Condition**

**DATE OF COMMITTEE: 1<sup>st</sup> October 2025**



# BH2025 01338 - 10 Dukes Lane



**Brighton & Hove  
City Council**

N



**Scale: 1:1,250**





<b><u>No:</u></b>	<b>BH2025/01338</b>	<b><u>Ward:</u></b>	<b>Regency Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>10 Dukes Lane Brighton BN1 1BG</b>		
<b><u>Proposal:</u></b>	<b>Application to vary Condition 2 of planning permission BH2005/02302/FP to permit customer opening hours of 08:00 to 22:30 daily.</b>		
<b><u>Officer:</u></b>	Jack Summers, tel: 296744	<b><u>Valid Date:</u></b>	23.05.2025
<b><u>Con Area:</u></b>	Old Town	<b><u>Expiry Date:</u></b>	18.07.2025
<b><u>Listed Building Grade:</u></b>	N/a	<b><u>EOT:</u></b>	08.10.2025
<b><u>Agent:</u></b>			
<b><u>Applicant:</u></b>	Barlogic Ltd Flat 4 1 New Church Road Hove BN3 4AA		

## 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	38019-10DL-LP1	Issue 1	23-May-25
Proposed Drawing	38019-10DL-LPG	Issue 1	23-May-25

2. No customers shall remain on the premises outside the hours of 08:00 and 22:30 daily. No activity within the site shall take place between the hours of 23.30 and 06.30 daily.

**Reason:** To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies D20 and DM40 of the Brighton & Hove City Plan Part Two.

3. Not Used.

4. No machinery and/or plant shall be used at the premises except between the hours of 08:00 and 22:30 daily.

**Reason:** To safeguard the amenities of the occupiers of nearby 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. 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.

**Biodiversity Net Gain**

Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply. These can be found in the Environment Act 2021.

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that, unless an exception or a transitional arrangement applies, the planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

**2. SITE LOCATION**

- 2.1. The application site is a ground and first floor commercial (E Use Class) planning unit located on the south side of Dukes Lane, within the Old Town Conservation Area. The pedestrianised Dukes Lane runs along the north of the site, whilst to the rear there is a private car park. The local area is a mix of residential and commercial (including late night economy) uses.
- 2.2. There are several listed buildings in the vicinity, with the closest being the Grade II\* listed Hippodrome, and the grade II listed The Victory, and Seven Stars public houses. The site is also within an Archaeological Notification Area.
- 2.3. A site visit has not been undertaken in this instance; however, the impacts of the development can be clearly assessed from the plans and photos provided and from recently taken street-level and aerial imagery of the site.

### 3. RELEVANT HISTORY

- 3.1. **BH2005/02302/FP** Partial change of use from class A1 (retail) to class A1 (retail) and A3 (cafe) and extension of existing extract ductwork at rear. (Part-retrospective) Approved
- 3.2. Condition 2 states:  
*The cafe (A3) and retail unit (A1) shall not be open or in use except between the hours of 8am until 6pm on Mondays to Sundays.*  
**Reason:** *To safeguard the amenities of the locality and to comply with QD27 of the Brighton and Hove Local Plan.*

### 4. APPLICATION DESCRIPTION

- 4.1. Planning permission was granted under application BH2005/02302/FP, for a change of use class from A1 (shop) to a mixed A1/A3 (shop/café) use.
- 4.2. It should be noted that use classes A1 and A3 were revoked and replaced with class E under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.
- 4.3. As set out above this earlier permission was granted subject to a condition restricting opening hours to 08:00-18:00 daily.
- 4.4. Permission is now sought from the Local Planning Authority (LPA) to grant planning permission without complying with these conditions, under Section 73 of the Town and Country Planning Act 1990 (as amended).
- 4.5. The permitted scheme would be varied to instead permit opening hours of 08:00 to 22:30 daily.
- 4.6. It should be noted that there have been some alternative proposed opening times mentioned across various documents; for clarification, planning permission is sought for the opening hours of 08:00 to 22:30 daily. The operating hours initially including opening at 09:00 or 10:00 (depending on the day), but the LPA has amended this to 08:00 daily (as per the current permitted opening hours)

### 5. REPRESENTATIONS

- 5.1. **Five (5)** representations have been received, objecting to the proposal on the following grounds:
- The red line on the site location plan does not include the outside area, nor did it on the original planning permission (BH2005/02302)

- It would not be lawful or reasonable to prescribe opening hours to the outside space; furthermore, there is objection to use of this space beyond 19:00 Monday to Saturday and 17:00 Sundays and Bank Holidays.
- There should be no music played that is audible outside of the application building
- There is a local covenant in place regarding music.
- Storage of seating after business closure will lead to noise nuisance.
- The use of the property as a 'drinking establishment' would constitute an unauthorised change of use class.
- Lack of 'evidence of a Premises Licence or Personal Licence holder'
- Creation of a drinking establishment in the area, resulting in noise nuisance and antisocial behaviour

## 6. CONSULTATIONS

### Internal:

- 6.1. **Art & Culture Team:** No Comments to make.
- 6.2. **Environmental Health Team:**  
There are concerns that extending trading hours may also result in extended use of the extractor fan, which could lead to increased noise levels later into the evening when ambient noise levels are lower.
- 6.3. **Sustainable Transport:** No Objection
- 6.4. **Sussex Police Community Safety:**  
The primary concern with additional hours of trading is the amenity of the surrounding local community who may be adversely affected with longer opening times.
- 6.5. A large degree of sensitivity will be required to make sure the surrounding local community is not unduly disturbed, and it will therefore be a matter for the applicant to ensure that this is managed in the most appropriate manner.

## 7. MATERIAL CONSIDERATIONS

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

The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove City Plan Part Two (adopted October 2022)

- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013; revised October 2024)
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017)
- Shoreham Harbour Joint Area Action Plan (adopted October 2019)

## 8. **RELEVANT POLICIES & GUIDANCE**

### The National Planning Policy Framework (NPPF)

#### Planning Practice Guidance (PPG)

#### Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
SA2	Central Brighton
CP2	Sustainable Economic Development
CP10	Biodiversity
CP15	Heritage

#### Brighton & Hove City Plan Part Two (CPP2)

DM20	Protection of Amenity
DM26	Conservation Areas
DM29	The Setting of 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

#### Conservation Area Character Statements

Old Town (2017)

## 9. **CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the principle of development, and the potential impacts on the amenities of local residents and business-users; on highway safety; and on the significance of heritage assets in the vicinity.
- 9.2. Concerns have been raised that the operator plans to place tables and chairs outside the business (upon Dukes Lane itself), and that this area is outside the bounds of the red line upon the proposed plans; this is outside the scope of the application since the condition for which a variation is sought applies only to the building itself and not to any external space. The placement on unfixed furniture outside does not constitute development and is therefore outside of bounds of planning; it may be managed through licencing, but this is a separate regime and is not a material consideration in this assessment.

#### Principle of Development

- 9.3. Concerns have been raised in the representations received that the proposed business would constitute an unauthorised change of use class, away from Class E to a Sui Generis use, which would be in conflict with the development plan, in the loss of a commercial use, within the primary shopping area. No change of use class is sought under this application, which relates solely to amended opening hours; therefore, any impacts that might result from a change of use class is not a material planning consideration to be given any weight in this assessment. Unauthorised development (including changes of use class) can be investigated via planning enforcement.
- 9.4. Permitting extended opening hours would improve the commercial offer of the property, which would be in accordance with the aims of CPP1 policies SA2 and CP2, encouraging sustainable economic development within the Central Brighton area.

#### Impact on Amenities

##### **Noise Nuisance**

- 9.5. The proposed development will result in additional trips to the site between the hours of 18:00 and 22:30, which has the potential to impact on the amenity of residents and visitors to the area.
- 9.6. The hours proposed are suitable for a restaurant-style evening use but would not permit a use extending into unsocial hours (such as a nightclub). The presence of *Mowgli* at 12-14 Dukes Lane (within a larger planning unit) shows that such operating hours would not be unique along Dukes Lane. It is considered that in this city-centre location, permitting use within evening hours would maintain the character of the local built environment, and though there would be an increased impact on residents, this would not be beyond what is acceptable nor justify the refusal of planning permission.
- 9.7. Concerns raised by the Environmental Health Team concerning use of an extraction vent are noted. Whilst the hours of use for said equipment were not controlled by condition under the original permission and may be used without restriction, the original application assessment was made with the understanding operating hours would cease at 18:00. Later opening hours are likely to require use of the machinery at later hours, and the additional impact justifies a condition restricting use of said machinery to the opening hours of the business and the proposal is considered to be acceptable in the regard.
- 9.8. The council will retain the authority to investigate under the Environmental Protection Act 1990, should any complaints be received. Operation of the business would also be done under licence.

#### Impact on Heritage Assets

- 9.9. 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.

- 9.10. 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".
- 9.11. The proposed alterations are limited to the change of opening hours; it is considered that it would have a neutral impact on the historic significance of the Old Town Conservation Area and the setting of the surrounding listed buildings; the LPA has no concerns in this regard.

### **Archaeology**

- 9.12. The site lies within an archaeological notification area but given the lack of significant below-ground works it is not considered likely that the works will cause any harm to ancient remains that may be present.

### Impact on the Public Highway

#### **Pedestrians**

- 9.13. The development is not anticipated to result in a significant uptake in foot traffic to and from the site, that would be beyond the capacity of the existing highway infrastructure to accommodate; the LPA has no concerns in this regard.

#### **Public Transportation**

- 9.14. The site is centrally located with convenient access to public transportation, including buses, taxis, rail, and cycles; the LPA has no concerns in this regard.

### Biodiversity

- 9.15. Based on the information available this permission is not considered to be one which would require the approval of a biodiversity gain plan before development is begun due to the fact that the planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
  - (i) the original planning permission to which the section 73 planning permission relates was granted before 12th February 2024; or
  - (ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12th February 2024.

### Other Considerations

- 9.16. Concerns have been raised regarding the lack of licencing information contained within the planning application; licencing is separate to planning and there is no requirement for this information to be disclosed as part of the planning application. Matters regarding licencing should not be given any weight in this assessment for planning permission. It is the operator's responsibility to conduct their business in accordance with both planning and licencing legislation.

- 9.17. Concerns have been raised that the playing of loud music would be contrary to a private covenant on the land. Private covenants are separate from the planning process and cannot be afforded any weight in this assessment.

#### Conclusion & Planning Balance

- 9.18. The proposed development would improve the flexibility of the building to provide for the class E use to operate in the evening, improving the commercial offer of the area. The proposed opening hours extending until 22:30 daily is considered to be acceptable in terms of its impacts on the amenity of residents
- 9.19. For the foregoing reasons the proposal is considered to be in accordance with policies SA2, CP2 and CP15 of the Brighton and Hove City Plan Part One, and DM20, DM26, DM29, DM31, DM33 and DM40 of the City Plan Part Two.
- Condition 2 shall be varied to reference the amended opening hours.
  - Condition 3 shall be removed as it is no longer relevant.

## **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.



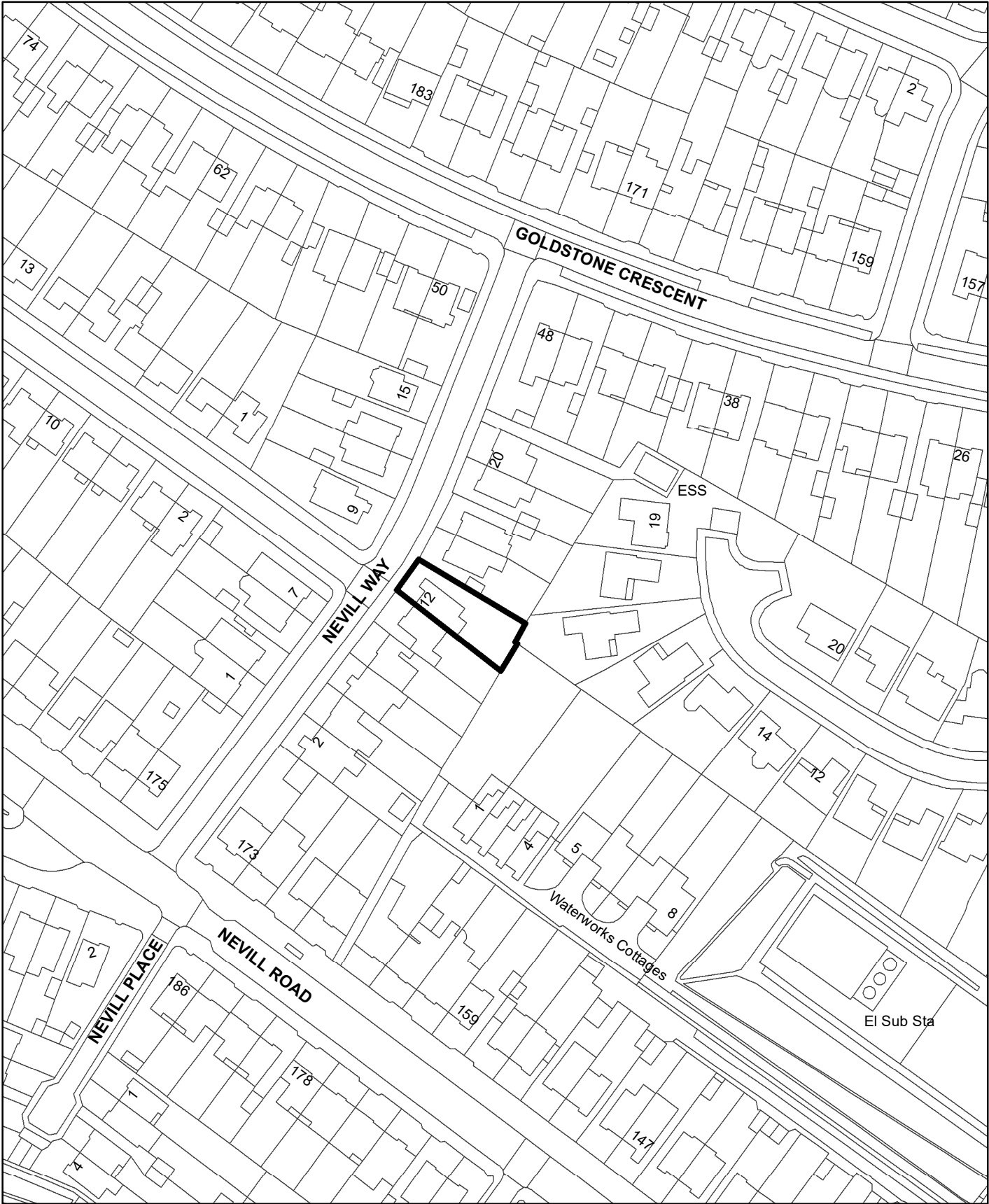
# **ITEM E**

**12 Nevill Way  
BH2025/00802  
Householder Planning Consent**

**DATE OF COMMITTEE: 1<sup>st</sup> October 2025**



BH2025 00802 - 12 Nevill Way



Scale: 1:1,250

Brighton & Hove  
City Council



<b><u>No:</u></b>	<b>BH2025/00802</b>	<b><u>Ward:</u></b>	<b>Westdene &amp; Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>12 Nevill Way Hove BN3 7QL</b>		
<b><u>Proposal:</u></b>	<b>Erection of two storey side extension to create annexe. (Amended description)</b>		
<b><u>Officer:</u></b>	Charlie Partridge, tel: 292193	<b><u>Valid Date:</u></b>	15.04.2025
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	10.06.2025
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	31.07.2025
<b>Agent:</b>			
<b>Applicant:</b>	Mr Andrew Forrest 13 Glastonbury Avenue Hale Barns Altrincham Cheshire WA158QB		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	2501-L(00)02		25-Mar-25
Proposed Drawing	2501-L(00)09	B	24-Jul-25
Proposed Drawing	2501-L(00)10	E	14-Aug-25
Proposed Drawing	2501-L(00)11	B	29-Jul-25
Proposed Drawing	2501-L(00)14	A	24-Jul-25
Proposed Drawing	2501-L(00)12	A	25-Mar-25

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. The mezzanine windows serving the ensuite bathroom in the northeast facing side elevation of the development 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 annexe hereby approved shall only be used as accommodation ancillary to and in connection with the use of the main property as a single dwelling house and shall at no time be occupied as a separate or self-contained unit of accommodation, including as holiday lets.  
**Reason:** In order to protect the character of the area and amenities of neighbouring properties and potential future occupants because the annexe is unacceptable as a new dwelling, in accordance with policies DM1, DM18 and DM20 of Brighton & Hove City Plan Part 2.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development under Schedule 2, Part 2, Class A shall be carried out including the erection, construction or material alteration of any gate fence, wall or means of enclosure without planning permission obtained from the Local Planning Authority.  
**Reason:** To ensure the annexe is not inappropriately subdivided from the main property and to safeguard amenity and to protect the character and appearance of the locality, to comply with policies CP12 of the Brighton and Hove City Plan Part One and policies DM18, DM20 and DM21 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. 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.

**Biodiversity Net Gain**

Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply. These can be found in the Environment Act 2021.

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that, unless an exception or a transitional arrangement applies, the

planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

## **2. SITE LOCATION**

- 2.1. The application site relates to a two-storey semi-detached property of brick and tile construction with a rendered finish on the side elevation at first floor level, located to the south-east of Nevill Way, Hove. Nevill Way slopes upwards from north to south so the application site sits on a higher level than No.14 to the north.
- 2.2. The site is not within a conservation area and there are no Article 4 Directions covering the site.

## **3. RELEVANT HISTORY**

- 3.1. **BH2016/06412** Certificate of Lawfulness for proposed loft conversion incorporating hip to barn end roof extension, rear dormer, side window and front rooflights. Approved 07.03.2017
- 3.2. **BH2016/05066** Certificate of lawfulness for proposed loft conversion incorporating hip to barn end roof extension, rear dormer, side window and 2nd front rooflights. Approved 01.12.2016

## **4. APPLICATION DESCRIPTION**

- 4.1. Planning permission is sought for the erection of a two-storey side extension to create an annexe.
- 4.2. The original proposal sought permission for a significantly larger two storey side extension which would have included a Pilates/gym/yoga studio with changing facilities and a shower. This was considered a commercial use which would have taken the building outside of its existing C3 use class and thus would have required a change of use (full planning) application. During the course of determining the application, the proposal was amended to remove the studio and reduce the scale of the extension. The ground besides the house would be excavated to allow for a lower ground floor level. The proposed extension would be over two stories but would be of a more similar height to a single storey extension.
- 4.3. The extension, which would incorporate a lounge and kitchen/dining area at ground floor level and a bedroom with en-suite at first floor level, would form an annexe to the main house with its own separate front door. The description of

the proposal was amended to reflect this. The proposal was readvertised to neighbours.

## **5. REPRESENTATIONS**

5.1. During the original neighbourhood consultation, fourteen (14) objections were received. These representations objected to the proposed development on the following grounds:

- Additional traffic/parking concerns
- Detrimental effect on property value
- Noise
- Overdevelopment
- Poor design
- Not in keeping
- Inappropriate height of development
- Overshadowing/loss of light
- Too close to the boundary
- Residential amenity
- Loss of privacy
- Commercial business unsuited to residential area
- Restriction of view
- Impact on road safety

5.2. During the reconsultation period, eight (8) objections were received. Seven of these were from previous objectors and one of these was from a new objector. The only additional consideration raised in the representations is the use of the annexe.

## **6. CONSULTATIONS**

6.1. **Southern Water:** 02.05.2025 Comment

Any new connections to the public sewerage system will require a New Sewer Connection application (also known as a Section 106) to be submitted and approved by Southern Water.

## **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; revised October 2024);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour JAAP (adopted October 2019).

## 8. RELEVANT POLICIES & GUIDANCE

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One:

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

#### Brighton & Hove City Plan Part Two:

DM1	Housing Quality, Choice and Mix
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM26	Conservation Areas
DM37	Green Infrastructure and Nature Conservation

#### Supplementary Planning Document:

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

## 9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the design and appearance of the proposed extension and whether it would have a detrimental impact on neighbouring amenity. The impact of the proposal on biodiversity and the public highway also requires consideration.

#### Impact on Character and Appearance:

- 9.2. The ground adjacent to the north side of the house would be excavated to allow for a lower ground floor level. The proposed side extension would be over two stories but would be of a more similar height to a single storey extension as it would be sunk into the excavated ground. The extension would measure approximately 3.8m in width and would span the full depth of the house. It would be finished in masonry and would feature a mono pitched roof with clay slate tiles, both of which would match the existing external materials of the host dwelling.
- 9.3. The proposed two storey side extension would be subservient to the host property in terms of scale and sympathetic in terms of materiality. When viewed from the street, the amended design of the extension would appear as a large single storey extension. A number of single storey side extensions and garages

exist within the locality, so the proposed extension is not considered to be incongruous when viewed within its local context.

- 9.4. The side extension would also incorporate a widening of the existing front porch to create a new entrance at lower ground floor level. The proposed materials would match the existing porch. The roof form would also be replicated. This alteration is not considered to harm the appearance of the property or that of the streetscene.
- 9.5. It is therefore considered that the proposal would not conflict with Brighton & Hove City Plan Part Two policy DM21.

Impact on Residential Amenity:

- 9.6. With regard to amenity, no significant adverse impacts are expected as a result of the proposed development. The only property which is likely to be potentially impacted by the proposed development is the adjacent neighbour to the northeast, No.14 Nevill Way, as all other neighbouring properties are set away a substantial distance from the proposed location of the extension. By reason of its significant depth and the difference in land levels between the two properties (the application property is on a higher ground level), the proposal has the potential to have an overbearing impact on No.14. However, the extension would be sited adjacent to No.14's car port and no primary windows are on the adjacent side wall of the neighbouring house. In addition, the extension would have a mono-pitched roof sloping down towards the neighbour, which would help to lessen the impact of its bulk.
- 9.7. No.14 is located directly to the northeast of the proposed location of the extension and is already overshadowed by the application property. The proposed extension is unlikely to significantly increase the amount of overshadowing by reason of its height in comparison to the host property. No loss of privacy is expected to occur to this neighbour as the only side windows proposed at first floor level will serve the ensuite, so a condition is added to ensure these windows will be obscurely glazed. The rear terrace created as part of the proposed extension would be inset within the roof of the extension so will only provide views towards the rear. No additional views are expected to be provided by this terrace which are not already provided by the existing first floor rear terrace. The separation distance from the terrace to the adjoining property to the northeast would ensure that there is not considered to be any issue in respect of noise and disturbance.
- 9.8. It is considered that for the reasons set out above, the proposed development would not cause significant harm to the amenity of neighbours and would comply with policy DM20 of the Brighton and Hove City Plan Part 2.

Standard of Accommodation:

- 9.9. The proposal facilitates the provision of an additional bedroom to this property. It would be at first floor (mezzanine) level and would benefit from sufficient outlook and natural light via the proposed rear terrace door. The bedroom would meet the minimum width and internal floor area for a single bedroom under the Nationally Described Space Standard (NDSS). The proposal would involve the

repurposing of the existing bedroom 3 as a study. For the purposes of this assessment, the proposed study would be counted as a single bedroom as it could be potentially used as one. Given this, the new layout of the house as a whole would still exceed the gross internal floor area of 134sqm required for a house of this size.

- 9.10. The extension would form an annexe which would be connected to the host property internally and would have access to an amenity areas shared with the main dwelling. Due to its overall size and lack of private garden space, the annexe would not provide a suitable standard of accommodation for use as a separate dwelling and so conditions have been added ensuring the ancillary use of the annexe and to remove permitted development rights in relation to fence alterations to prevent the subdivision of the garden. The proposed annexe would not impact the space standards of the existing house which would continue to provide a suitable standard of accommodation in relation to the NDSS.

Biodiversity:

- 9.11. The excavation for the extension would be to an area of hardstanding so there are no impacts of concern in relation to biodiversity on the site. The Council has adopted the practice of securing minor design alterations to schemes with the aim of enhancing the biodiversity of a site, particularly with regards to species such as bees. A condition requiring a bee brick has been attached to generally improve ecology outcomes on the site in accordance with 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.
- 9.12. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because it is a householder application.

Transport:

- 9.13. The Local Highway Authority (LHA) was consulted on the original scheme and requested further information in regard to the proposed commercial facilities. As the commercial facilities were completely removed from the proposal, it was not considered necessary to reconsult the LHA. No transport issues were identified as a result of the proposed annexe extension. The driveway will still be long enough to be able to accommodate one vehicle and the addition of an annexe at the property is not considered to result in any notable increase in vehicle movements at the site.

Conclusion:

- 9.14. The proposed side extension/annexe is considered to have an acceptable design and is not considered to result in any significant harm to neighbouring amenity. Approval is therefore recommended subject to conditions preventing the use of the annexe as a separate unit of accommodation.

## **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 136

Brighton & Hove City Council

### NEW APPEALS RECEIVED BETWEEN 07/08/2025 - 03/09/2025

Ward name	Appeal Ref	Appeal Application Number	Address	Development Description	Appeal Status	Appeal Received Date	Application Decision Level
Hanover & Elm Grove	APL2025/00065	BH2025/00347	62 Albion Hill, Brighton BN2 9NX	Application for Approval of Details reserved by Conditions 3 (materials), 4 (photographic survey), 8 (windows), 9 (doors) and 17 (tiles) of application BH2024/00507.	APPEAL IN PROGRESS	03/09/2025	Not Assigned
Kemptown	APL2025/00061	BH2024/02362	9 Paston Place, Brighton BN2 1HA	Certificate of lawfulness for existing loft conversion incorporating hip to gable roof extension and rear rooflight.	APPEAL IN PROGRESS	13/08/2025	Delegated
Kemptown	APL2025/00063	BH2025/00126	5 Grafton Street, Brighton BN2 1AQ	Change of use from single dwellinghouse (C3) to a seven-bedroom large house in multiple occupation (Sui Generis).	APPEAL IN PROGRESS	01/09/2025	Delegated
Rottingdean & West Saltdean	APL2025/00062	BH2025/00910	Land to the East of 10 Linchmere Avenue, Saltdean, Brighton BN2 8LE	Erection of a new detached dwellinghouse (C3) with parking, vehicle crossover and associated landscaping.	APPEAL IN PROGRESS	22/08/2025	Delegated
Round Hill	APL2025/00064	BH2025/00732	1 Mayo Road, Brighton BN2 3RJ	Erection of a new two-storey dwellinghouse (C3) to side of existing dwelling. Alterations to existing two-storey rear extension.	APPEAL IN PROGRESS	01/09/2025	Delegated



# PLANNING COMMITTEE

## Agenda Item 138

Brighton & Hove City Council

### APPEAL DECISIONS FOR THE PERIOD BETWEEN 20/08/2025 - 16/09/2025

Ward name	Appeal Application Number	Address	Development Description	Appeal Type	Appeal Decision	Planning Application Number	Application Decision Level
Brunswick & Adelaide	APL2025/00024	60 Lansdowne Place Hove BN3 1FG	Change of use from offices (Class E) to 4no self-contained flats (Class C3) with associated alterations.	Against Refusal	Appeal Allowed	BH2024/02565	Delegated
Hanover & Elm Grove	APL2025/00046	55 Shanklin Road Brighton BN2 3LP	Roof alterations incorporating raised roof ridge height, rear dormer with Juliet balcony and 3no rooflights to front elevation.	Against Refusal	Appeal Allowed	BH2024/02066	Delegated
Kemptown	APL2025/00040	3 Pavilion Parade Brighton BN2 1RA	Display of a new single illuminated 48-sheet digital advertisement display	Against Refusal	Appeal Dismissed	BH2025/00413	Delegated

