

Planning Committee

Date: **5 August 2026**

Time: **2.00pm**

Venue **Council Chamber, Hove Town Hall**

Members: **Councillors:** Thomson (Chair), Sheard (Deputy Chair), Cattell, Earthy, Nann, Parrott, Pickett, Robinson, Shanks and C Theobald

Conservation Advisory Group Representative

Contact: **Shaun Hughes**
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AGENDA

37 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.

38 MINUTES OF THE PREVIOUS MEETING

Minutes of the meeting held on 29 July 2026 to follow.

39 CHAIR'S COMMUNICATIONS

40 PUBLIC QUESTIONS

Written Questions: to receive any questions submitted by the due date of 10.00 on 24 July 2026.

41 MEMBER QUESTIONS

Written Questions: to receive any questions submitted by the due date of 10.00 on 24 July 2026.

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

43 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

MAJOR APPLICATIONS

- | | | |
|---|---|---------------|
| A | BH2026/00198 - 76-79 and 80 Buckingham Road, Brighton - Removal or Variation of Condition | 7 - 24 |
|---|---|---------------|

MINOR APPLICATIONS

- | | | |
|---|--|------------------|
| B | BH2025/01757 - Tennis Courts, St Anns Well Gardens, Somerhill Road, Hove - Full Planning | 25 - 46 |
| C | BH2026/00745 - Varndean School, Balfour Road, Brighton - Full Planning | 47 - 58 |
| D | BH2025/03102 - North Cottages, Ovingdean Road, Brighton - Full Planning | 59 - 82 |
| E | BH2025/02058 - 31 Eldred Avenue, Brighton - Full Planning | 83 - 108 |
| F | BH2026/01213 - Flat 9, 191 Kingsway, Hove - Full Planning | 109 - 122 |

INFORMATION ITEMS

- 44 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE** **123 - 124**
(copy attached).
- 45 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**
None for this agenda.
- 46 APPEAL DECISIONS** **125 - 128**
(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.

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FURTHER INFORMATION

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

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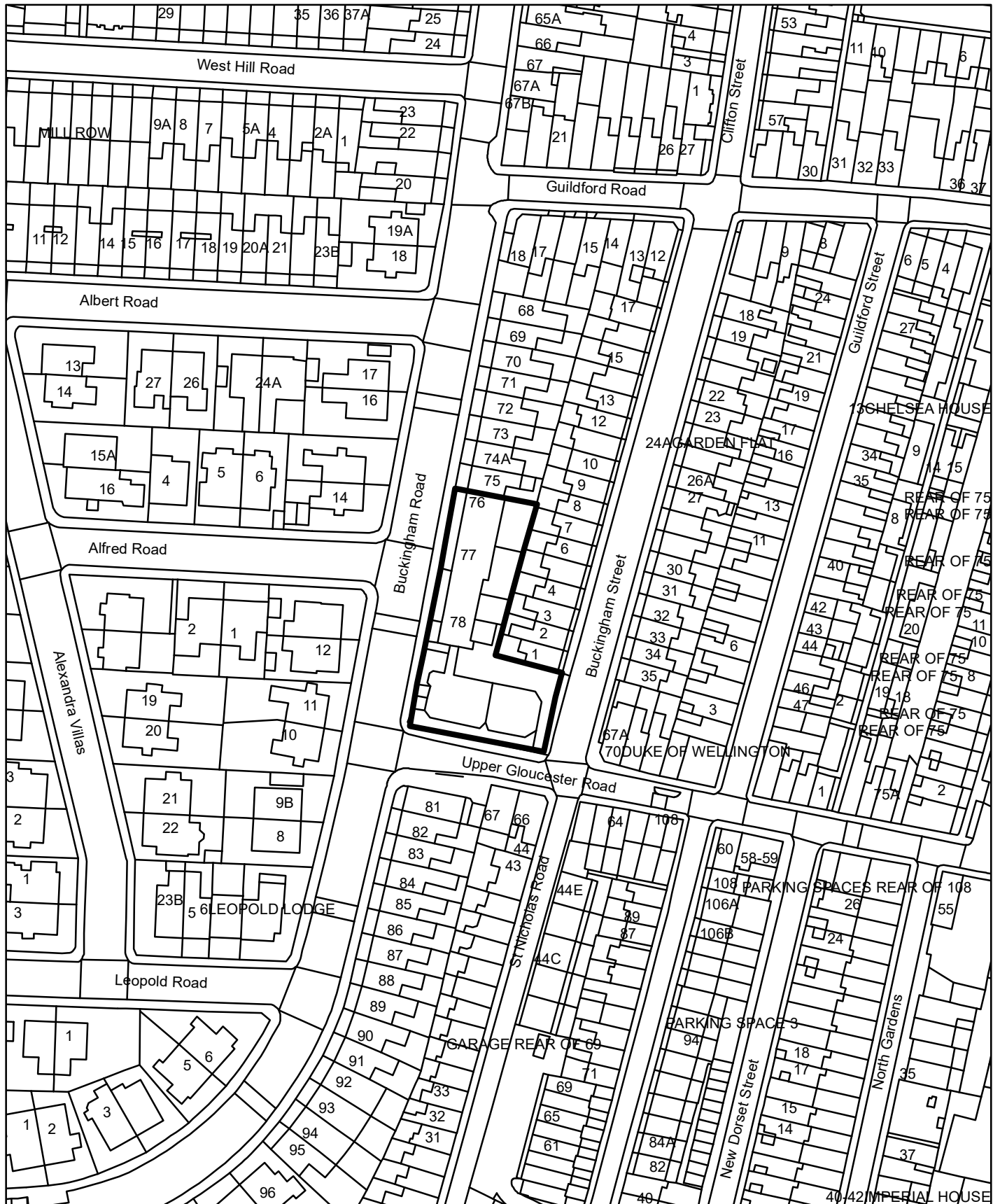
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- Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and
- Do not re-enter the building until told that it is safe to do so.

ITEM A

**76-79 and 80 Buckingham Road
BH2026/00198
Full Planning**

DATE OF COMMITTEE: 5th August 2026

BH2026 00198 - 76-79 and 80 Buckingham Road



**Brighton & Hove
City Council**

N



Scale: 1:1,250

<u>No:</u>	BH2026/00198	<u>Ward:</u>	West Hill & North Laine Ward
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	76 - 79 and 80 Buckingham Road, Brighton BN1 3RJ		
<u>Proposal:</u>	Application to remove condition 15 (residents parking permits) of planning permission BH2022/02361.		
<u>Officer:</u>	Joanne Doyle, tel: 292198	<u>Valid Date:</u>	29.01.2026
<u>Con Area:</u>		<u>Expiry Date:</u>	30.04.2026
<u>Listed Building Grade:</u>		<u>EOT:</u>	12.08.2026
<u>Agent:</u>	Whaleback 91 Boundary Road Hove BN3 7GA		
<u>Applicant:</u>	Martin Homes Buckingham Road Ltd C/o Whaleback 91 Boundary Road Hove BN3 7GA		

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 and subject to the S106 agreement for planning application BH2022/02361 (as amended by the Deed of Variation) which also applies to this S73 application.

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	Planning Statement	-	29-Jan-26
Proposed Drawing	D.001	-	16-Aug-24
Proposed Drawing	D.002	-	16-Aug-24
Proposed Drawing	D.003	-	16-Aug-24
Proposed Drawing	D.004	-	16-Aug-24
Proposed Drawing	D.005	-	16-Aug-24
Proposed Drawing	D.006	-	16-Aug-24
Proposed Drawing	D.007	-	16-Aug-24
Report/Statement	DAYLIGHT AND SUNLIGHT ASSESSMENT	-	21-Jul-22
Report/Statement	NOISE IMPACT ASSESSMENT	-	21-Jul-22
Report/Statement	PLANNING STATEMENT	-	13-Dec-22
Report/Statement	FINANCIAL VIABILITY	-	22-Oct-22

	ASSESSMENT REPORT		
Location and block plan	1.001	-	16-Aug-24
Proposed Drawing	D.008	-	16-Aug-24
Proposed Drawing	D.009	-	16-Aug-24
Proposed Drawing	D.010	-	16-Aug-24
Proposed Drawing	D.011	-	16-Aug-24

2. Not applicable.
3. No cables, wires, aerials, pipework (except rainwater downpipes shown on the approved plans) meter boxes, ventilation grilles or flues shall be fixed to or penetrate any external elevation, other than those shown on the approved drawings, without the prior consent in writing of the Local Planning Authority.
Reason: To ensure a satisfactory appearance to the development and to comply with Policies CP15 of the City Plan Part One and DM21 and DM26 of the City Plan Part Two.
4. The development shall be implemented in accordance with the details of all new windows - approved by the Local Planning Authority under application BH2019/02322.
Reason: To ensure a satisfactory appearance to the development and to comply with Policies CP15 of the City Plan Part One and DM21 and DM26 of the City Plan Part Two.
5. The development shall be implemented in accordance with the details of details of roof eaves, balconies and railings- approved by the Local Planning Authority under application BH2019/02322.
Reason: To ensure a satisfactory appearance to the development and to comply with Policies CP15 of the City Plan Part One and DM21 and DM26 of the City Plan Part Two.
6. The development shall be implemented in accordance with the details of materials- approved by the Local Planning Authority under application BH2019/02322.
Reason: To ensure a satisfactory appearance to the development and to comply with Policies CP15 of the City Plan Part One and DM21 and DM26 of the City Plan Part Two.
7. The community use and communal garden hereby permitted shall not be operated or open to the public outside the following hours; 8am-10pm. No variation to the above hours shall be permitted without the prior written approval of the Local Planning Authority.
Reason: To protect the amenity of nearby and adjacent occupiers in accordance with Policy DM20 of the City Plan Part Two.
8. No equipment or machinery (excluding the MVHR ventilation units) shall be operated at the site outside the following hours 7am-11pm. No variation to the above hours shall be permitted without the prior written approval of the Local

Planning Authority. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997. In addition, there should be no significant low frequency tones present.

Reason: To protect the amenity of nearby and adjacent occupiers in accordance with Policy DM20 of the City Plan Part Two.

9. The development shall be implemented in accordance with the sound insulation scheme approved by the Local Planning Authority under application BH2025/01051.

Reason: To protect the amenity of nearby and adjacent occupiers in accordance with Policy DM20 of the City Plan Part Two.

10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a method statement to identify, risk assess and address the unidentified contaminants. Verification of the steps taken to protect human health including photographs, consignment notes and invoices for example for barrier pipework shall be provided. The structure shall not be lived in. The structure shall not have a water infrastructure applied to it until this condition is satisfied.

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the health of future residents or occupiers of the site and to comply with Policy DM41 of the City Plan Part Two.

11. The development shall be implemented in accordance with the asbestos detail-approved by the Local Planning Authority under application BH2019/02322.

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the health of future residents or occupiers of the site and to comply with Policy DM41 of the City Plan Part Two.

12. The development shall be implemented in accordance with the Construction Environmental Management Plan (CEMP) detail- approved by the Local Planning Authority under application BH2019/02322.

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with Policies CP8 of the 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 and DM20, DM33 and DM40 of the City Plan Part Two.

13. No development above ground floor slab level of any part of the development hereby permitted shall take place until the mitigation measures outlined in the Anderson Acoustic reports, including revision April 2018, must be implemented and tested to verify performance, and shall thereafter be retained as such.

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

14. The development shall be implemented in accordance with details of Highways works- approved by the Local Planning Authority under application BH2019/02322.

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

15. Removed.

16. The development shall be implemented in accordance with details of cycle parking facilities- approved by the Local Planning Authority under application BH2019/02322.

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

17. Prior to first occupation of the residential units at 80 Buckingham Road, the community unit shown on the approved plans shall be made available for use and retained as such thereafter.

Reason: To ensure the satisfactory provision of space for community use on site and to ensure the development complies with Policy DM9 of the City Plan Part Two.

18. Not applicable.

19. None of the new build residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.

Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the City Plan Part One.

20. At least two of the new build units hereby approved 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 new build dwellings within 80 Buckingham Road hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

21. The development shall be implemented in accordance with the elevational landscaping drawings- approved by the Local Planning Authority under application BH2019/02322.
Reason: To ensure a satisfactory appearance to the development and to comply with Policies CP15 of the Brighton & Hove City Plan Part One and DM21 and DM26 of the City Plan Part Two.
22. The development shall be implemented in accordance with surface water drainage works - approved by the Local Planning Authority under application BH2019/02322.
Reason: As this matter is fundamental to the acceptable delivery of the permission to prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policy DM42 of the City Plan Part Two.
23. Prior to first occupation of the residential units at 80 Buckingham Road, details of the car parking provision, including disabled spaces, for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved prior to the first occupation of the development and shall thereafter be retained for use at all times.
Reason: To ensure the development provides for the needs of disabled staff and visitors to the site and to comply with SPD14: Parking Standards and Policy DM36 of the City Plan Part Two.
24. The development shall be implemented in accordance with details of refuse and recycling storage - approved by the Local Planning Authority under application BH2019/02322.
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 and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan and DM20 of the City Plan Part Two.
25. The development shall be implemented in accordance with details of refuse and recycling storage - approved by the Local Planning Authority under application BH2019/02322.
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 and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan and DM20 of the City Plan Part Two.
26. The development shall be implemented in accordance with the sound insulation scheme - approved by the Local Planning Authority under application BH2025/01051
Reason: To protect the amenity of nearby and adjacent occupiers in accordance with Policy DM20 of the City Plan Part Two.

27. Prior to first occupation of the residential units at 80 Buckingham Road, the maximum permissible noise level from the air source heat pumps must be adhered to and the following mitigation measures are to be employed as per Anderson Acoustic report April 2018 (2852_004R_2-0_JB):
- a) In-duct intake and exhaust silencers fitted to air source pumps;
 - b) Plant room, light well and car park reflecting walls and ceilings to be covered with absorptive material such as 12mm thick Sonaspray for acoustic plaster;
 - c) Strategic duct termination away from sensitive windows;
 - d) Acoustic louvres to air source heat pump intakes.

Reason: To protect the amenity of nearby and adjacent occupiers in accordance with Policy DM20 of the City Plan Part Two.

28. Prior to first occupation of the residential units at 80 Buckingham Road, the removal of asbestos containing materials shall be carried out.

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the health of future residents or occupiers of the site and to comply with Policy DM41 of the City Plan Part Two.

29. Prior to first occupation of the residential units at 80 Buckingham Road, the applicant shall provide in writing to the local planning authority a detailed scheme of construction for the party wall separating the lower ground floor electrical substation and the adjacent residential unit. The scheme shall be subject to approval and attention shall be paid to ensuring high mass and containment of low frequency tones as well as junction details at floor and ceiling height to avoid weak areas for sound energy to penetrate.

Reason: To protect the amenity of nearby and adjacent occupiers in accordance with Policy DM20 of the City Plan Part Two.

30. The development shall provide for partial demolition of no. 80 Buckingham Road and erection of a five storey building over basement including roof accommodation to create 20 dwelling units (C3) and community use unit (D1), and conversion of nos. 76-79 Buckingham Road to provide 14 dwelling units (C3) with associated car parking, cycle parking, landscaping and service provision.

Reason: To ensure the Local Planning Authority retains control over the density, mix and type of uses within the development and its height, in the interests of retaining sufficient community floorspace and to ensure an appropriate housing mix and density, and to ensure protection of the character and appearance of the area and protection of the amenities of the occupiers of existing and proposed properties, to comply with Policies QD27, HE6 and H020 of the Brighton and Hove Local Plan, CP1, CP12, CP14, CP15 and CP19 of the City Plan Part One and DM1, DM9, DM18, DM19, DM20, DM21 and DM26 of the Proposed Submission City Plan Part 2.

Informatives:

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

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

2. The applicant is requested to install historic street name plates to replace the existing signs to Alfred Road, Albert Road, Upper Gloucester Road, Buckingham Road and Buckingham Street.
3. The commemorative E. Marshall plaque on the ramp adjoining 79 Buckingham Road shall be relocated to 80 Buckingham following completion of the new build construction at No. 80. The future location of the plaque should be agreed with the Council.
4. 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.
5. The water efficiency standard required under condition 19 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.
6. The applicant is advised that Part O of Building Regulations 2022 has been introduced. This standard is aimed at designing out the need for mechanical air conditioning systems in dwellings that would otherwise be prone to overheating and limiting unwanted solar gains. There are optional methods to demonstrate compliance through the Building Regulations.
7. The applicant advised that removal of this condition does not confer eligibility for parking permits, nor does it remove any such restrictions already in place. Details of this decision will be passed to BHCC as Traffic Authority administering the Controlled Parking Zone of which the development forms part. They will determine whether occupiers should be eligible for residents parking permits or if a restriction should be put in place by Traffic Regulation Order.

2. SITE LOCATION

- 2.1. The site is 0.13 hectares in area and situated on a corner site bounded by roads on three sides: Buckingham Road to the west, Upper Gloucester Road to the south, and Buckingham Street to the east. It is located within the West Hill Conservation Area.
- 2.2. The site comprises two connected buildings (nos. 76-79 and no.80). Nos 76-79 comprises four terraced former Victorian townhouses which were converted to form a single building and No. 80 was a 1970s five storey building of little

heritage or architectural merit, being identified as visually harmful in the West Hill Conservation Area Appraisal. No.80 replaced the former Brighton Grammar School (later Maternity Hospital).

- 2.3. The works to convert the four houses (No's 76-79) have been completed and construction of the new build block (No.80) is currently ongoing.

3. RELEVANT HISTORY

- 3.1. **BH2026/01297-** Application for approval of details reserved by condition 6 (materials) of application BH2022/02361.
Under Consideration.
- 3.2. **BH2025/01051-** Application for Approval of Details reserved by Conditions 9 (sound insulation scheme) and 26 (sound insulation scheme) of application BH2022/02361. Approved 12.06.2025.
- 3.3. **BH2022/02752-** Non-Material Amendment to application BH2018/01137, as amended by BH2020/02102 and BH2021/03435, to change the original description of the development to: Partial demolition of no. 80 Buckingham Road, erection of a five storey building over basement including roof accommodation to create dwelling units (C3) and community use unit (D1). Conversion of nos. 76-79 Buckingham Road to provide dwelling units (C3) with associated car parking, cycle parking, landscaping and service provision.
Approved 30.09.2022.
- 3.4. **BH2021/03435-** Application for variation to amend the wording of condition 9 of BH2020/02102 to allow the sound insulation scheme to be submitted prior to occupation.
Approved 23.12.2021.
- 3.5. **BH2022/02361-** Variation of condition 1 of BH2020/02102 and condition 1 of BH2022/02752 [Mixed use development providing residential units (C3) and community use (F1)] to allow amendments to drawings comprising addition of 2no new residential units, design alterations to the roof form, removal of the reinforced concrete frame, reconfiguration of internal space including vehicle parking and associated alterations.
Approved 10.03.2025.
- 3.6. **BH2020/02102-** Application for variation of condition 1 of application BH2018/01137 (Partial demolition of no. 80 Buckingham Road erection of a five storey building over basement including roof accommodation to create 20no. dwelling units (C3) and community use unit (D1). Conversion of nos. 76-79 Buckingham Road to provide 14no. dwelling units (C3) with associated car parking, cycle parking, landscaping and service provision) to allow amendments to approved drawings for the transfer of affordable units to the new build area of the development.
Approved 23.06.2021.

- 3.7. **BH2019/02322-** Application for approval of details reserved by conditions 4, 5, 6, 9, 11, 12, 14, 15, 16, 21, 22 and 24 of application BH2018/01137.
Split Decision on 09.04.2020.
Conditions 4, 5, 6, 11, 12, 14, 15, 16, 21, 22 and 24 agreed.
Condition 9 not agreed.
- 3.8. **BH2018/01137-** Partial demolition of no. 80 Buckingham Road, erection of a five storey building over basement including roof accommodation to create 20no. dwelling units (C3) and community use unit (D1). Conversion of nos. 76-79 Buckingham Road to provide 14no. dwelling units (C3) with associated car parking, cycle parking, landscaping and service provision.
Approved 29.03.2019.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks to remove condition 15 (restriction of residents parking permits) from planning permission BH2022/02361.
- 4.2. The applicant wishes to remove this 'car free' condition so that residents would not be restricted from accessing parking permits, notwithstanding any restrictions under the Traffic Regulation Order.

5. REPRESENTATIONS

- 5.1. Twelve (12) letters of representation have been received **objecting** to the proposal for the following reasons:
- Parking stress
 - Traffic issues
 - Traffic hazards and safety
 - Condition helps manage expectations
 - Increase congestion and air pollution
 - Health of residents
 - When the property was purchased it was done so with the explicit understanding that this development would be car-free
 - Maximise profits
- 5.2. Eleven (11) letters of representation have been received in **support** of the proposal for the following reasons:
- Parking policy should be applied consistently across comparable properties within the same zone
 - Removing Condition 15 would maintain existing parking safeguards while ensuring a proportionate and equitable approach within the Controlled Parking Zone
 - Parking demand in the area is managed by a centralised waiting list
 - Restrictions are managed through the TRO
 - Discrimination

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

6. CONSULTATIONS

6.1. Sustainable Transport: Objection.

If the LPA is minded to allow removal of Condition 15, the Local Highway Authority will nonetheless instruct the Traffic Authority administering the Controlled Parking Zone to make the site car-free.

6.2. Notwithstanding the removal of this condition, future residents, other than blue badge holders, may not be eligible for parking permits.

6.3. If approval of the current application is granted the applicant should be made aware that this car-free designation is separate to the planning process

7. MATERIAL CONSIDERATIONS

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

7.2. The development plan is:

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

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment land
CP4	Retail provision
CP5	Culture and tourism
CP6	Visitor accommodation
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity

CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP15	Heritage
CP16	Open space
CP17	Sports provision
CP18	Healthy city
CP19	Housing mix
CP20	Affordable housing
CP21	Student housing and Housing in Multiple Occupation

Brighton & Hove City Plan Part Two:

DM1	Housing Quality, Choice and Mix
DM9	Community Facilities
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM22	Landscape Design and Trees
DM26	Conservation Areas
DM28	Locally Listed Heritage Assets
DM29	The Setting of Heritage Assets
DM31	Archaeological Interest
DM33	Safe, Sustainable and Active Travel
DM35	Travel Plans and Transport Assessments
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM42	Protecting the Water Environment
DM43	Sustainable Drainage
DM44	Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards
SPD17	Urban Design Framework

Other Documents

West Hill Conservation Area Character Statement

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate solely to vehicular parking and the impact on the highway network.
- 9.2. Planning permission (BH2018/01137) was granted in March 2019 for the following development:

'Partial demolition of no. 80 Buckingham Road, erection of a five storey building over basement including roof accommodation to create 20no. dwelling units (C3) and community use unit (D1). Conversion of nos. 76-79 Buckingham Road to provide 14no. dwelling units (C3) with associated car parking, cycle parking, landscaping and service provision.'

- 9.3. This permission was then varied in June 2021 to allow the proposed affordable housing units to be provided in the new-build part of the scheme (ref. BH2020/02102) and then varied again in March 2025 (ref. BH2022/02361) to allow amendments to the approved drawings and to allow the addition of 2 new units within the scheme.
- 9.4. The merits of the scheme as a whole have been considered as part of the preceding permissions. The Local Planning Authority considered the scheme to be acceptable in all regards and secured various details and measures by planning conditions in addition to contributions via a legal agreement. Whilst this permission remains extant, it must be considered whether circumstances, policy or practice have changed significantly since the time this decision was taken.
- 9.5. In this case it is considered that the policy context has not changed substantially in regard to the principle of development and the uses proposed. The principle of the development was justified and the scheme acceptable in all regards and the assessment of this application will therefore relate to that aspect of the current scheme that differs from the previous permission, namely the proposal to remove condition 15 (parking permits) of planning permission BH2022/02361.
- 9.6. Permission is now sought under Section 73 of The Town and Country Planning Act to remove condition 15 (residents parking permits) of planning permission BH2022/02361. Condition 15 reads as follows:
The development shall be implemented in accordance with details of parking scheme- approved by the Local Planning Authority under application BH2019/02322.
Reason: *To ensure that suitable parking provision is provided to and from the development and to comply with Policies CP9 of the City Plan Part One and DM33 of the City Plan Part Two.*
- 9.7. The condition (15) which was attached to the original application BH2018/01137 and subsequently discharged under application BH2019/02322 previously read as follows:
The development hereby permitted shall not commence until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.
Reason: *This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.*

- 9.8. The applicant wishes to remove this 'car free' condition so that residents would not be restricted from accessing parking permits by planning condition, notwithstanding any restrictions under the Traffic Regulation Order.
- 9.9. Planning permission has been secured to convert the four houses (No's 76-79) and the erection of the new build block (No.80) at Buckingham Road. The condition sought to ensure that the future occupants of the approved units have no entitlement to a resident's parking permit by way of an amendment to the Traffic Regulation Order (TRO).
- 9.10. It is considered appropriate to remove the car-free condition requested by the Local Highway Authority (LHA) because independent of the planning process, the LHA can require a development to be car free via a Traffic Regulation Order if they consider it to be necessary. It has been confirmed by the Local Highway Authority that the TRO has already been implemented for this site and residents are currently unable to apply for a permit. The granting of this application therefore would not automatically entitle future occupiers to parking permits but instead this matter would be controlled by other means outside the planning system.
- 9.11. Given that a restricting TRO is already currently in place and in light of all the above, it is considered unreasonable to insist on the retention of the condition and the application is therefore recommended for approval.

106 Agreement:

- 9.12. There are provisions in the S.106 Legal Agreement, so that the Agreement will relate to and bind any new permission resulting from a S73 application.

Other Matters:

- 9.13. Since the original application was approved details to discharge a number of conditions have been submitted and approved. The relevant conditions have been updated to reflect this.

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 development would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

10.3. Two units have been provided as wheelchair accessible homes.

ITEM B

**Tennis Courts, St Anns Well Gardens,
Somerhill Road
BH2025/01757
Full Planning**

DATE OF COMMITTEE: 5th August 2026

BH2025 01757 - Tennis Courts, St Anns Well Gardens, Somerhill Road



**Brighton & Hove
City Council**

N



Scale: 1:1,250

<u>No:</u>	BH2025/01757	<u>Ward:</u>	Goldsmid Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Tennis Courts, St Anns Well Gardens, Somerhill Road, Hove		
<u>Proposal:</u>	Erection of 15no lighting columns with luminaires to provide floodlighting to 8no tennis courts and erection of 2no single storey storage buildings.		
<u>Officer:</u>	Steven Dover, tel: 01273 291380	<u>Valid Date:</u>	05.09.2025
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	31.10.2025
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	12.08.2026
<u>Agent:</u>	Pentangle Design Group Suite 1 21 Bancroft Hitchin SG5 1JW		
<u>Applicant:</u>	St Anne's Tennis St Anns Well Gardens Nizells Avenue Hove BN3 1PR		

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	BIODIVERSITY_METRIC_CALCULATION_TOOL		20-May-26
Report/Statement	BIODIVERSITY_METRIC_CONDITION_ASSESSMENT		20-May-26
Report/Statement	ECOLOGICAL REVIEW REPORT		20-May-26
Report/Statement	400 LUX LED LIGHTING DESIGN		09-Mar-26
Report/Statement	SPILLAGE IMPACT REPORT PROPOSED LED FLOODLIGHTING R1		09-Mar-26
Location Plan	01	A	14-Jul-25
Block Plan	03	E	09-Mar-26
Proposed Drawing	04	A	14-Jul-25

Proposed Drawing	05		14-Jul-25
Proposed Drawing	SATC E1		14-Jul-25
Proposed Drawing	SATC E2		14-Jul-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 floodlighting hereby approved shall not be used except between the hours of 16:00 and 21:00 daily.

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.

4. Unless otherwise agreed in writing, all ecological measures and/or works shall be carried out in accordance with the details contained in the Ecological Review Report (Coyne Environmental Ltd, May 2026), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To protect species from adverse impacts during construction and to avoid an offence under 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.

5. Deemed Biodiversity Gain Plan Condition:
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 Excel copy of the Statutory Biodiversity Metric received on the 20/05/26 and dated 19/05/26, prepared by Kenneth Coyne 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").

6. The floodlighting units hereby approved shall be installed strictly in accordance with the specification provided within the "400 LUX LED LIGHTING DESIGN" document by 'Highlights Flooding Ltd' ref: St Ann's

Tennis Club received 9th March 2026 and retained as such thereafter. At no time and under no circumstances shall the light from the floodlights hereby approved into the habitable room windows of adjacent residential properties exceed a level of 2 lux vertical illuminance.

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

7. Prior to first use of the floodlights hereby approved, a 'sensitive lighting management strategy' shall be submitted to and approved in writing by the local planning authority. The strategy shall set out the specific lighting design features included to minimise the impact of the new floodlighting on light-sensitive biodiversity, along with any additional measures relating to court booking and allocation, so that it can be clearly demonstrated that best practice Guidance Note 08/23 has been followed.

All external lighting shall be installed in strict accordance with the specifications and locations set out in the approved strategy, and these shall be maintained thereafter in accordance with the approved strategy. Under no circumstances should any other external lighting be installed without prior consent from the planning authority.

Reason: Many species active at night (e.g. bats) are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and /or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation, and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

8. Prior to first use of the floodlights hereby approved, the applicant shall provide two bird boxes and two bat boxes, to be appropriately mounted on existing trees in St Anns Well Gardens, to the east of the tennis courts, as detailed in the Ecological Review Report (Coyne Environmental, May 2026).

Reason: To provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 187 and 193 of the National Planning Policy Framework 2024, Policy CP10 of the Brighton & Hove City Council City Plan Part One and Policy

9. At least one bee brick shall be incorporated within the external wall of the storage buildings hereby approved and shall be retained thereafter.

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

10. No tree shown as retained on the approved drawings shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in

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

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development in compliance with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

11. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme detailing the methods of construction in proximity to trees, and protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.

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

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

- a) Samples/details of all brick
- b) samples/details of all hard surfacing materials
- c) samples/details of the proposed window and door treatments to the store buildings.
- d) samples/details of all other materials to be used externally

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

Reason: To ensure a satisfactory appearance to the development and to comply with policies DM18, DM28 and DM29 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton & Hove City Plan Part One.

13. 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, 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.

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 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.

3. 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 so trees and scrub on the site should be assumed to contain nesting birds between these dates, unless a recent survey has been undertaken by a competent ecologist to show that it is absolutely certain that nesting birds are not present. 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. Planning permission for a development does not provide a defence against prosecution under this Act.
4. The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstruct access to a resting or sheltering place. Planning approval for a development does not provide a defence against prosecution under these acts. Should great crested newts be found at any stages of the development works, then all works should cease, and Natural England should be contacted for advice.

5. The applicant is advised of the possible presence of bats on the development site. All species of bat are protected by law. It is a criminal offence to kill bats, to intentionally or recklessly disturb bats, damage or destroy a bat roosting place and intentionally or recklessly obstruct access to a bat roost. If bats are seen during construction, work should stop immediately and Natural England should be contacted on 0300 060 0300.
6. 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.
7. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.

2. SITE LOCATION

- 2.1. The application site relates to eight tennis courts which are situated towards the north-west corner of the locally listed St Ann's Well Gardens (Non-Designated Heritage Asset - NDHA), in Hove.
- 2.2. In addition to being within the Locally Listed park, the site is located approximately 100m to the north of the locally listed (NDHA) blocks of flats to the south, Furze Court and Park Gate. The site also lies within a Nature Improvement Area (N.I.A.), and is a designated Open Space Area so policies CP10 and CP16 for the Brighton and Hove City Plan Part One would apply.

3. RELEVANT HISTORY

None identified.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks approval for the erection of fifteen (15) lighting columns with luminaires to provide floodlighting to the existing eight (8) tennis courts and the erection of 2no single storey storage buildings, located to the western side of the courts. The lighting columns would be steel construction and 8m in height. The two storage buildings are proposed to be erected on the western boundary of the site adjacent to Somerhill Road. The buildings would provide storage facilities and be 2.9m in height and finished in red brick. The buildings would be erected facing onto the tennis court and sited between the court and the boundary hedging and trees forming the perimeter of the park.
- 4.2. Following submission of the initial application substantial additional information and amended site plans (to show proposed tree planting locations) has been submitted to enable full assessment of the ecological impacts by the Ecology Officer and updates made in response to their comments, with

changes to the lighting design (colour temperature, louvre system, rear shield louvres, smart lighting booking linked system and upward light ratio reduced), and alterations to biodiversity onsite proposed by the applicant.

- 4.3. The agent has confirmed in writing that the proposed hours of use for the lighting are now from 4pm to 9pm daily as required, therefore no lighting will be operational during the morning.

5. REPRESENTATIONS

- 5.1. **Objections** from **sixty-three (63)** individuals have been received raising the following issues:

- Storage facilities not needed and in an unsuitable position
- Adverse effect on listed building
- Adversely affects Conservation Area
- Detrimental effect on property value
- Restriction of view
- Additional traffic/parking
- Inappropriate height of development
- Overdevelopment
- Overshadowing
- Noise
- Floodlit tennis is already available nearby
- The proposed hours are too long
- Will not reduce anti-social behaviour - might increase it
- Biodiversity impacts
- Ecological harm - bats, birds, badgers, insects
- Further bat surveys should be carried out
- Poor design
- Light Pollution - night/dark sky impacts
- Loss of a tree to allow storage buildings
- No public consultation held
- Lights and tennis should stop at 8pm latest
- Money should be spent on fixing/improving other things (potholes)

- 5.2. **Support** from **fifty-four (54)** individuals has been received raising the following issues:

- Increase time the courts can be used
- Improve mental and physical health of community
- More options to enable play for adults and children
- Improve access to participation in sport
- Community involvement/participation would increase
- Good design - minimise light spill
- Residential amenity and safety improves by reducing anti social behaviour
- The council has supported lights at other tennis clubs recently
- Safer for walking in the area during evenings

- lighting suitably distant from nearby residential properties with roads in between, so no light nuisance
 - Guest fees are reasonable
 - Development would improve the neighbourhood
- 5.3. **Councillor Miller, Councillor Muten and Councillor O'Quinn** Object to the development. A copy of their representations have been appended to this report.
- 5.4. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

- Internal:
- 6.1. **Arboriculture:** No objection, 3rd November 2025 (verbal comments)
Regret loss of established Holly but no objection. Construction method statement for storage buildings with tree protection plan required by condition.
- 6.2. **Environmental Health:** No objection 9th September 2025 and verbal update 19th March
The plans and report demonstrate that the proposed lighting columns will not result in light spillage that would affect the nearest residents if the lighting is positioned and angled as shown. Subject to conditions regarding installation.
- 6.3. **Heritage:** No objection 24th September 2025
The lighting has been carefully designed, the posts would be relatively slender and in green, as set out in the Heritage Statement. The single storage buildings are relatively small and would appear discrete in the locations proposed.
- 6.4. Given the modernity (and neutral contribution) of the tennis courts within the locally listed park, any visual impact from the lighting columns, which will cause a low level of harm, would be tempered by the fact that the gardens will be well lit after dusk allowing a greater appreciation of the asset.
- 6.5. No objection, subject to details of materials of storage sheds being submitted.
- 6.6. **Sustainable Transport:** No objection 20th October 2025
The proposed development would take place away from the public highway and would not be expected to have any adverse effect on its safety or operation. The proposed floodlighting may cause an increase in trips to and from the site, especially outside of peak hours in the evening, as people will be able to play later into the evening. However, we would not expect this to be significant enough to warrant objection.
- 6.7. We are satisfied that the design of the floodlights would minimise glare in the surrounding highway network. We find the proposal acceptable.

External:

- 6.8. **County Ecologist:** No objection subject to conditions 10th June 2026
In summary, provided the recommended mitigation, compensation and enhancement measures are secured and implemented, the proposed development can be supported from an ecological perspective. The standard pre-commencement Biodiversity Gain Condition will also apply.
- 6.9. Additional conditions requested in respect of a Sensitive lighting Management Strategy and bird and bat boxes.
- 6.10. It is noted that smooth newts maybe present in the pond situated in the park and they are protected. Due to the distance of the development from the pond and vegetation in-between it is highly unlikely to have any significant impact on this species and no specific mitigation measures are required.
- 6.11. 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; 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
CP9	Sustainable transport
CP10	Biodiversity
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
DM28	Locally Listed Heritage Assets
DM29	The Setting of Heritage Assets
DM33	Safe, sustainable and active travel
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

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

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to impacts on heritage assets, visual impact, the effect on neighbouring residential amenity (specifically in relation to light and noise pollution), nature conservation, transport implications and the benefit of the facilities both to the club and the community.

Principle of development

- 9.2. CP17 of the City Plan Part One (CPP1) states that new sports services, facilities and spaces (including extensions to existing provision) will be encouraged and especially those that meet identified needs. All new provision should meet quality standards, optimise their accessibility and affordability to all users, including the local community and visitors.
- 9.3. In this instance the proposal would enhance existing sports and recreation facilities for the benefit of members of the tennis club and the wider community.
- 9.4. The floodlighting is proposed on the clubs eight courts and would operate, as needed, from 4pm at the earliest to 9pm at the latest. The proposal would enhance the existing facilities and enable tennis to be played in the evening by people who may not be able to play during the day, such as daytime workers and school children.
- 9.5. The proposal meets the requirements of policy CP17 in that it provides improved sporting facilities close to the community and has good pedestrian and cycle links. The scheme has addressed the potential impact of the proposal on the amenity of adjacent residential properties and the impact on the natural environment (as outlined below).

- 9.6. CP16 of the City Plan Part One (CPP1) states the council will require the retention of and seek better, more effective and appropriate use of all existing open space and that new development, including floodlighting, which is required to minimise light pollution, help reduce crime and not cause significant harm.
- 9.7. In this instance the provision of floodlighting would allow better use of the existing tennis courts which are included in the open space, and as outlined below meets the requirements for light pollution, crime and no significant harm would result. The proposal therefore meets the requirements of CP16.

Design, Appearance and Heritage impacts:

- 9.8. St Ann's Well gardens are locally listed parks (Non-Designated Heritage Asset - NDHA) including the Pavilion buildings in the centre of the park but they are not located in a Conservation Area. There are two locally listed blocks of flat to the south being Furze Court and Park Gate.
- 9.9. The proposed 8m floodlight columns are of slim design and would not look out of place within the existing courts. The proposed material would be die-cast aluminium in a marine grade powder coated green finish, which is considered acceptable. They would be partially screened by trees and shrubs from the main body of the park to the southeast, and the Pavilion buildings. There would be no impact on the settings of the locally listed buildings to the south, due to being located over 100m from the proposed lighting with all the existing foliage, street furniture and lighting in between. It is considered that the proposed lighting columns would cause a low level of harm to the locally listed park and no harm to other heritage assets.
- 9.10. The proposed storage buildings (two) are located to the western boundary of the tennis courts and park in proximity to Somerhill Road. They are designed to integrate within the court fencing, being single storey and finished in red brick, dark green roof and timber doors. The modest scale and setting of them within the modern appearance of the courts is considered an acceptable design approach.
- 9.11. The Council's Heritage Officer has no objections to the scheme, subject to a condition for full details of materials for the proposed storage sheds to be submitted for approval by the LPA.
- 9.12. The design and appearance of the floodlights and storage is therefore considered acceptable and are not considered to be overly visually intrusive or detrimental to the character of the area. The low level of visual harm to the setting of the locally listed park is considered outweighed by the improved sports and health benefits of the scheme.

Amenity Impacts:

- 9.13. Policy DM20 (protection of amenity) of the Brighton and Hove City Plan Part Two states that planning permission for development will not be granted where it would cause unacceptable loss of amenity to the proposed, existing,

adjacent or nearby users, residents, occupiers or where it is not liable to be detrimental to human health.

- 9.14. Policy DM40 (Protection of the Environment and Health - Pollution and Nuisance) of the Brighton & Hove City Plan Part Two, which can be given significant weight as a planning consideration, states that proposals for floodlighting will be required to keep to the minimum necessary level of light intensity and to an appropriate number, height, design and size of structures and fittings necessary to minimise light pollution and harm to amenity.
- 9.15. The dwellings in closest proximity to the development are on the opposite side of Somerhill Road, to the west (Southdown House -circa 23m to front elevations from proposed lighting) and on the opposite side of Nizells Avenue, to the north (circa 24m to elevations from the proposed lighting). The nearest residential properties therefore have significant separation from the proposed lighting, with existing foliage also providing further screening, although this is much less dense to the north. It is noted that both streets have existing on street lighting columns to both sides of the respective roads.
- 9.16. Concerns have been raised that the proposed development could affect residential amenity with regard to light being emitted from the proposed floodlights and noise from the additional hours of operation. The applicant has now proposed to limit the hours of use of the floodlights to the following periods only as required:
- 9.17. Monday to Sunday: 16:00 to 21:00

Light spill

- 9.18. Policy DM40 (Protection of the Environment and Health - Pollution and Nuisance) states that lighting:
- f) [Proposals must] ensure lighting is well designed; low impact; efficient; the minimum necessary with an appropriate balance between intensity, fittings, height and structures; and, not cause unacceptable detriment to health and amenity, public and highway safety, biodiversity, in particular priority habitat and species, the night sky and the South Downs National Park International Dark Sky Reserve.*
- 9.19. As noted above, the site of this application is located in close proximity to residential properties and some rooms within these residential neighbouring properties have a direct line of sight to the tennis courts that are proposed to be floodlit. Therefore, the proposed installation of 15 floodlights could have some impact upon residents of nearby properties.
- 9.20. Information has been submitted in the form of a Lighting Design Statement to demonstrate that the proposed floodlighting would not have a negative impact on neighbouring amenity, by reason of light pollution. Lighting would be directional onto the tennis courts, and the lamps would be fitted with internal louvre plates to mitigate against light spill into surrounding properties. Rear louvre plates would also assist in reducing impact of glare (visibility of the light source) to neighbouring properties and a smart lighting booking system would

prioritise court use to reduce lighting impacts to neighbours and wildlife where possible, and that lighting is only enabled on the courts that are booked. A condition is recommended to secure the particular design being proposed and to ensure that visibility of the lighting elements and any reflectors are mitigated as far as possible.

- 9.21. Due to the chosen design, vertical light spill from the development would be limited to 1.90 lux on part of the closest façade of the surrounding properties, against a maximum recommended target of 5 lux for a rural (E2) location and 10 lux for a suburban (E3) location pre curfew (curfew hours would commence at between 9pm and 11pm depending on location), as recommended by 'Institute of Lighting Professionals, Guidance Notes on the reduction of Obtrusive Light'. The majority of the facades of the surrounding properties are assessed as receiving circa 0.5 vertical lux or less as a result of the installation.
- 9.22. For reference, 1 lux is around the same as that emitted by a full moon.
- 9.23. In addition, the agent has provided supporting evidence to show that the horizontal surface light spill from the development reaching surrounding properties would be 0 lux. They have also measured the existing horizontal light spill from the current street lighting to the surrounding roads and this measures from 35 to 2 lux and therefore the installation would have less horizontal light spill than the existing streetlighting.
- 9.24. Skyglow would be negligible as the upward light ration (ULR) of light produced is assessed as 0% for the proposed design. This against a maximum recommendation of 2.5% for rural (E2) locations and 5% for a sub urban (E3). Therefore, the overall impact on the night sky (and the nearby adjacent South Downs National Park International Dark Sky Reserve) is considered acceptable.
- 9.25. Subject to compliance with the details submitted within the lighting specification, including the installation of louvres, the development would not give rise to significant harm to occupiers of surrounding residential properties in terms of light pollution. The Council's Environmental Health Officer has assessed the submitted information and has no objections to the application, subject to usage as proposed by the applicant and lighting assessment by condition.
- 9.26. On this basis, the impact of the new floodlights in terms of light spill to neighbouring residents and surrounding area is considered to be acceptable, subject to conditions restricting the hours of use and compliance with the submitted details. Impacts on wildlife from the development are considered below under Ecology.

Noise

- 9.27. There may be some additional noise and disturbance resulting from people using the affected courts over longer hours than is currently the case, particularly in the winter months, however given the numbers and hours

involved this is not considered to be unacceptable or to warrant refusal of the application. Hours of use of the new floodlights would be secured by condition (4pm to 9pm daily) which is considered an adequate safeguard for local residents against late-night noise and disturbance.

- 9.28. An informative is recommended to ensure that the applicant is aware that whilst the requisite planning permission may be granted, this does not preclude the Council's Environmental Health team from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received. Both light and noise disturbance can be considered as a statutory nuisance under the Environmental Protection Act 1990.
- 9.29. The additional activity generated from greater use of the courts is not considered to cause an unacceptable nuisance, given the limited numbers involved and the central location and as such refusal on this basis would not be sustained.

Ecology

- 9.30. Policy CP10 of the Brighton & Hove City Plan Part One seeks to conserve existing biodiversity, protecting it from the negative indirect effects of development, including noise and light pollution.
- 9.31. Artificial light can negatively impact wildlife and bats in particular; therefore, further information has been submitted (Coyne Environmental, Ecological Enhancement Report - February 2026 and Ecological Review Report - May 2026) to enable assessment of the potential impacts of the proposed development, and to inform appropriate mitigation, compensation and enhancement.
- 9.32. Since submission of the application, the designs have been amended to take account of comments from Ecological Officers to mitigate the impacts to protected species, particularly bats. The amendments (colour temperature, main louvre system, rear shield louvres, smart lighting booking linked system and upward light ratio reduced), have reduced the degree of light spill and effects, and therefore lowered the potential impacts on bats and foraging activities. The smart lighting booking system is a system which prioritises court use to reduce lighting impacts to neighbours and wildlife where possible, and lighting is only then enabled on the courts that are booked rather than lighting vacant courts.
- 9.33. The information provided is satisfactory and the County Ecologist has confirmed that the proposed development is unlikely to have an impact on protected species or habitats, subject to compliance with the proposed lighting scheme and the recommendations in the supplied Ecological Appraisals. These measures can be secured via condition. A sensitive lighting strategy condition would also be attached to ensure the proposed lighting control measures are in a clear format which can be measured and enforced by the LPA if required.

- 9.34. In addition, the applicant is proposing biodiversity net gain onsite which comprise the planting of eight new trees, and enhancement of 20m of existing hedgerow (detailed below), two bird boxes and two bat boxes are also proposed. These are supported as is the proposed scheme from an ecological perspective.

Arboriculture

- 9.35. The Arboricultural Officer accepts the loss of the existing tree (Holly Tree T7 - category B2/C1) in the area of the new storage buildings, and the new tree planting would mitigate the loss. They have requested that the works should be carried out in accordance with the methodologies within the report and that a construction method statement and full tree protection plan is submitted for approval by the LPA prior to any commencement of development, including demolition. This would be secured by condition.
- 9.36. Subject to the recommended conditions, the impacts on trees are considered acceptable.

Sustainable Transport:

- 9.37. Given the nature of the proposals and similarity to the existing situation, potentially extending playing time of the existing tennis courts by means of additional floodlighting is likely to lead to a small uplift in overall trip generation, however the Council's Highways team raises no objection in terms of impact on highway capacity or road safety. On-street paid parking is also available in the surrounding streets.

Biodiversity Net Gain

- 9.38. The proposed biodiversity enhancements (BNG) onsite comprise the planting of 8 new native trees and upgraded hedgerows on the northern boundary of the site. These are supported, as is the proposed scheme, from an ecological perspective and are required to achieve a minimum of 10% increase in BNG. An updated Biodiversity Net Gain Feasibility Assessment has been submitted which shows a net gain of +0.1 area habitat units (+14.04%) and +0.07 linear (hedgerow) units (+11.88%) over the current baseline. All BNG is to be provided onsite and will be secured by the standard BNG condition for full details to be supplied and agreed prior to commencement of development. County Ecology Officers have confirmed that the proposed BNG could be achievable. On-site provision is not significant enough to warrant monitoring fees, which would otherwise be secured via a S106 agreement.

Other matters

- 9.39. It has been noted in representations that the applicants have not carried out any public consultation. An applicant is under no obligation to consult publicly prior to making a planning application, and it is noted the applicant has carried out public consultations since submission as confirmed in later representations made to the LPA.
- 9.40. In addition, comments have been received stating the site notices were not displayed correctly or residents made aware of the proposed development. This has been raised and investigated and the application has been advertised

in accordance with both the relevant legislation and the city council's community engagement statement. Three site notices were placed at various locations around the site, in addition to the application being published on the council's website and letters to neighbours with a boundary immediately adjoining the property.

- 9.41. The potential for loss of views or reduced property values are not material planning considerations.

Conclusion

- 9.42. On balance, the development is considered to be acceptable in terms of appearance and the impacts on the amenities of local residents, subject to conditions securing the measures identified for amenity protection, mitigation of ecological impacts, and biodiversity improvements are provided. For the foregoing reasons the proposal is considered to be in accordance with policies CP12, CP15 and CP18 of the Brighton and Hove City Plan Part One, and DM18, DM20, DM28, DM29, DM37 and DM40 of the Brighton and Hove City Plan Part Two.

10. EQUALITIES

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

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

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

Cllr. Birgit Miller, Cllr. Trevor Muten & Cllr. Jacqueline O'Quinn
BH2025/01757 – Tennis Courts, St Anns Well Gardens

11th March 2026:

As ward councillors, we wrote to St Ann's Tennis CiC to recommend that the club should temporarily withdraw its planning application, in order to work with local residents' groups and the Friends of St Ann's Well Gardens towards finding a compromise which is acceptable to all parties. As this recommendation was rejected by the club's leadership, we reluctantly feel forced to object to the planning application.

15th March 2026:

The 3 Goldsmid Ward councillors are writing to object to the following planning application:

BH2025/01757 | *Erection of 15no lighting columns with luminaires to provide floodlighting to 8no tennis courts and erection of 2no single storey storage buildings*

Ward councillors were alerted to this application by residents of a block of flats over the road – on the corner of Nizells Avenue and Somerhill Road – who themselves had only become aware of this application just days before the deadline for online comments. This was disappointing in that the St Anne's Well Tennis Club is a CIC organisation and as such ward councillors and local residents would have expected prior notification of the planning application in order to discuss the Tennis Club plans for a proposed increased use of the courts in the winter months. In the Planning, Design and Access Statement in the application it says:

Consultation and Collaboration

We recognize the importance of working closely with residents, Friends groups, local councillors, and other stakeholders. To ensure a transparent process, we propose:

- *Community consultations to gather feedback and address concerns.*
- *A trial lighting period to assess impact and make necessary adjustments.*
- *Regular updates and an open dialogue with local representatives and park users.*

Sadly, this didn't happen. Only members of the tennis club and the Chair of the board of the Friends of St Anne's Well Gardens were informed of the planning application and as a result the earlier comments on the planning portal are all positive comments from club members with a positive comment from FSAWG on the club's webpage which has since been withdrawn by FSAWG and they have stated a neutral stance. Goldsmid Ward councillors were particularly disappointed not to have been informed or asked to a preliminary meeting regarding the club's plans for an extension of hours especially as ward councillors were so heavily involved in assisting the establishment of a CIC in the first place, a few years ago. There are also 4 social housing blocks in close proximity to the tennis courts who were not asked to any consultations by the tennis club or informed by the tennis club of its application. So, there was no 'community consultation' until it was requested by local councillors and nearby residents who would be affected by noise and potential light overspill.

Eventually there were 2 meetings, one of which was unsuccessful because there was a muddle over times and the other which was well attended. However, no conclusions were reached at these meetings and it was obvious that further discussion was needed with local residents regarding the impact on those who lived adjacent to the courts and those who cared greatly about protecting St Anne's Well Gardens from any encroachments which might have a negative impact on the environment and in particular on various forms of wildlife. Ward councillors have requested that the



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION **City Council**

application be withdrawn so further discussions can be held with the local community in order to 'co-design' the changes that are sought by the tennis club. The Tennis club has refused this request.

The main concerns of nearby residents are the lights and the timing of the lights as it is argued that 15 tennis court floodlights will have a negative impact on valuable wildlife habitats and on nearby residents. The City Council has installed bat and wildlife friendly lighting in the park with low energy shielded lights which switch off at 8pm 'to cut out light pollution and protect biodiversity in the park', as stated in Council documentation. Previously Goldsmid ward councillors were heavily involved in the consultation with the environment team about these lights and the time of 8pm was decided on after much discussion and the need to respect the council's planning policy regarding 'Dark Skies'. Plans for high powered tennis floodlights in use until 10pm would therefore appear to clearly be in breach of Council policy and guidelines for the park and will have a damaging impact in terms of inevitable light pollution on both wildlife and human neighbours. The impact on wildlife report put forward as part of the application is fairly limited and doesn't acknowledge the presence of many species of birds, a pond which is actually only a few metres away and ascribes little importance to the fact that the periphery of the tennis courts is a habitat for hedgehogs – a priority species.

The Tennis Club claims in its application that the use of the tennis courts has reduced antisocial behaviour but provides no evidence of this and ward councillors have certainly not seen a reduction in instances of reported ASB and neither have local PCSO's. Indeed, there have been various ASB issues recently which led to the installation of lights, to be turned off at 8pm, at the front of the café in the park.

The local community does recognise the importance of sport and would like to support the tennis club but feel that the concerns of local residents must be listened to as well which is why there needs to be further discussion in the community with all stakeholders to come to a mutually agreed way forward. As the Planning, Design and Access Statement says in its conclusion:

The installation of tennis court lighting at St Ann's Well Gardens presents a unique opportunity to enhance recreational facilities, promote health and well-being, and foster community spirit. With careful planning and community input, we can ensure that these improvements benefit both tennis enthusiasts and the broader neighbourhood while maintaining the park's character and tranquillity.

There is definitely a dissonance here!

Godsmid Ward Councillors ask that the planning committee refuse this application and ask the applicants to bring it back after effective consultation with all stakeholders.

ITEM C

**Varndean School, Balfour Road
BH2026/00745
Full Planning**

DATE OF COMMITTEE: 5th August 2026

BH2026 00745 - Varndean School, Balfour Road



**Brighton & Hove
City Council**



Scale: 1:3,000

<u>No:</u>	BH2026/00745	<u>Ward:</u>	Preston Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Varndean School Balfour Road Brighton BN1 6NP		
<u>Proposal:</u>	Installation of approximately 500 meters of 3 metre high mesh fencing around school grass fields, incorporating 3no single leaf gates and 2no double leaf gates.		
<u>Officer:</u>	Helen Hobbs, tel: 290585	<u>Valid Date:</u>	07.05.2026
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	02.07.2026
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>			
<u>Applicant:</u>	Varndean School Balfour Road Brighton BN1 6NP		

1. RECOMMENDATION

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

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Location Plan			27-Mar-26
Block Plan			27-Apr-26
Proposed Drawing	026927-01		07-May-26
Proposed Drawing	026927-02		07-May-26
Proposed Drawing	026927-03		07-May-26

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. Any fence posts or excavation works to be carried out within a Tree Root Protection Zone of existing trees, shall be hand dug to ensure that the approved development does not harm any trees on the site.

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

CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

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.

Biodiversity Net Gain

- 1.2. 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.
- 1.3. 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 relates to Varndean School, a large secondary school campus located on Balfour Road, close to the junction with Ditchling Road. Friar Road adjoins the site along the northern boundary. The site contains a range of educational buildings, hard-surfaced areas, sports facilities and extensive grassed playing fields. The large (predominantly) grassed area is shared by Varndean College and Varndean School and can currently be accessed by the public, with public access along Stringer Way. The site is classified as Open Space, a Nature Improvement Area and is subject to a Tree Preservation Order.
- 2.2. The area affected by the application relates to the western and northern parts of the school grounds, encompassing existing grassed playing fields and a long jump facility situated to the rear of the main school buildings. This land forms part of the wider school estate and is currently used in connection with the school's educational and recreational activities. The development does not incorporate any of the grassed area south of Stringer Way which remains open.

3. RELEVANT HISTORY

- 3.1. **BH2024/02726** Installation of 10 no. 10m high Tubular Lighting Columns with 16No 968W flat glass LED Floodlights and associated alterations. Approved.
- 3.2. **BH2024/00290** Installation of 10 no. ten metre high tubular lighting columns with LED floodlights to existing games courts. Refused.
- 3.3. **BH2020/00080** Erection of cantilevered first floor extension over existing south courtyard area and erection of second floor extension to south annex to provide additional classrooms & dining hall, installation of new fencing to school entrance and remodelling & refurbishment works. Approved.
- 3.4. **BH2020/01327** Erection of single storey mobile classroom (D1). Approved.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the installation of approximately 500 metres of 3-metre-high green mesh security fencing around part of the school's grass playing fields. The proposed fencing would incorporate three single-leaf access gates and two double-leaf access gates to facilitate access between the enclosed area, the wider school site and Stringer Way.
- 4.2. The fencing is proposed as a security and safeguarding measure to provide a clearly defined and secure boundary around the operational school grounds, whilst retaining visibility through the mesh design and maintaining access to the wider school site.

5. REPRESENTATIONS

- 5.1. **Thirty Six (36)** representations have been received, objecting to the proposed development for the following reasons:
 - Loss of green space
 - Public health
 - Loss of access/routes through
 - Excessive fencing
 - Loss of character
 - Inappropriate height
 - Damage to trees
 - Impact on nature and biodiversity
 - Insufficient information
 - Legal rights
 - Land ownership
 - Lighting impacts
 - Loss of use of the 3G pitch
 - Lack of pre-application advice
- 5.2. **Five (5)** representations have been received, supporting the proposed development for the following reason:

- Safeguarding and pupil safety

6. CONSULTATIONS

Internal:

6.1. **Arboriculture:** Comment

The fencing could have a minor conflict with some of the trees located on the southern boundary. Conditions should be attached to ensure that the post hole construction is undertaken by hand within the root protection areas of these trees. The existing hard surface path way should be utilised for access.

6.2. Full details of consultation responses received can be found online on the planning register.

7. MATERIAL CONSIDERATIONS

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

7.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove City Plan Part Two (adopted October 2022);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013; 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).

8. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
CP10	Biodiversity
CP12	Urban design
CP13	Public streets and spaces
CP16	Open Space Areas

Brighton and Hove City Plan Part Two

DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM22	Landscape Design and Trees
DM37	Green Infrastructure and Nature Conservation

Supplementary Planning Documents

SPD11 Nature Conservation & Development

SPD12 Design Guide for Extensions and Alterations

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the design and appearance of the proposal, the impact on the trees/biodiversity on site and the impact on neighbouring amenity.

Design and Appearance

- 9.2. The proposed fencing would be situated to the rear of the main school buildings, extending along the northern and western boundaries of the operational school site. The fence line would partially run parallel to Stringer Way and would enclose the existing long jump facility and associated school grounds. Along its northern boundary, the fencing would be positioned adjacent to the rear gardens of properties fronting Friar Road.
- 9.3. The fencing would measure approximately 3.3 metres in height and would comprise a green powder-coated weld mesh design. The structure has been selected as a visually permeable form of boundary treatment, allowing views through the fencing as it would not be a solid design. The green finish would further ensure the fencing does not stand out within its surroundings and would reduce its visual prominence when viewed from both the school grounds and surrounding public vantage points.
- 9.4. No lighting is proposed as part of the development, thereby avoiding any additional visual clutter or potential impacts associated with artificial illumination.
- 9.5. The proposed scheme incorporates a number of gates, including three gates onto Stringer Way and two gates in the north-western corner of the enclosed area. These gates would maintain connectivity with the wider school grounds and ensure continued access to the substantial areas of open space that lie beyond the fenced enclosure.
- 9.6. Consideration is given to the operational requirements of the school and the need to provide a safe and secure environment for pupils and staff. Government guidance relating to school security recognises the importance of effective perimeter treatments and generally advises that boundary fencing should exceed 2 metres in height where security considerations warrant such measures. The applicant has advised that lower sections of fencing elsewhere on the site have not provided an adequate level of security and that the proposed height is necessary to address safeguarding concerns and unauthorised access to the school site.

- 9.7. Whilst the fencing would be noticeable within the wider site, its open mesh construction, colouring and location adjacent to existing school grounds ensure that it would not appear unduly intrusive or dominant within the surrounding context. Furthermore, the public benefits associated with enhanced safeguarding and site security carry substantial weight in favour of the proposal.
- 9.8. Overall, the proposed fencing is considered acceptable in design terms. The development would preserve the character and appearance of the area whilst delivering important security benefits and is therefore considered to accord with Policies DM18 and DM21 of the Brighton & Hove City Plan Part Two and Policies CP10 and CP12 of the Brighton & Hove City Plan Part One.
- Loss of open space:**
- 9.9. Policy CP16 seeks the retention and enhancement of existing open space and resists development resulting in the loss of open space, unless specific exceptions apply.
- 9.10. The use of the land is school playing fields within the Varndean School grounds, which is designated 'Open Space - School Grounds and Sports Pitches' typology. There would be no change to the use of this land as a result of the proposed development.
- 9.11. A number of representations raise concerns regarding the loss of open space. Whilst the proposed fencing would enclose part of the wider school grounds, the proposal would not result in the physical loss of open space through built development, nor would it prevent access to, or use of, the substantial areas of open space that would remain within the wider school site. The plans demonstrate that the majority of the existing open land would be retained and would continue to function as open space.
- 9.12. The proposal is considered ancillary to the established use of the school and is intended to improve the safety and security of pupils and staff. In this regard, the development aligns with CP16(1)(c), which recognises that development ancillary to the use of an open space may be acceptable where it facilitates better use and management of the site. The fencing would enable the school to manage its grounds more effectively and provide a secure environment for educational activities.
- 9.13. Significant weight is also attached to the safeguarding requirements of the school. The provision of secure boundaries is an important operational and safety measure and is necessary to ensure the welfare of pupils, particularly given the need to control access and movement within the school grounds. The proposal would therefore deliver clear educational and community benefits.
- 9.14. The existing paths through the wider site would still be accessible, including the access from Stringer Way.

- 9.15. The remaining open space would continue to be available and accessible for its intended use, and the benefits arising from improved school security and pupil safety are considered to outweigh the limited impact arising from the enclosure of the land. The proposal is therefore considered acceptable in relation to Policy CP16 of the Brighton & Hove City Plan Part One.

Impact on Amenities

- 9.16. Policy DM20 of the Brighton and Hove City Plan Part Two states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.17. With regard to amenity, no significant adverse impacts are expected as a result of the development. The new perimeter fence does not detrimentally overshadow any residential dwelling. The height of the fencing and gates are not considered to be inappropriate for their use or overbearing to local residents using the recreational grounds or visitors to the school.
- 9.18. The impact on the adjacent properties has been fully considered in terms of daylight, sunlight, overshadowing, outlook, noise and privacy and no significant harm has been identified.
- 9.19. Overall the development has not caused any harm to the neighbours amenity in accordance with Brighton & Hove City Plan Part Two policies DM20 and SPD12 guidance.

Impact to Trees and wildlife

- 9.20. There are a number of mature trees lining the site along Balfour Road. Part of the new fencing would be positioned in close proximity to these trees. The Arboriculture Officer has recommended that post holes are dug by hand if they are within the root protection zone of these trees and that the hard standing path is utilised for access.
- 9.21. No trees, hedgerows, or other habitats of ecological value would be removed as part of the development. The works are limited to the installation of fencing within an area that is already in established educational use and would not result in the loss of any identified ecological features.
- 9.22. The application has not been accompanied by any ecological surveys or technical reports. However, having regard to the nature and scale of the proposal, it is not considered that such information is necessary in this instance.
- 9.23. Given that no habitat loss is proposed and the existing open land would remain undeveloped, the proposal is not considered likely to result in any significant adverse effects on biodiversity, protected species, or the wider ecological value of the site. Furthermore, no external lighting is proposed, thereby avoiding any potential impacts on nocturnal wildlife, including bats.

- 9.24. It is therefore considered that the proposal would comply with Policy CP10 of the Brighton & Hove City Plan Part One and Policy DM37 of the City Plan Part Two.

Other Matters Including Those Raised in Representations:

- 9.25. Matters of ownership have been raised. The applicant has signed certificate B and have notified the land owner, Brighton and Hove City Council, which is the correct procedure as part of a planning application
- 9.26. A number of representations refer to a document submitted with the application which shows an additional area of the land to be fenced. This document was amended to reflect the development being applied for, and this is shown clearly on the block plan. In the interests of clarity the lower field on the Balfour Road side of the site is not included in the application.

Biodiversity Net Gain

- 9.27. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because:
- It does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat.

10. EQUALITIES

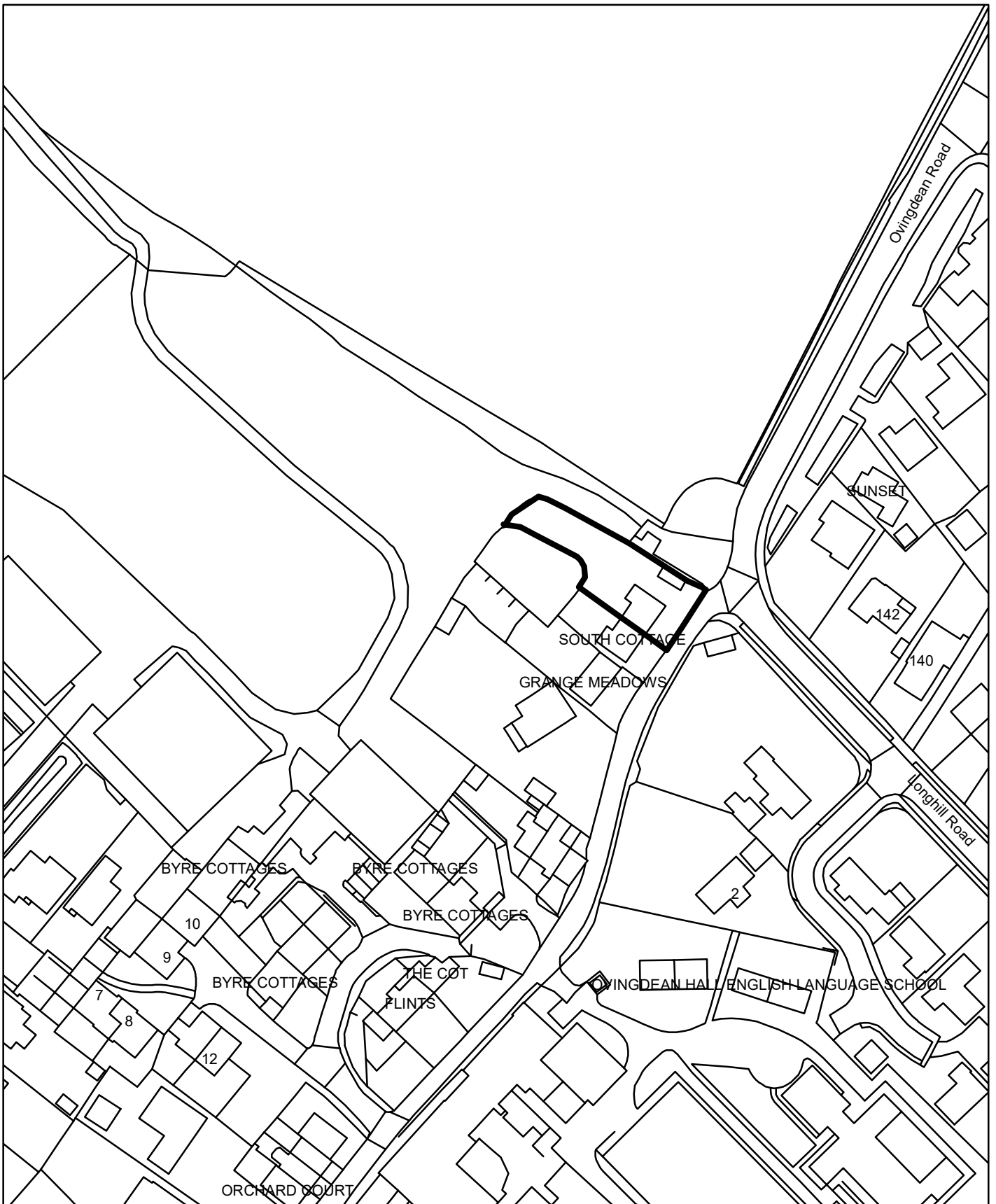
- 10.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of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

ITEM D

**North Cottages, Ovingdean Road
BH2025/03102
Full Planning**

DATE OF COMMITTEE: 5th August 2026

BH2025 03102 - North Cottages, Ovingdean Road



**Brighton & Hove
City Council**

N



Scale: 1:1,250

<u>No:</u>	BH2025/03102	<u>Ward:</u>	Rottingdean & West Saltdean Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	North Cottages Ovingdean Road Brighton BN2 7BB		
<u>Proposal:</u>	Demolition of garage and division of plot with erection of new two bedroom house with own rear garden and driveway.		
<u>Officer:</u>	Steven Dover, tel: 01273 291380	<u>Valid Date:</u>	12.01.2026
<u>Con Area:</u>	Ovingdean	<u>Expiry Date:</u>	09.03.2026
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	12.08.2026
<u>Agent:</u>	Plans Prepared 8 Greenbank Avenue Saltdean Brighton BN2 8QS		
<u>Applicant:</u>	Mr David Budgens North Cottages Ovingdean Road Brighton BN2 7BB		

1. RECOMMENDATION

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

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Location Plan			23-Dec-25
Block Plan			23-Dec-25
Proposed Drawing	NC-005	A	23-Dec-25
Proposed Drawing	NC-003	B	15-Jun-26
Proposed Drawing	NC-004	B	15-Jun-26

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 permission

3. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Above Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local

Planning Authority. The development shall then be implemented in accordance with the approved level details.

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

4. No extension, enlargement, alteration of the dwellinghouse(s) or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the of the dwellinghouse(s) as provided for within Schedule 2, Part 1, Class[es A - E] of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies DM18, , DM21 and DM26 of Brighton & Hove City Plan Part 2, and CP12, CP13 and CP15 of the Brighton & Hove City Plan Part One.

5. The dwelling hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans NC 003 rev B received on 15th June 2026. The internal layouts shall be retained as first implemented thereafter.

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

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

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

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

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

7. The development hereby permitted shall not be occupied until a plan detailing the positions, height, design, materials and type of all existing and proposed

boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to occupation of the development and shall thereafter be retained at all times.

Reason: To enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies DM18, DM26 of Brighton & Hove City Plan Part 2, and CP12, and CP15 of the Brighton & Hove City Plan Part One.

8. All new flintwork to the proposed dwelling and boundary wall and works of making good of the flintwork shall match the existing boundary flint walls in the type of flints, coursing, strike and density of stones, and the mortar's colour, texture, composition, lime content and method of pointing and the pointing of the brick dressings shall match the colour, texture, lime content and style of the original brick pointing.

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

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

- a. details of all hard and soft surfacing to include the type, position, design, dimensions and materials and any sustainable drainage system used;
- b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including food-bearing plants, and details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- c. details of all boundary treatments to include type, position, design and dimensions;

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

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

10. No development shall take place until an Ecological Design Strategy (EDS) addressing enhancement of the site for biodiversity, including 'hedgehog highway' (where close board fencing is to be used or retained), biodiverse landscape planting and a minimum of one bat, bird and bee brick/box has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a. detailed design/specification of enhancements including number, type/model and source of materials to be used;

- b. extent and location/area of proposed enhancements shown on appropriately scaled plan;
- c. timing and persons responsible for implementing the works; and
- d. details of initial aftercare and long-term maintenance;

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

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, and to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 187 and 193 of the National Planning Policy Framework, Policy CP10 of the Brighton & Hove City Council City Plan Part One and Policy DM37 of the City Plan Part Two.

11. The development hereby permitted shall be constructed and occupied as a self-build/custom build dwelling, as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015 for a period of at least three years from the date of the first occupation of the dwelling.

Reason: The development is exempt from biodiversity net gain because it is self-build/custom build residential development.

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

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy DM1 of Brighton & Hove City Plan Part 2.

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

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

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

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with Policies DM18 and DM21 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

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

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

16. The residential unit hereby approved shall not be occupied until it has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.

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

17. Other than demolition or works to trees, no development hereby permitted shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved details.

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

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

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

Informatives:

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

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees, scrub, dense planted shrubs and buildings/structures are the more typical habitats likely to contain nesting birds between 01 March and 31 August inclusive. Some of these habitats are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
3. The applicant is reminded that species including (but not limited to) reptiles, amphibians and badgers are protected under the Wildlife and Countryside Act 1981, as amended and certain species are also protected under the Conservation of Habitats and Species Regulations 2017, as amended which makes them European Protected Species. Under the Regulations, it is an offence to: deliberately kill, injure, disturb or capture European Protected Species; damage or destroy their breeding sites and resting places; deliberately obstruct access to a resting or sheltering place or possess, sell, control or transport them (alive or dead). Certain species of reptile and amphibian that can be present in urban locations are protected against intentional killing or injuring under Schedule 5 of the Act. Mammals are protected under the Wild Mammals (Protection) Act 1996 and badgers are additionally protected under the Protection of Badgers Act 1992. Under the Badgers Act, it is an offence inter alia to: wilfully kill, injure or take a badger, or attempt to do so; cruelly ill-treat a badger; or intentionally or recklessly interfere with a badger sett, by a) damaging a sett or any part of one, b) destroying a sett, c) obstructing access to or any entrance to a sett, d) causing a dog to enter a sett, or e) disturbing a badger when it is occupying its sett. Planning consent for a development does not provide a defence against prosecution under these Acts or Regulations.
- 4.
5. The applicant is reminded that all species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and The Conservation of Habitats and Species Regulations 2017, as amended, making them European Protected Species. Under the Regulations, it is an offence to: deliberately kill, injure, disturb or capture bats; damage or destroy their breeding sites and resting places (even when bats are not present); or possess, control or transport them (alive or dead). Under the Act, it is an offence to intentionally or recklessly: disturb bats while they occupy a structure or place used for shelter or protection; or obstruct access to a place of shelter or protection. If a bat, or evidence of bats, is found prior to or during works, works should stop immediately and advice sought from a suitably qualified ecologist or Natural England. Planning consent for a development does not provide a defence against prosecution under these Regulations or this Act.

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. North Cottage is located on the western side of Ovingdean Road, adjacent to the junction with Longhill Road. The site consists of a single storey detached garage and front drive area within the wider plot that includes North Cottage, a semi-detached two storey property. There is an open tarmacked area immediately to the north of the site, the side elevation of the garage is therefore viewed prominently from the north.
- 2.2. The site lies within the Ovingdean Conservation Area and forms a small part of the defined Urban Fringe site 38a. Site 38a also forms a small part of a wider 0.22ha Urban Fringe which known as Land at Ovingdean Hall Farm & Land at Bulstrode / Ovingdean Farm.

3. RELEVANT HISTORY

- 3.1. **PRE2025/00154** Demolish the existing garage and build a new 2 bedroom house. Advice issued 6/10/2025
- 3.2. **BH2021/02440** Erection of part one part two storey rear extension to replace existing single storey extension with revised fenestration. Approved 5/10/2021

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the demolition of the existing garage and the division of the plot to facilitate the erection of a new two-bedroom, two storey house with a car parking space to the front of the house and a rear garden.
- 4.2. The proposed dwellinghouse would have an open plan kitchen/lounge on the ground floor and two bedrooms above at first floor. The dwellinghouse would be finished with a brick course, cream render and flint panels and the property would have a hipped red concrete tiled roof and white window frames.

- 4.3. The application has been amended during the consideration process to address concerns relating to the parking area for the new property. This has been reduced from 2 car spaces to one car space. The Design and Access Statement has also been supplemented with some additional information in response to the planning policy requirements for this urban fringe site and Biodiversity Net Gain (BNG) information has been submitted.

5. REPRESENTATIONS

- 5.1. **Five (5)** representations have been received objecting to the application for the following reasons:
- Adversely impacts the conversation area
 - Over-development of the site
 - Poor design
 - Additional traffic, parking, and highways impact
 - Implications for access to the farm and bridleway
 - Highway safety on the junction
 - Too close to the boundary
 - Impact on Amenity
 - Detrimental impact on property value
 - Access implications for the housing development site
 - Impact on biodiversity and habitats
 - New housing in the area has not been sold
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- 5.2. A copy of the representations can be found on the Planning Register

6. CONSULTATIONS

- Internal:
- 6.1. **Arboriculture Team** Verbal comment No Objection
- 6.2. **Ecology** No objection subject to conditions
- 6.3. **Environmental Health** No objection subject to Land contamination condition imposed and future proofing against noise condition.
- 6.4. **Heritage** No objection Subject to window details and samples of brickwork
- 6.5. **Policy** No objection The principle of housing development is supported on this site, which forms part of an allocated urban fringe site in CPP2 policy H2, subject to other policy requirements being met.
- 6.6. Self-build exemption certificate for BNG is required
- 6.7. **Transport Team** No objection. Further details required for refuse and recycling, cycle parking

External:

6.8. **Conservation Advisory Group No Objection**

- Timber windows should be confirmed
- Samples of roof tiles should be submitted
- Loss of small section of front wall regrettable but harm outweighed by replacement of west boundary fence with a wall

6.9. 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 updates 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
SA4	Urban Fringe
SA5	The Setting of the South Downs National Park
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public Streets and Spaces
CP14	Housing density
CP15	Heritage
CP19	Housing mix

Brighton & Hove City Plan Part Two:

H2	Housing Sites - Urban Fringe
DM1	Housing Quality, Choice and Mix

DM18	High quality design and places	
DM20	Protection of Amenity	DM21 Extensions and alterations
DM22	Landscape Design and Trees	
DM26	Conservation Areas	
DM31	Archaeological Interest	
DM33	Safe, sustainable and active travel	
DM36	Parking and servicing	
DM37	Green Infrastructure and Nature Conservation	
DM40	Protection of the Environment and Health - Pollution and Nuisance	
DM43	Sustainable Drainage	
DM44	Energy Efficiency and Renewables	

Waste & Minerals Plan Policy

WMP3e	Waste Management in New Development
WMP3d	Site Waste Management Plan

Supplementary Planning Documents:

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

Other Documents

Ovingdean Conservation Area Character Statement

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations relating to the determination of this application are the principle of the proposed development, design and the impact upon the character and appearance of the surrounding streetscene, the Ovingdean Conservation Area and the South Downs National Park (SDNP), the impact on neighbouring residential amenity, the standard of accommodation proposed, and sustainability, biodiversity and highways implications.

Principle of the development

- 9.2. The site is allocated within urban fringe site 38a and forms a small part of the wider urban fringe housing cluster known as Land at Ovingdean Hall Farm & Land at Bulstrode / Ovingdean Farm, (urban fringe sites 38, 38a and 39). The Urban Fringe Assessment 2014 concluded that 5 dwellings could be delivered across the whole of site 38a, with development of 50 dwellings across the entire site cluster (38, 38a and 39). This site cluster is allocated in CPP2 policy H2 for an indicative 50 dwellings.
- 9.3. With strategic aims in place for the wider site, it is important that the proposal does not impact wider housing aims for the site. However, the proposed house would be accessed from Ovingdean Road and the principal access off the

junction of Greenways and Ovingdean Road (identified for the remainder of the wider site) would not be impacted. For this reason, the proposal for one dwelling on this part of the site is not considered to prejudice further housing development from coming forward across the rest of the site cluster. The Planning Policy Team raise no objection to the development in this regard.

- 9.4. As the site is located within the urban fringe, the proposal must demonstrate how the requirements of CPP1 policy SA4 are met. As an allocated site, the policy requires development to have regard to its downland setting, ensure any negative impacts are mitigated, and, where appropriate, development must also address the wider policy objectives in relation to the setting of the South Downs National Park (SDNP), biodiversity, access, and ground and surface water.
- 9.5. The applicant has submitted additional information and provides further detail on how the development addresses policy requirements. This is welcomed. The statement submitted provides information of relevance to a single dwelling with regards to how the proposal meets the requirements of CPP1 policy SA4 as well as CPP2 policy H2, including sensitive design to reflect the landscape setting. This is discussed in more detail in the following sections of the report. In principle however, the site is considered suitable for a single house.
- 9.6. In summary there is no objection to the principle of an additional plot for this site and for a single dwelling, fronting Ovingdean Road to be delivered.

Housing provision

- 9.7. The provision of one dwelling would make a welcome contribution to the housing target. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. The local housing need figure for Brighton & Hove using the standard method is 2,487 homes per year. A 20% buffer is then applied to this figure to reflect the most recent Housing Delivery Test measurement (published in December 2024) for the council being less than 85%.
- 9.8. The council's most recent housing land supply position is published in the SHLAA Update 2025 which shows a five-year housing supply shortfall of 10,442. This is equivalent to 1.5 years of housing supply.
- 9.9. As the council is currently unable to demonstrate a five-year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

Housing Mix

- 9.10. The proposal would provide one 2-bedroomed dwelling. CPP1 Policy CP19 requires that proposals have regard to housing mix considerations. The supporting text at paragraph 4.213 indicates the majority of housing need/demand across the city for both market and affordable is for 2 and 3 bedroomed properties at 34% and 31% respectively. The most recent Strategic Housing Market Assessment 2023 indicates that 45-50% of demand for market dwellings is for 2 bedroomed dwellings. No objection is therefore raised to the provision of a 2-bedroom dwelling.

Design Considerations

Heritage

- 9.11. The Ovingdean Conservation Area comprises a small former agricultural hamlet set in rural downland. The historic part of the village nestles at the base of a valley surrounded on three sides by open downland. 20th century residential development extends up the valley side to the South and east of the conservation area, but the surrounding downland remains the dominant feature.
- 9.12. 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. Case law has held that the desirability of preserving a listed building or its setting, or the character or appearance of a conservation area must be given "considerable importance and weight".
- 9.13. Although the existing garage next to North Cottage has no historical significance, and therefore its demolition is not resisted, the location is particularly sensitive as it is at the entrance to the Ovingdean Conservation Area.
- 9.14. North Cottage itself has a style typical of the vernacular in the Ovingdean Road character area, with a front projected bay and hipped clay tile roof. It has cottage style wooden windows with integral bars and a wooden front door. The proposed new dwelling responds to the established building line, found in the surrounding context, and design changes have been made since the pre application advice to ensure the scale and elevations are more suitable to the character and urban grain, with improved materials. The height of the new dwelling would be approximately 1 metre higher at ridge and eaves, than the adjacent property at North Cottage which would reflect the current stepping up of the dwellings from as they rise up Ovingdean Road and therefore this height is acceptable.
- 9.15. Whilst the site frontage would appear relatively narrow when compared to the semi-detached pair adjacent, there is also a need to allow for a visual gap to the side boundaries of the semi-detached pair which is welcome. This prevents the new house appearing crammed into the setting. Overall, the subdivision of the plot would not erode the historic character or appearance of the Ovingdean Conservation Area.

- 9.16. The Ovingdean Character Statement mentions that traditional forms and materials, particularly flint walls, timber casements and pitched clay tile roofs should be utilised in extensions and new developments. The front elevation is well articulated with timber fenestration which has regard to the style of fenestration on neighbouring properties. Brick work is proposed to the lower level, and coarse render above would reflect the materials on North Cottage. In addition, flint panels under the bay windows are proposed to contribute a further design feature. The use of aluminium bifold doors is considered acceptable for the rear elevation.
- 9.17. The Heritage Team have raised no objection to the proposal, however, as noted above, due to the prominence of the site ~~and visual impact~~ full samples of the proposed materials are sought via planning condition.
- 9.18. In regard to landscaping, the treatment of the front boundary and parking area is considered of crucial to the success of development. The amended plans have minimised the extent of the works to the front boundary. The existing opening would be enlarged from approximately 3.3m to 3.5m, this would appear to be mostly achieved by the loss of the existing brick piers and very little loss of the front flint wall. Full details of this would be required by condition.
- 9.19. Furthermore, the treatment of the front curtilage would be significant to the overall appearance of the site. A Lilac tree close to the existing boundary fence between the garage and North Cottage would be felled to facilitate the development. Whilst this is regrettable, the tree is not worthy of a Tree Preservation Order (TPO) and the Arboriculture Team have raised no objection to the development. Although the plans show permeable surface to help drainage, the details of this treatment must be agreed. In addition, although the plans also annotate 'new planting' this too must be secured by condition.
- 9.20. The plans also show a flint wall to mark the eastern boundary of the site between the front boundary pier and front elevation of the house. Details of this feature are required by condition, however in principle this would be a welcome addition to the development and wider area.

Setting of the South Downs National Park (SDNP)

- 9.21. The site is in the setting of the SDNP and therefore the requirements of SA5 will need to be met to ensure the proposal does not harm the SDNP or its setting, and will be expected to minimise any adverse impacts on the National Park. Furthermore, landscape considerations are one of the key site considerations identified in policy H2 Housing Site in the Urban Fringe.
- 9.22. Whilst the wider housing urban fringe site is particularly sensitive in relation to the impact on the SDNP, the specific location of the proposed house, close to existing houses and with an existing street frontage, is considered less sensitive in this respect. Visually the house would be read with the semi-detached pair adjacent. In this context the development would not have a dominant visual appearance and would not impact the wider character of the

SDNP. The development would not impact access to the SDNP or inhibit the SDNP Authority undertaking their statutory duties.

- 9.23. To the rear, the existing garden at North Cottage would be divided to facilitate a garden for the new dwelling. The means of enclosure at the rear have not been identified, and details of the height and design is necessary to ensure that this would not be visually dominant, such information can be sought via a condition. The new house would have a shorter rear garden than the host property immediately adjacent but would be of a similar depth to the rear garden of South Cottage (adjacent but one to the site).. Nevertheless, the proposal is considered satisfactory and the impact on the wider character of the SDNP is considered to be acceptable.
- 9.24. Given the location and scale of the development proposed, it is not considered that the proposal requires a full landscape assessment. Notwithstanding this, a standard landscaping condition is required for the development to address the visual impacts of the development at a more localised level.
- 9.25. Overall, the development is considered to be acceptable in terms of the impact on Ovingdean Conservation Area, and on the SDNP. Whilst the materials put forward by the applicant are considered broadly acceptable, full samples/details and careful consideration of the landscape treatment of the wider site shall be secured by condition due to the sensitive location and prominence of the new building. Overall, the development is considered to comply with CPP1 policy CP15 and CPP2 policy DM18, and DM26 all of which seek to secure strong urban design which preserves and enhances heritage assets and SA5 relating to landscaping and the character of the SDNP.

Standard of Accommodation:

- 9.26. Policy DM20 of the CPP2 seeks to ensure a good standard of amenity for future occupiers of the proposed development and this requirement is one of the core planning principles of the NPPF. Indeed, the updated NPPF requires that all developments provide a 'high' standard of accommodation. This is reflected in Policy DM1 which also adopts the Nationally Described Space Standards (NDSS) for new dwellings.
- 9.27. The submitted information shows that the new residential unit would meet minimum standards in relation to the NDDS. The submitted plans show the property would have a Gross Internal Area (GIA) of approximately 78sqm which would exceed the GIA of 70sqm required for a 2 storey, 2 bedroom, 3 person unit. The ground floor of the property would be open plan with a large kitchen and lounge space and ground floor w.c. The first floor would deliver 2 bedrooms and a bathroom. Bedroom 1 would measure approximately 15.6sqm and is therefore sufficient to be a double bedroom and Bedroom 2 approximately 8.8sqm, thereby providing a single bedroom. All rooms would have good head height, natural light, outlook and ventilation.
- 9.28. Policy DM1 states that all new residential development will be required to provide useable private outdoor amenity space appropriate to the scale and character of the development. The new house would benefit from a rear

garden which would meet these objectives as is considered proportionate to the size of the dwelling proposed.

- 9.29. The Environmental Health Team have not objected to the development and suggest a land contamination discovery strategy. This can be secured by condition. The Environmental Health Team also comment on the need for a noise condition to protect future occupants from the risk of a noise nuisance. This request has not been fully explained. The application site, is not considered particularly vulnerable to noise nuisance, and a condition relating to additional requirements in this respect is not considered justifiable in this instance. Standard soundproofing would be provided through Building regulations.
- 9.30. Overall, the development would provide a good-sized unit which meets the NDSS and policy objectives of DM1 and DM20 of the CPP2.

Impact on Amenity of Neighbouring Occupiers

- 9.31. Policy DM20 of the City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause unacceptable loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.32. With the increase in height of the new building compared to the existing structure, neighbouring properties would have a more developed outlook, however the new house is not considered out of scale for the setting. The building would have most impact on North Cottage as despite a small gap being provided between the built forms, the new dwelling would be located in close proximity to the site boundaries. However, the front and rear building lines broadly follow that of North Cottage, and therefore the new building would not have a overbearing impact on this adjacent property. North Cottage does appear to have a side window at ground and first floor level which would be somewhat enclosed by the development, however these appear to be secondary windows and the impact is considered to be acceptable.
- 9.33. In terms of overlooking and impacts relating to privacy, the outlook from the new property would be primarily to the front and rear of the house. This would cause some overlooking to the rear garden of North Cottage. However, the impact would not be so significant as to warrant refusal of the application and mutual elevated overlooking to rear gardens from rear sited windows is common within the local environment. There is a first-floor side window on the north-east elevation of the building, this would serve the bathroom and is shown to be obscured glass. Proposed windows in the south western side elevation would be located at ground floor only. There is not considered to be any impacts to other properties in the vicinity of the site as the separation distances would prevent any significant impact from the development. It is however recommended that householder permitted development rights to insert additional windows are removed in order to protect the amenity of neighbouring properties.

- 9.34. In regard to loss of light and overshadowing, the proposed building would be northeast of North Cottage and whilst it would have an impact on some degree of direct sunlight light that is received into the side windows and garden of the neighbouring property, this impact is not considered so significant as to warrant refusal of the application.
- 9.35. A significant proportion of the existing rear garden space of North Cottage would be divided to form the new garden space for the new dwelling, however this area incorporates the existing garage building and it is considered that the remaining garden space for North Cottage would be sufficient outdoor amenity space for the property, and the living conditions of the occupiers would not be significantly harmed in this regard.
- 9.36. Overall, the proposed development complies with policy DM20 of the City Plan Part 2.

Sustainable Transport and Highways considerations

- 9.37. The site is located in close proximity to the Ovingdean Road / Longhill Road junction. There is an existing vehicle access to the garage which the development would utilise. The original drawings showed car parking for two vehicles in front of the new house. Initially, due to the proximity to the junction, and in the interest of road safety, the Transport Team requested the applicant demonstrate sufficient visibility splays for traffic approaching the site in either direction. However satisfactory visibility splays would not be able to be achieved without the loss of a significant proportion of flint front boundary wall. The loss of more of the front wall, from a heritage perspective, would not be supported.
- 9.38. Amended drawings have been submitted which restrict the parking to a single space for the new house. The development would therefore have the same amount off-street provision as the existing arrangement, however the existing house at North Cottage would not have access to an off-street car parking space (as the garage and associated driveway would be demolished to facilitate the proposal) . For this reason, the highway team have accepted that the development would have a comparable impact to the existing situation and therefore additional information regarding visibility splays is not required, and the situation regarding highway safety is unchanged. The loss of the existing parking space at North Cottage is the choice of the applicant. On street parking would not be suitable due to the narrowness of the lane, and creation of a new access and crossover to the serve the property would not likely be suitable for transport reasons and heritage harm due to loss of existing flint wall. North Cottage having no parking would remain compliant with policy.
- 9.39. There would be an increase in trips as a result of the proposed development, but this is unlikely to have a significant impact on the public highway. The Highway Team do acknowledge that there may be some parking overspill as a result of the proposed development, but this is unlikely to have a significant impact on the public highway.

- 9.40. Representations made on the application outline concerns regarding pedestrian movements for the site and this issue is also highlighted by the Transport Team. The pedestrian walking routes around the site are historic and there are no adjacent footways on this side of Ovingdean Road. The route on Ovingdean Road leading north towards the bus stop also has no footway. Given the scale of the development however it is not considered that addressing these matters would be a reasonable requirement for this development.
- 9.41. The application proposes a minimal widening of the existing flint wall and brick piers to allow easier vehicle entry. As the vehicle access would not cross a public footway a crossover licence would not be needed for the amendments in this instance.
- 9.42. In regard to cycle parking, SPD14 requires 1 space for the new dwelling. The revised drawing show facilities in the front curtilage however further detail is required by condition. In addition, the Transport Team note that secure cycle parking for the existing house would be lost by the demolition of the garage and this should be re-provided. This is noted, however there would be space within the front curtilage of North Cottage for this facility and it is not considered justifiable to insist on a designated cycle store for North Cottage in this instance.

Sustainability and Energy Efficiency

- 9.43. New residential development should meet the requirements of CPP1 Policy CP8 and CPP2 policy DM44. The amendments to Part L of the Building Regulations have introduced a requirement for new residential development to achieve a 31% reduction in CO2 emissions compared to previous standards, which supersedes the requirements for a minimum 19% reduction in CPP1 Policy CP8. The development would be required to use a Sustainable Drainage Strategy (SuDS) and this can be submitted for approval by way of a pre-commencement condition. CPP2 Policy DM44 requires newbuild residential to achieve a minimum Energy Performance Certificate (EPC) rating 'B', this can be secured by condition

Waste Management

- 9.44. Policy WMP3a of the Waste and Minerals Plan requires proposals for new development to identify the location and provision of facilities intended to allow for the efficient management of waste the location of bin stores and recycling facilities. The Transport Team have also commented on the need for this facility to be well positioned. Designated space is now show in the front curtilage of the property which is considered acceptable.

Ecology and Biodiversity

- 9.45. Policy CP10 of Brighton & Hove City Council's City Plan Part One states that all development proposals should conserve biodiversity, protecting it from the negative indirect effects of development; provide net gains for biodiversity wherever possible and contribute positively to ecosystem services, by minimising any negative impacts and seeking to improve the delivery of ecosystem services by a development.

- 9.46. Policy DM37 of the City Plan Part Two states that development proposals will be required to demonstrate that they safeguard and/or contribute positively to the existing multifunctional network of Green Infrastructure.
- 9.47. The application has been supplemented by a Biodiversity Net Gain (BNG) assessment and Biodiversity Metric. The Ecologist has reviewed the application and has not raised an objection to the scheme. The Ecology comments reference obligations under statutory BNG however it has been re-confirmed by the applicant that the development would be a self-build, and therefore statutory BNG would not apply. Notwithstanding this, the Ecologist has suggested an Ecological Design Strategy (EDS) for the site. This shall include provision of a bee brick, bird and bat boxes amongst other habitat enhancements. This is recommended to be secured by condition.

Archaeological Considerations

- 9.48. The site is within an Archaeological Notification Area. The applicant consulted with the Council Archaeological Team prior to the application being submitted (a copy of the correspondence has been submitted as part of the application). It has been established that works are unlikely to have an impact on Archaeological heritage assets.

Flooding and ground water considerations

- 9.49. Development in the Urban Fringe must consider impacts in relation to flooding and ground water supplies, and this is identified with policy SA4 and H2 as a key site consideration for the wider allocated site. However, this development is minor in scale and the footprint is mostly on previously developed land and hardstanding. It is not considered that the development site in this application has specific additional site constraints in relation to ground and surface water. It is considered that a SUDs condition and permeable surfaces condition is sufficient to protect against any ground and surface water concerns.

Other Matters Raised in Representations

- 9.50. In regard to the proposed development inhibiting access to the SDNP, the site is the existing private garden and garage of North Cottage. There appears to be an informal parking area immediately to the north of the site. The new development would border this land but not restrict access to the adjacent parking area, nor reduce the amount parking space available here. Access to the bridleway would not be impacted.
- 9.51. Some disruption through construction would be likely, but for a small scale development, it is not considered necessary to seek a Construction Environmental Management Plan (CEMP) in this instance. In addition, impact on property value is not a material consideration for this application, the impact on amenity has been fully assessed in the relevant sections of this report.
- 9.52. The Policy Team have suggested that a s106 legal agreement is required to ensure that the development is a genuine self-build for the purposes of BNG exemption. However, this is not standard practice, and a planning condition would be sufficient in this regard.

10. CONCLUSION

- 10.1. The proposal to form an additional unit on the site is accepted in principle and would accord with the policy requirements for the site. The design of the development is considered appropriate for the site and would not impact the visual amenity the South Downs Nation Park or the harm the character and appearance of the Ovingdean Conservation Area . The development would not cause significant harm to the residential amenity of neighbouring properties and the amended plans are considered satisfactory from a highway perspective. Approval is therefore recommended.

11. BIODIVERSITY NET GAIN

- 11.1. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because it would be a self-build development as defined under section 1(A1) of the Self-build and Custom Housebuilding Act 2015

12. EQUALITIES

- 12.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 12.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.
- 12.3. A condition to ensure Part M4(2) accessibility compliance is recommended.

13. COMMUNITY INFRASTRUCTURE LEVY

- 13.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The exact amount would be confirmed in the CIL liability notice

which would be issued as soon as it practicable after the issuing of planning permission, if granted

ITEM E

**31 Eldred Avenue
BH2025/02058
Full Planning**

DATE OF COMMITTEE: 5th August 2026

BH2025 02058 - 31 Eldred Avenue



**Brighton & Hove
City Council**



N

Scale: 1:1,250

<u>No:</u>	BH2025/02058	<u>Ward:</u>	Westdene & Hove Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	31 Eldred Avenue Brighton BN1 5EB		
<u>Proposal:</u>	Erection of four storey 3no bedroom dwelling (C3) adjacent to existing dwelling incorporating new vehicular crossover.		
<u>Officer:</u>	Steven Dover, tel: 01273 291380	<u>Valid Date:</u>	19.09.2025
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	14.11.2025
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	09.09.2026
<u>Agent:</u>	Claire Haigh Associates Ltd 9 Kenton Road Hove BN3 4PG		
<u>Applicant:</u>	Mr Stephen Bolton 31 Eldred Avenue Brighton BN1 5EB		

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	CH1301-007	B	14-Jul-26
Proposed Drawing	CH1301-008	B	14-Jul-26
Proposed Drawing	CH1301-009	C	14-Jul-26
Proposed Drawing	CH1301-010	A	14-Jul-26
Proposed Drawing	CH1301-006	B	11-Mar-26
Report/Statement	Preliminary Ecological Appraisal	002	27-May-26
Arboricultural Report	ARBORICULTURAL METHOD STATEMENT		15-Dec-25
Location and block plan	CH1301/001	A	18-Sep-25
Proposed Drawing	CH1301/005	A	18-Sep-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. Notwithstanding any details shown on the approved plans, no development above ground floor slab level of any part of the development hereby permitted

shall take place until details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

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

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

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

4. No extension, enlargement, alteration of the dwellinghouse(s) or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the dwellinghouse(s) as provided for within Schedule 2, Part 1, Class[es A - E] of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies DM18 and DM21 of Brighton & Hove City Plan Part 2, and CP12 of the Brighton & Hove City Plan Part One.

5. The dwelling hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans CH1301/006 B received on 11th March 2026. The internal layouts shall be retained as first implemented thereafter.

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

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

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

7. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with Policies DM18 and DM21 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
8. The development hereby permitted shall not be occupied until a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments shall has been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to occupation of the development and shall thereafter be retained at all times.
Reason: To enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies DM18, DM21, of Brighton & Hove City Plan Part 2, and CP12 of the Brighton & Hove City Plan Part One
9. The hard surface of the external landscaping shall be made of porous materials and retained thereafter, or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One and DM42 and DM43 of the Brighton & Hove City Plan Part Two and SPD16: Sustainable Drainage.
10. The development hereby permitted shall not be first occupied until the new/extended crossover and access has been constructed.
Reason: In the interests of highway safety and to comply with policies DM33 of Brighton & Hove City Plan Part 2, and CP9 of the Brighton & Hove City Plan Part One.
11. Other than demolition or works to trees, no development hereby permitted shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved details.
Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies DM42 and DM43 of the Brighton & Hove City Plan Part Two and CP11 of the Brighton & Hove City Plan Part One and SPD16: Sustainable Drainage.
12. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local

Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

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

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

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

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

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

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

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

15. 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.

16. The development hereby permitted shall not be occupied until the dwelling(s) hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control

body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy DM1 of Brighton & Hove City Plan Part 2.

17. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until the protection measures identified in the submitted Arboricultural Method Statement received on the 15th December 2025 are in place and retained throughout the construction process. The fences shall be erected in accordance with British Standard BS5837 (2012) 'Trees in Relation to Design, Demolition and Construction - Recommendations' and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

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

18. No development shall take place, including any site preparation works involving machinery, breaking of ground, demolition and vegetation clearance, until an updated survey for the presence of badgers (within the site and adjacent land within 30m where applicable) has been undertaken, in accordance with best practice, and submitted to and approved in writing by the local planning authority. Where the survey results indicate presence not previously considered/identified and/or that changes have occurred, that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: Badger sets have been identified adjacent to the site. To ensure surveys reflect the situation at the time on any given impact occurring to ensure adequate mitigation and compensation can be put in place and to comply with policy CP10 of the Brighton and Hove City Plan Part One.

19. All ecological measures and/or works should be carried out in accordance with the Preliminary Ecological Appraisal (Arun Ecology, 25/03/2026, Revision 002), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, to protect species and habitats from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, as amended and the

Conservation of Habitats and Species Regulations 2017, as amended and in accordance with CP10 of the Brighton and Hove City Plan Part One

20. No development shall take place until an Ecological Design Strategy (EDS) addressing ecological compensation and enhancement, has been submitted to and approved in writing by the local planning authority. Measures should be informed by and in broad accordance with the Preliminary Ecological Appraisal (PEA, Arun Ecology, 25/03/2026, Revision 002). The EDS shall include the following: extent and location / area of proposed works on appropriate scale maps and plans; type and source of materials to be used where appropriate, e.g. native species of local provenance; and details of any initial aftercare and long-term maintenance and monitoring/remedial measures, where applicable.

The EDS shall be implemented in accordance with the approved details.

Reason: To ensure provision of measures considered necessary to compensate for the loss of habitats and enhance the site to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 187 and 193 of the NPPF (December 2024) and policy CP10 of the Brighton and Hove City Plan Part One.

21. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
- a) identification of "biodiversity protection zones", including for protection of retained habitat and the adjacent Withdean and Westdene Woods Local Nature Reserve and associated species;
 - b) the times during construction when specialist ecologists need to be present on site to oversee works, including clearance of any habitat suitable for protected species where applicable;
 - c) responsible persons and lines of communication;
 - d) the role and responsibilities on site of an ecological clerk of works (ECow) or similarly competent person;
 - e) use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: To ensure that any adverse environmental impacts of development activities are mitigated in accordance with CP10 of the Brighton and Hove City Plan Part 1

22. Notwithstanding The Town and Country Planning (Use Classes) Order 1987 and The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting those orders with or without modification), the development shall not be constructed other than as self-build or custom build dwelling as defined under the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) and shall be occupied by the person/s implementing the planning approval as their sole or main residence for a period of 3 years from completion of the dwelling.

Reason: To maintain control of development and to ensure development proceeds in line with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) with regards to Biodiversity Net Gain.

23. The rooflights in the south roof slope 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.

24. The photovoltaic panels shown on the approved drawings shall be fully implemented prior to first occupation of the development and shall thereafter be retained and maintained as approved.

Reason: To ensure that the development incorporates appropriate sustainability enhancement measures in accordance with policy CP8 of the Brighton & Hove City Plan Part One and policy DM44 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. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act.
3. The applicant is reminded that all species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and The Conservation of Habitats and Species Regulations 2017, as amended, making them European Protected Species. Under the Regulations, it is an offence to: deliberately kill, injure, disturb or capture bats; damage or destroy their breeding sites and resting places (even when bats are not present); or possess, control of transport them (alive or dead). Under the Act, it is an offence to intentionally or recklessly: disturb bats while they occupy a structure or place used for shelter or protection; or obstruct access to a place of shelter or protection. Planning consent for a development does not provide a defence against prosecution under these Regulations or this Act.
4. The planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order

(TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Head of Asset and Network Management. The applicant is advised to contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.

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 occupied by a two-storey detached dwellinghouse on the western side of Eldred Avenue, opposite the junction to The Deneway. The topography of the site rises sharply from east to west, there is a more gentle incline on the street from south to north. This section of Eldred Avenue is characterised by two-storey properties which range in style, form and materials with some detached and some semi-detached. A sense of consistency on this side of Eldred Avenue comes from the building lines which are set back from, and sit above the highway. This gives the streetscene a verdant and spacious character.
- 2.2. The rear of the site borders the eastern end of Westdene Woods Local Nature Reserve (LNR) designated as Open Space within the Brighton & Hove City Plan Part One.

3. RELEVANT HISTORY

- 3.1. **PRE2024/00167** Extension to existing house and subdivision to provide additional dwelling and construction of a further detached dwelling to the side of the existing house. Advice issued 28.10.2024
- 3.2. **BH2023/02536** Erection of new house (C3) on land to rear of existing dwelling incorporating new vehicular crossover. Refused 28.03.2024 for the following reasons:
1. The dwellinghouse is considered unacceptable in appearance due to its form, siting, fenestration, and materiality resulting in it appearing as a dominant, discordant addition to the site and streetscene. It would fail to integrate successfully into its backland, sylvan setting framed by the border of the Westdene Woods Local Nature Reserve, presenting instead as a dark, square insertion into the terrain, lacking in diverse detailing and featuring irregular window placement. As such, it would be contrary to policies CP12 of the Brighton and Hove City Plan Part One, and DM18 of the Brighton & Hove City Plan Part Two, which together aim to secure high quality development that enhances the character of the built environment.
 2. The dwellinghouse, by reason of its scale, positioning, height, and the placement of fenestration, would have an unacceptable impact on the residential amenities of local residents by appearing overbearing from within the rear garden of no.31 Eldred Avenue, and causing loss of privacy within the rear gardens of nos.29 and 31 Eldred Avenue. As such, the development would be contrary to policy DM20 of the Brighton & Hove City Plan Part Two, which seeks to safeguard the amenities of local residents.
 3. Insufficient information has been submitted to demonstrate that the development would have an acceptable impact on ecology, including protected species, contrary to policies CP10 of the Brighton & Hove City Plan Part One, and DM37 of the Brighton & Hove City Plan Part Two.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the erection of four storey three-bedroom dwelling (C3) adjacent to the existing dwelling at 31 Eldred Avenue within the existing side garden of the existing property. The development would incorporate a new vehicular crossover and parking space in the front curtilage of the property and a rear garden
- 4.2. The application has been amended during the consideration process to address design concerns relating to the roof of the new building and the front and side dormers originally proposed have been omitted from the scheme. The scheme has also been reduced from a 4-bedroom house to a 3-bedroom house and changes have been made to the front curtilage of the new house. Further drawings were submitted to change the proposed materials for the site.

5. REPRESENTATIONS

- 5.1. **Twelve (12)** representations have been received objecting to the application for the following reasons:
- Traffic and highways
 - New driveway on dangerous junction and close to bus stop
 - The surrounding roads are overly parked, obstruction to vehicles
 - Poor design
 - Overshadowing and loss of light
 - Too close to boundary
 - Noise
 - Inappropriate height of development
 - Loss of trees and protection of retained trees doubtful
 - Over-development of the site
 - Impact through construction relating to assess, subsidence, damage to shared boundaries
 - Overlooking and loss of privacy
 - Out of character / visually intrusive
 - Loss of view
- 5.2. A copy of the representations can be found on the Planning Register

6. CONSULTATIONS

Internal:

- 6.1. **Arboriculture Team:** Verbal comments: No Objection
3 Trees and a cypress hedge to be removed. Mitigation landscaping is required and tree protection measures outlined in the Arboriculture Method Statement are required.
- 6.2. **Ecology:** No objection
Conditions are required to implement the measures of the updated Preliminary Ecology Assessment (PEA), a badger survey prior to commencement of development, and for an Ecology Design Strategy (EDS)
- 6.3. **Environmental Health:** No objection
A Noise assessment is required and planning conditions to manage cumulative exposure for future occupiers.
- 6.4. **Transport Team:** No objection
Further details required for cycle parking. New crossover, hard surfaces, and boundary treatment conditions area required.

External

- 6.5. **East Sussex Fire and Rescue:** No Comment
General information submitted regarding Fire Safety
- 6.6. 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 updates 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
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public Streets and Spaces
CP14	Housing density
CP16	Open Space
CP19	Housing mix

Brighton & Hove City Plan Part Two:

DM1	Housing Quality, Choice and Mix
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM22	Landscape Design and Trees
DM33	Safe, sustainable and active travel
DM36	Parking and servicing
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM42	Protecting the Water Environment
DM43	Sustainable Drainage
DM44	Energy Efficiency and Renewables

Waste & Minerals Plan Policy

WMP3e	Waste Management in New Development
WMP3d	Site Waste Management Plan

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SDP06	Trees and Development Sites
SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPD16	Sustainable Drainage
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations relating to the determination of this application are the principle of the proposed development, design and the impact upon the character and appearance of the surrounding streetscene, the impact on neighbouring residential amenity, the standard of accommodation proposed, and sustainability, biodiversity and highways implications.

Principle of the development

- 9.2. The provision of one dwelling to the side of the existing house would make a welcome contribution to the housing target.
- 9.3. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. The local housing need figure for Brighton & Hove using the standard method is 2,487 homes per year. A 20% buffer is then applied to this figure to reflect the most recent Housing Delivery Test measurement (published in December 2024) for the council being less than 85%.
- 9.4. The council's most recent housing land supply position is published in the SHLAA Update 2025 which shows a five-year housing supply shortfall of 10,442. This is equivalent to 1.5 years of housing supply.
- 9.5. As the council is currently unable to demonstrate a five-year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

Design and Streetscene considerations

Subdivision of the plot

- 9.6. This section of Eldred Avenue is a mix of semi-detached and detached two storey properties, and the plot widths vary accordingly. The application site is above average in terms of the width of the plot and has a larger than typical gap between the south elevation of the existing house, and the neighbour to the south at 29 Eldred Avenue. At pre-application stage, it was considered that the principal of subdividing the width of the plot at no.31 Eldred Avenue was acceptable as the resulting plot sizes would not appear out of character with the area and be commensurate with other plots in the locality.
- 9.7. Nevertheless, the narrower plots in the vicinity relate to semi-detached properties rather than detached properties and therefore a new detached house in a narrow plot would have a different relationship with its surroundings. This requires more careful design consideration as discussed below. In terms of density, policy CP14 states development will be permitted at higher densities than those typically found in the locality where the development exhibits good design, contributes to character and sense of place, and would be in a sustainable location. The development for one additional dwelling on this plot would be comparable with the general densities seen in this suburban area.
- 9.8. Overall however the width of the plot is not considered to be harmfully out of character with the surrounding area where plot widths are comparable, particularly to the north of the site.

Design and Appearance

- 9.9. The proposed site is a relatively prominent one, being located opposite the junction with The Deneway. The separation distance between the side elevation of the existing house and the new detached house would be approximately 1.3m. This does result in development in very close proximity at the southern end of the site, however this is partially mitigated by the ridge line of the house sitting below that of the existing building following the general slope of land levels.
- 9.10. The eaves of the new house would be very marginally higher than the main house, and whilst preference would be for this to be lower this variation would not be highly noticeable. Following the receipt of the amended plans during the application, the front and side dormers were removed which assisted in simplifying the form to allow the proposal to assimilate better. The proposed hipped front roof would follow the prevailing character of hipped roofs in the road and also serves to minimise and reduce the bulk of the property at roof level.
- 9.11. Whilst there is variation in the form of the design, due to the change in land levels within the street scene and the variation in property style and type, there is little consistency in gaps between properties and also the general position of fenestration on the front elevations these properties. For these reasons the minor variations in style, form and spacing of the proposal is considered to be acceptable.

- 9.12. Representations received in response to the application with regards to the design and proportions of the new dwelling are noted. Due to the width of the plot, the design of any new house in this location would be constrained by the need to balance the tight width of the site, and the need to ensure a front elevation which is in keeping with the street scene. Officers are content that the subdivision of the plot is acceptable, and it is also reasonable for the development to seek to stagger the ridge line with the heights of the properties either side; a lower height would appear awkward and incongruous. Nevertheless, because of the width of the plot, and the proposed height of the dwelling, this approach would undoubtedly give the front elevation of the property vertical proportions which, to some extent, contrast with the horizontal proportions of neighbouring houses in the immediate vicinity of the site. These vertical proportions are also exacerbated by the provision of a lower ground floor level for the new house.
- 9.13. Having regard to the discussion above, it is therefore acknowledged that the new house is towards the maximum acceptable for the site coverage and scale. Nevertheless, the application proposes a new family house in this location and taking into account the constraints of the site, on balance, it is considered that the design approach is acceptable in this instance.
- 9.14. Looking at the side and rear elevations of the development, these would be simple in form and appearance with no windows on the side elevations and large areas of render, designed in this manner to primarily reduce the potential for overlooking or perceived overlooking of the existing neighbours' properties. Due to the set back of the site from the main road and the proximity of neighbouring properties the visibility of the side elevations in the wider public realm is limited, and therefore the development proposal is considered an acceptable design. Rooflights on both side roof slopes are proposed and solar panels are proposed on the south facing roof slope. However, with the relatively close proximity of the new house with the building to the south, the southern roof slope would not be significantly dominant in the street scene and these installations are considered to be acceptable.
- 9.15. With regard to materials, it was expressed at pre-application stage that any new house should have finishes informed by the existing building. The initial drawings did not show this approach. Grey brickwork, grey fenestration and grey tiling with white render were originally proposed and it is acknowledged that these materials are becoming more popular in suburban locations where people wish to modernise their houses. Indeed, examples of these materials can be seen in other locations on Eldred Avenue and in the surrounding area, but they are not considered to be characteristic of the area. Given that the development would have proportions and elements of the design which are not wholly in character with the area, it is considered that materials should reference those prevailing in the immediate vicinity to help to anchor the development in the locality. Therefore, revised drawings showing a palette of earthy tones for the brickwork and tiling, and white window frames have been submitted which is more appropriate. The samples of the revised external materials proposed for the development shall be secured by condition.

Landscaping

- 9.16. As the land levels rise above that of the road, the front garden, and any side gardens contribute to an open feeling to the street scene. The development would result in a loss of soft landscaping and trees which currently form the side garden of 31 Eldred Avenue. The new house would include a single car parking space and a notable proportion of the front curtilage of the property would be paved to facilitate this. A dwarf front boundary wall would occupy the remainder of the front boundary with a landscaped area behind. In addition, the loss of trees and hedgerow to facilitate the development is regrettable. However, the Arboriculture Team have not objected to the development. An Arboriculture Method Statement (AMS) has been submitted showing how the retained trees can be protected, a condition is recommended to ensure such protection is provided during construction. A robust landscaping condition with compensatory planting can offer adequate mitigation and the street scene in the immediate vicinity of the site is relatively verdant, and appropriately mature replacement planting would be expected to compensate for the loss of trees. This is proposed to be secured by condition.
- 9.17. Overall, in terms of the design and appearance of the development, it is acknowledged that the plot is narrow, and the formation of new house in this location would give the site a developed appearance. However, it is considered that with the consistent building lines, and staggered ridge heights, the visual relationship between the new property and the adjacent properties is broadly acceptable. With careful consideration of landscaping and materials, it is considered that the impact on the wider streetscene would be acceptable. The development is considered on balance to be in accordance with the objectives of policies DM18 of the City Plan Part Two and CP12 and CP14 of the City Plan Part One which collectively aim to ensure development respects the character of areas and raise standards of design across the city.

Impact on Neighbouring Amenity

- 9.18. The proposed development would impact upon the amenities of residents of nos. 29, 31 and Eldred Avenue. The site would be developed by a significantly sized dwelling, rising close to the shared boundaries of site of both these dwellings.
- 9.19. With the separation distance between the side of 31 Eldred Avenue and the side elevation of the new house approximately 1.3 metres, the development represents a relatively tall development in very close proximity to the boundary. However, the building line of the new house, mirroring that of the host property would ensure that the principal outlook from this property would not be significantly impacted. There are side windows on 31 Eldred Avenue which would be shadowed by the development and have light levels restricted. However these windows are confirmed as secondary windows serving habitable rooms, which have primary windows to the front and/or rear elevations therefore no significant harm would be caused to the existing residents.
- 9.20. The new house would contribute to a sense of enclosure to the existing adjacent garden spaces but given that the scale of the dwelling and the

building lines are considered comparable, it is not considered that the property would be unduly overbearing on these spaces. And any additional overshadowing of garden spaces would only impact a small proportion of the garden.

- 9.21. In regard to impact on the property to the south, no.29 Eldred Avenue the separation gap would be approximately 2.8 metres to this property which is on slightly lower ground level to the application site. Again, habitable rooms in this property are not likely to be greatly impacted by the development, but given the front and rear building lines largely following through, the height of the construction, ground level change, and the proximity to the boundary it would result in a development which would reduce the view from side windows and garden spaces for this property, however the outlook is still considered acceptable in context with the main windows to the front and rear unaffected, and the majority of the rear garden. The general relationship between the new property and no.29 Eldred Avenue would not be unusual for a suburban location, and although some overshadowing of the side elevation and parts of the rear garden are anticipated early in the day, as the new dwelling is located to the north of No.29 Eldred Avenue no significant harm is expected.
- 9.22. In regard to overlooking and privacy of the two neighbouring properties, the new property would have rear facing windows, which would provide outlook over the adjoining gardens, however the overlooking of the rear garden spaces would not be significantly more than the mutual overlooking of garden spaces from existing first floor windows in 31 and 29 Eldred Avenue. Loss of privacy into habitable rooms are not an issue for this development. Two rooflights are proposed for each of the side roof slopes of the new house. By their nature, rooflights direct views skywards. On the south side roof slope these are shown to be obscured glazed. There is an existing roof level window on 29 Eldred Avenue and to protect from any loss of privacy obscured glazing can be secured by condition.
- 9.23. The proposed development is not anticipated to result in unacceptable noise nuisance for any existing residents. A general up lift in activity from an additional dwelling can be expected however it is not considered that the increased movements, or occupation of one additional dwellinghouse would result in a significant increase in noise and disturbance for adjoining occupants.
- 9.24. A significant proportion of the existing side and rear garden space of 31 Eldred Avenue would be divided to form the new garden space for the new dwelling, however it is considered that the remaining garden space retained for the main property would be sufficient and the living conditions of the occupiers would not be significantly harmed in this regard.
- 9.25. Overall, whilst the development would have an impact on the amenity of adjoining properties, the relationship between the new dwelling and the properties either side is considered acceptable and the development would not be overbearing or enclosing to an unacceptable degree.

Standard of Accommodation:

- 9.26. Policy DM20 of the CPP2 seeks to ensure a good standard of amenity for future occupiers of the proposed development and this requirement is one of the core planning principles of the NPPF. Indeed, the updated NPPF requires that all developments provide a 'high' standard of accommodation. This is reflected in Policy DM1 which also adopts the Nationally Described Space Standards (NDSS) for new dwellings.
- 9.27. The submitted information shows that the new residential unit would meet minimum standards in relation to the NDSS. The submitted plans show the property would have a Gross Internal Area (GIA) of approximately 186m² which would exceed the GIA required for a 3-bedroom, 5-person unit over 3 storeys, which is 99sqm. No standard GIA requirement is given for a 4-storey development as proposed, but as the proposal would be far in excess of the 108sqm requirement for a 3 storey development it is considered acceptable. The lower ground floor of the property would provide a gym/store and office. The ground floor would be an open plan kitchen and living space and ground floor WC and utility room, with access to the rear garden would be via bifold doors. The first floor would deliver 2 bedrooms both with ensuite shower rooms and the top floor would have one bed spaces and a bathroom.
- 9.28. The general layout would provide suitable natural light, ventilation and outlook to principal rooms in the new property. The first floor bedrooms would exceed the NDSS standard of 11.5sqm for a double bed space. The top floor would have sloping ceilings, given the development would be within the roof space, however, the room size is suitable for a single bedspace with over 7.5sqm of suitable height floorspace and a large amount of additional storage areas under 1.5m in height, with a total floorspace in excess of 18sqm. The proposed floor to ceiling clearances of the development would be suitable with the main areas all in excess of 2.3m in height.
- 9.29. Policy DM1 states that all new residential development will be required to provide useable private outdoor amenity space appropriate to the scale and character of the development. The new house would benefit from a rear garden which would meet these objectives as the rear amenity is considered proportionate to the size of the dwelling.
- 9.30. Policy DM40 of CPP2 addresses development and the environment, and relevant to this application is noise and disturbance to future residents. The Environmental Health Team have not objected to the development but comment on the need for a noise condition to protect future occupants from the risk of a noise nuisance. This request has not been fully explained. The application site is not considered particularly vulnerable to noise nuisance being adjacent to two residential houses. A condition relating to noise assessment requirements is not considered justifiable in this instance. Standard soundproofing would be provided through Building regulations.
- 9.31. Overall, the development would provide a good-sized unit which meets the NDSS and policy objectives of DM1, DM20 and no conflict with DM40 of the Brighton and Hove City Plan Part 2 has been identified.

Sustainable Transport and Highways considerations

- 9.32. Representations made on the application reference concerns around car parking on the highway and highway safety. The Transport Team have been consulted on the application and raise no objection the amended plans.
- 9.33. SPD14 states a maximum of 1 on-site car parking space for this development. The plans indicate space for 1 car, which complies with the maximum and is acceptable. The proposal includes the creation of a new vehicle crossover on Eldred Avenue. The Transport Team raise no objection to the construction of this crossover subject to the standard New Crossover condition, and this element of the scheme would also be subject to a vehicle crossover application, which is separate to the planning application process. The site is located in close proximity to the Eldred Avenue and Deneway junction however the Transport Team note that this location is a low-speed and low-traffic area and therefore there are no highway safety concerns.
- 9.34. SPD14 states a minimum of 2 cycle parking spaces for this development. The plans indicate cycle parking at the front of the house which is acceptable in principle subject to further details. Amended plans were received during the consideration process to better separate the vehicle and pedestrian access through the front curtilage of the property. The Transport Team raise no objection to the revised plan.
- 9.35. There would be an increase in trips as a result of the proposed development, but this is unlikely to have a significant impact on the public highway capacity. With the development providing the maximum parking for the site, it is not considered that displaced parking to surrounding roads would be a significant issue for this site. Although it is noted that on-street car parking in the area is at a relatively high level, and Transport Team are content that the development would not provide additional highway obstruction or a safety hazard. The site is served by a bus stop in close proximity and therefore accessible to sustainable transport options.
- 9.36. Lastly the Transport Team note that surface run off from the hardstanding to the highway would be unacceptable. An alternative provision for surface water would be required, and this can be secured by condition through a sustainable drainage condition.

Sustainability and Energy Efficiency

- 9.37. New residential development should meet the requirements of CPP1 Policy CP8 and CPP2 policy DM44. The amendments to Part L of the Building Regulations have introduced a requirement for new residential development to achieve a 31% reduction in CO2 emissions compared to previous standards, which supersedes the requirements for a minimum 19% reduction in CPP1 Policy CP8. The development would be required to use a Sustainable Drainage Strategy (SuDS) and this can be submitted for approval by way of a pre-commencement condition. CPP2 Policy DM44 requires newbuild residential to achieve a minimum Energy Performance Certificate (EPC) rating

'B', this can be secured by condition as can the standard water efficiency condition relating to new build development.

Waste Management

- 9.38. Policy WMP3a of the Waste and Minerals Plan requires proposals for new development to identify the location and provision of facilities intended to allow for the efficient management of waste the location of bin stores and recycling facilities. The Transport Team have also commented on the need for this facility to be well positioned. Designated space is shown in the front curtilage of the property which is considered acceptable.

Ecology, Trees and Biodiversity

- 9.39. Policy CP10 of Brighton & Hove City Council's City Plan Part One states that all development proposals should conserve biodiversity, protecting it from the negative indirect effects of development; provide net gains for biodiversity wherever possible and contribute positively to ecosystem services, by minimising any negative impacts and seeking to improve the delivery of ecosystem services by a development. Policy DM37 of the City Plan Part Two states that development proposals will be required to demonstrate that they safeguard and/or contribute positively to the existing multifunctional network of Green Infrastructure.
- 9.40. Plans show that the new dwelling would be within 30 metres from the boundary with the Withdean and Westdene Woods Local Nature Reserve (LNR). The LNR lies adjacent to the western and northern boundary of the site. Other than measures such as new boundary fencing and biodiversity enhancements, the garden adjacent to the LNR will largely be retained as existing. Studies have also identified a badger set within the LNR.
- 9.41. A Preliminary Ecological Appraisal (PEA, Arun Ecology, 25/3/2026 rev002), was undertaken. The site comprises an existing vegetated garden, the majority of which comprises short sward modified grassland, with additional flower beds and bushes. There is also a section of non-native ornamental hedgerow (H1) and various scattered trees. The PEA states that H1 and T3 (wild cherry) will be removed, however as noted above, the Arboriculture Method Statement states that two further trees (T1, silver birch and T2, purple leaved plum) would also be removed. The Arboriculture Team raise no objection to this. Representation on the application has been made concerning the protection of existing trees on site which are of high amenity value and shown to remain. The Arboriculture Team are content with the findings of the AMS and the protection method advocated to protect retained trees, subject to a condition requiring measures in place prior to development commencing.
- 9.42. The mitigation measures recommended in the PEA are supported by the Ecologist and should be implemented via condition. The PEA identifies low bat roost potential, and the PEA was updated to include precautionary works to reptiles (sensitive clearing of the site). The PEA states the one bat box, one bird box, 3 swift bricks and one bee brick is required. This meets current policy expectations under DM37 and can be secured under the PEA implementation condition. In addition, the Ecologist has recommended that protection barriers

should be implemented during works, to ensure that areas outside of the construction footprint and adjacent to the LNR are adequately protected (including from storage, vehicle tracking etc.) This should be confirmed within a wider Construction and Environmental Management Plan (CEMP) for biodiversity.

- 9.43. The application contains a Biodiversity Net Gain (BNG) assessment and Biodiversity Metric. It was confirmed later in the consideration process that the development would be a self-build, and therefore statutory BNG would not apply. Notwithstanding this, the obligations of the applicant for habitat enhancement, and measures for protected species are still required. Ecologist has suggested an Ecological Design Strategy (EDS) for the implementation of measures site wide.

Other Matters Raised in Representations

- 9.44. Matters relating to the impact of the construction of the development on neighbouring occupiers, including noise and access are not determining issues for this type of development. Although the Environmental Health Team have referenced a Construction and Environmental Management (CEMP) in their consultation response, the scale of the development is minor, without large demolition and site is not considered particularly sensitive in terms of access. A CEMP for biodiversity only has been included as a condition to the development.
- 9.45. Considerations in relation to subsidence or property damage are not material planning considerations to be considered under this planning application and are private civil matters, however the development would be required to meet building regulations and would have to meet the requirements of the Party Wall Act, (a private agreement between affected parties).
- 9.46. Loss of view is not a material planning consideration, however the impact of the works on outlook has been fully assessed. The impact of the development on residential amenity has been fully assessed in the relevant section of this report.

10. CONCLUSION

- 10.1. The proposal to form an additional unit on the site is accepted in principle and would deliver a much-needed family home in a sustainable location. The design of the development is considered on balance to be acceptable and would not result in significant harm to the character and appearance of the site, or wider street scene. The development would not cause significant harm to the residential amenity of neighbouring properties, and the amended plans are considered satisfactory from a highway perspective. Planning conditions can secure the relevant standards in terms of accommodation, biodiversity, energy and water are met. Approval is therefore recommended.

11. BIODIVERSITY NET GAIN

- 11.1. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because it has been identified as self-build or custom build dwelling as defined under the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016).

12. EQUALITIES

- 12.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 12.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.
- 12.3. A condition to ensure Part M4(2) accessibility compliance is recommended.

13. COMMUNITY INFRASTRUCTURE LEVY

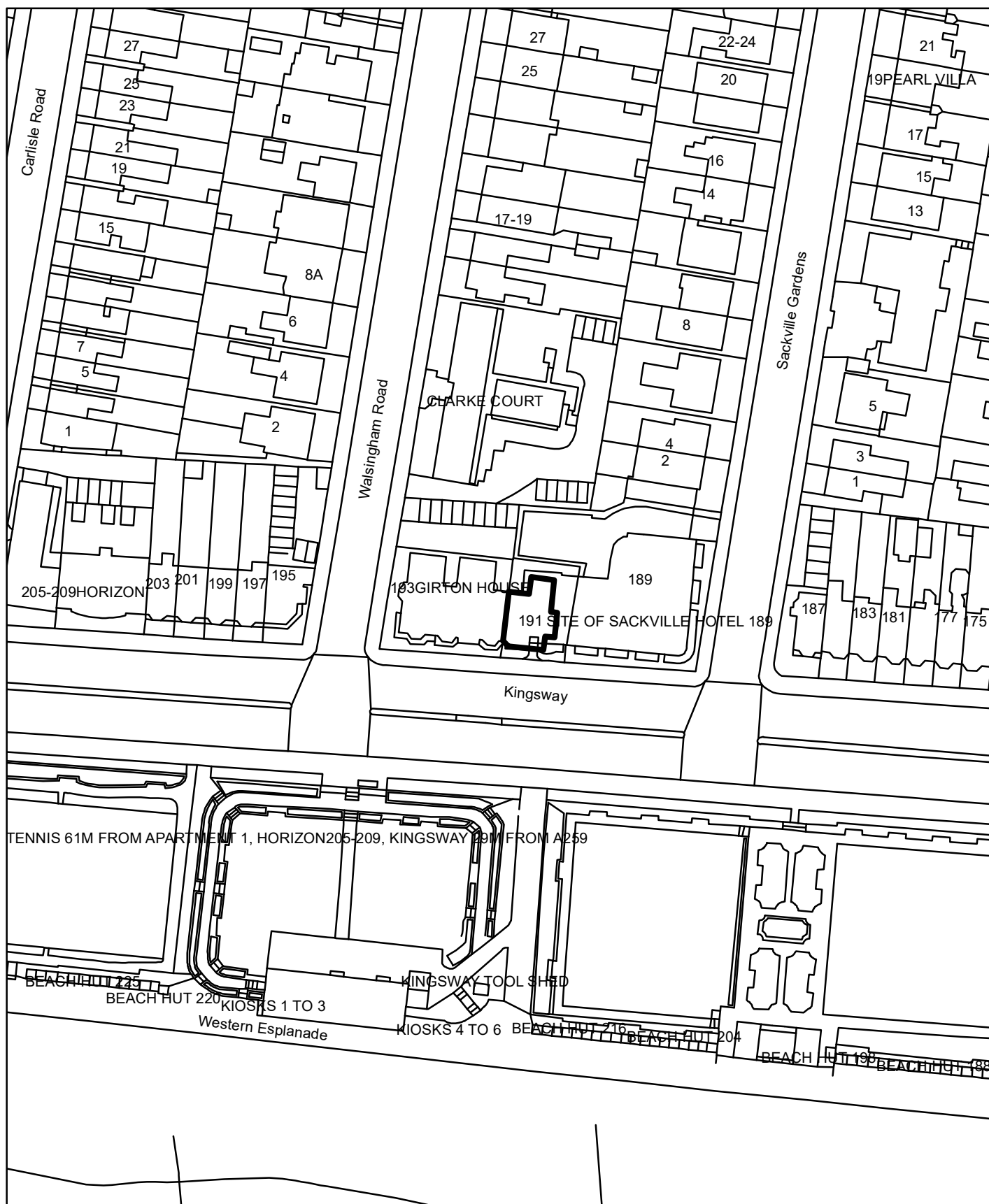
- 13.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The exact amount would be confirmed in the CIL liability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

ITEM F

**Flat 9, 191 Kingsway
BH2026/01213
Full Planning**

DATE OF COMMITTEE: 5th August 2026

BH2026 01213 - Flat 9, 191 Kingsway



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2026/01213	<u>Ward:</u>	Westbourne & Poets' Corner Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Flat 9 191 Kingsway Hove BN3 4FB		
<u>Proposal:</u>	Alterations to the existing balcony balustrade and addition of three retractable awnings to existing sliding doors to balcony.		
<u>Officer:</u>	Charlotte Tovey, tel: 202138	<u>Valid Date:</u>	18.05.2026
<u>Con Area:</u>		<u>Expiry Date:</u>	13.07.2026
<u>Listed Building Grade:</u>		<u>EOT:</u>	07.08.2026
<u>Agent:</u>	Stickland Wright Ltd Stickland Wright Ltd 23 Vine Street Brighton BN1 4AG		
<u>Applicant:</u>	Mr Andrew Peck Flat 9 191 Kingsway Hove BN3 4FB		

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	005 B		21-Jul-26
Location and block plan	001 B		18-May-26
Proposed Drawing	006 B		21-Jul-26
Proposed Drawing	007 B		21-Jul-26

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. Unless otherwise shown on the drawings hereby approved, the external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.

Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies DM18, DM21, DM26 of City Plan Part Two and CP12, CP15 of City Plan Part One

Informatives:

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

2. SITE LOCATION

- 2.1. The application site relates to a five storey plus basement block of 9 flats located at 191 Kingsway on the seafront road between Walsingham Road and Sackville Gardens. The building is a relatively new addition to the Sackville Gardens Conservation Area constructed in 2016.
- 2.2. The building is of contemporary design with rendered elevations and dark grey aluminium fenestration. Two sets of semi-circular balconies are a design feature of the front elevation with a curved front bay to the penthouse at roof level.
- 2.3. The application relates to Flat 9, the penthouse flat.

3. RELEVANT HISTORY

- 3.1. **PRE2024/00221** Flat 9, 191 Kingsway - Pre application advice was sought seeking clarification on the acceptability of new awnings and glass balustrade - Following a site visit, officers advised the applicant that the principle of fitting awnings above the existing doors would have an acceptable impact on the appearance of the building and Conservation Area.
- 3.2. **BH2015/03105** Application for variation of condition 2 of application BH2014/00703 (variation of condition 2 of application BH2011/03956) (Original permission for Demolition of existing building and construction of nine residential flats) to permit amendments to the approved drawings including roof alterations and omission of Juliet balconies on North elevation. Approved
- 3.3. **BH2015/01140** Application for variation of condition 2 of application BH2014/00703 (Variation of condition 2 of application BH2011/03956) (Original permission for Demolition of existing building and construction of nine residential flats) to permit amendments to the approved drawings for roof alterations. Refused as detrimentally increased the height of the building
- 3.4. **BH2014/02500** Application for Approval of Details Reserved by Conditions 3, 5 and 6 of application BH2014/00703. Approved
- 3.5. **BH2014/00703** Application for variation of condition 2 of application BH2011/03956 (Demolition of existing building and construction of nine residential flats) to permit amendments to the approved drawings to vary South and North elevations and roof layout. Approved

- 3.6. **BH2011/03956** Demolition of existing building and construction of nine residential flats. Refused by the LPA, Allowed at Appeal

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for alterations to the existing balcony balustrade and awnings at penthouse level at the above site. The application proposal is to replace the existing balustrade with a clear glass balustrade of 13.5mmm toughened glass and the addition of three retractable awnings to the existing sliding doors to the balcony. The awnings are proposed to be powder coated aluminium frames in a light cream colour to match the building. The awnings are also proposed to be in light cream to match the existing building also. No other alterations are proposed.

5. REPRESENTATIONS

- 5.1. In response to publicity, responses were received from eight (8) individuals, objecting to the application and raising the following issues:
- Adversely affects Conservation Area
 - Detrimental affect on property value
 - Poor design
 - Unsafe in high winds
- 5.2. In addition we have received three (3) comments of support raising the following points:
- Good design
 - Modest and reasonable alterations for the needs of the occupiers
 - Cause no harm to the Conservation Area
- 5.3. In addition we have also received one (1) response from an individual commenting on the application raising the following points:
- Considers there is a restriction of allowing awnings in the sea frontage due to the impact of heavy winds, which could damage the building.
 - Could be damage to adjoining properties and possible damage at street level and harm pedestrians.
- 5.4. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

External:

- 6.1. **CAG: Refuse**
The replacement of the original balustrade with frameless glass panels would be regrettable and unnecessary.

- 6.2. The original brackets and pillars and horizontal steel elements are repeated on each of the five levels of the façade and make an important contribution to the character of the building. This pattern should not be disrupted.
- 6.3. The awnings are acceptable but should not project beyond the parapet when extended.
- 6.4. **Heritage: No objection**
The proposed replacement of the existing balustrade with a frameless clear glass design is not considered to be out of keeping with the building. The proposal is considered to preserve the character and appearance of the Conservation Area. With regards to the NPPF, no harm is caused to the significance of the heritage asset.
- 6.5. In addition, the proposed retractable awnings would be positioned above the existing sliding doors, which are set back from the building facade and would match the buildings colour. Therefore, they are also not expected to have any adverse visual impact.
- 6.6. 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; 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
CP12	Urban design
CP15	Heritage

Brighton & Hove City Plan Part Two:

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

Supplementary Planning Documents:

SPD09	Architectural Features
SPD12	Design Guide for Extensions and Alterations
SPD17	Urban Design Framework

Sackville Gardens Conservation Area

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main consideration of the proposed development relates to design and appearance, the impact of the development on the special character of the Conservation Area and the impact to neighbouring amenity.
- 9.2. Consideration should also be given to the comments of the allowed appeal of the refused initial planning application to BH2011/03956 in regards to the buildings design and the impact of the development to the special character of the Sackville Gardens Conservation Area.
- 9.3. 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.
- 9.4. Case law has held that the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".

Design and Appearance and Impact on Heritage Assets

- 9.5. The site is on Hove seafront and the building is a recent addition to the Conservation Area, built in 2016 and with a contemporary design.
- 9.6. The allowed appeal of the initial redevelopment of no. 191 Kingsway (BH2011/03956) comments on the buildings design and impact on the Sackville Gardens Conservation Area.
- 9.7. The inspectorate comments on the location:
"Kingsway is characterised by residential blocks of varying styles, width and heights. As the streets were development in a fairly piecemeal way, one of the features of the area is its architectural variety."
- 9.8. And on the design of the new building:
"Although described as a modern take on an art deco aesthetic, that it not an architectural style that is particularly noted in the Sackville Gardens Conservation Area Character Statement as being prevalent in the area. In any

event, the Art Deco references appear to have amounted to little more than the use of motifs on the balustrades, detailing on the front and a curved stepped access and the design was subsequently revised to remove some of the unnecessary detail."

"There is a simple formal design approach to the front elevation with a central curved stepped access, a curved canopy above with hanging balconies to each side and a curved front bay at the penthouse. The semi circular central element, deep eaves to the flanking sections and parapet give interest to the roofline.

"The Conservation Area is characterised by its architectural variety and I am satisfied that the appeal proposal represents an appropriate design standard that would have a positive impact on the character and appearance of the Conservation Area"

- 9.9. Concerns have been raised during consultation that the proposed alterations to the top floor balustrade and addition of 3 awnings above the existing windows would be of poor design, cause harm to the buildings appearance, interrupt its cohesive design and would cause harm to the Conservation Area.
- 9.10. The existing balustrade has a slightly narrower railing profile in the glass when compared with the other balconies below. The proposal would replace the balustrade with a clear glass frameless design, fixed to the inside face of the rendered upstand.
- 9.11. Taking into account the comments on the inspectorate, it is clear that Kingsway seafront is characterised by taller buildings that vary in their design and architectural features. As the inspectorate has commented, the art deco features are not prevailing to the largely Victorian and Edwardian design of Sackville Gardens Conservation Area, and as such are not considered essential to be retained in the buildings design and appearance.
- 9.12. Whilst an overall cohesive appearance of the building and material palette to the front elevation is important in achieving good quality design, it is common to see small variations in the design of architectural features of penthouse flats. Whilst the glass balustrade will be seamless and have no steel railings or horizontal detailing, the replacement balustrade would remain simple in form and acceptable in appearance. If the alteration were proposed to a different storey on the front elevation or to a singular balcony on one side of the building, this would likely jar somewhat visually and appear out of keeping.
- 9.13. Given the height of the building and storey it relates to, the alteration is overall considered to be a minor amendment that would be acceptable in appearance and not cause harm to the appearance of the building to warrant refusal.
- 9.14. CAG (Conservation Advisory Group) have raised concerns to the proposed seamless glass balustrade that it would cause harm to the character of the building. As noted above the inspectorate did not weigh the art deco design of the building to contribute to the prevailing Victorian and Edwardian character of

the conservation area in the previous appeal the character of the building should be viewed as one that is contemporary.

- 9.15. Overall it is considered that the replacement balustrade would cause no harm to the appearance of the building nor harm to the special character of the Conservation Area and would be in accordance with policies set out above.
- 9.16. The three awnings proposed to be fitted above the existing windows would add a new feature to the buildings front elevation. The balcony and facade they are being fixed to is set back from the buildings frontage and is proposed to match the colour of the building. The awnings would not exceed the balustrade nor the depth of the adjoining buildings balcony and would be adequately set back from the replaced balustrade. Due to the height of the building, this set back position and their matching colour it is not considered that the development would cause demonstrable harm to the buildings appearance. Whilst the amendments will be visible to the public realm from the seafront opposite (and in some longer views) the proposal would be a simple modern addition to a modern building and would not unduly draw the eye.
- 9.17. It was also noted on the site visit that the Victorian terrace to the east of the site on Kingsway at the junction of Sackville Gardens has recessed balconies with fixed canopies above at first floor level. Therefore in the wider street scene the awnings would not appear incongruous.
- 9.18. In consideration of all the above the amendments to the existing balustrade and installation of the awnings are not considered to cause harm to the appearance of the building and would not harm the special character of the Sackville Gardens Conservation Area or cause harm to the wider street scene. The proposal would therefore accord with policies DM18, DM21 and DM26 of City Plan Part Two and CP12 and CP15 of City Plan Part One.

Standard of Accommodation

- 9.19. The flats below the application site, have recessed balconies which provide some form of natural shade to one another. The design of the penthouses glazing to either side of the central semi-circular roof design have no overhang which would provide little shade due to the front elevation being south facing.
- 9.20. The awnings proposed would enhance the viable use of the roof terrace in the summer months providing some natural shade for the occupiers.
- 9.21. This would provide a better standard of accommodation and align with the principles of policy DM1 of City Plan Part Two.

Impact on Amenity

- 9.22. Policy DM20 of the Brighton & Hove City Plan Part Two seeks to ensure that development does not cause unacceptable harm to the amenities of existing occupiers through overlooking, overshadowing, loss of outlook, overbearing impacts or noise disturbance.

- 9.23. No harm has been identified in regards to amenity from the proposed alterations. The site is south facing and the awnings proposed are adequately set away from the adjoining neighbours and front balustrade, set within the roof terrace. The height and material finish of the balustrade would be the same as existing, glass for glass and would not create any new views.
- 9.24. Overall the alterations are considered to be in accordance with policy DM20 of City Plan Part Two.

Biodiversity

- 9.25. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because it does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat.
- 9.26. The proposal would accord with policy DM37 of City Plan Part Two and CP10 of City Plan Part One.

Other Matters

- 9.27. Concerns have been raised that the fitment of awnings would be prohibited in the terms of the leasehold agreement and could cause a hazard to the safety of local residents and pedestrians in high winds. Whilst this is noted, any planning decision would not supersede this requirement to satisfy the conditions of the legal agreement with the other leaseholders/ freeholders which is a civil matter. Homeowners are ultimately responsible for any damage, public safety hazards, or public highway obstructions caused by flying debris. It would be prudent for the homeowner of the flat to ensure the awnings are not used in windy conditions to avoid causing damage.
- 9.28. Comments have been raised on the safety of the existing balustrade. In the absence of any structural report we cannot consider this as the case. The safety of visitors to the flat including young children is the responsibility of the parent and owner. The existing balustrade appears to be in a good condition, the height meets building regulations and is not considered to be a safety concern.
- 9.29. Concerns have been raised that the incorrect application has been submitted by the agent. This has been rectified and updated certificate B has been received and noticed served on all leaseholders within the building.
- 9.30. A site visit has been conducted to make an informed decision in addition to the plans submitted.

Conclusion

- 9.31. Subject to compliance with the attached condition requiring that the colour of awning fitted matches the colour of the building, the proposed alterations to the front elevation are not considered to cause harm to the buildings appearance or harm the special character of the Sackville Gardens Conservation Area. The proposed alterations would not cause harm to neighbouring amenity nor considered to cause a hazard to public safety. The development is therefore recommended for approval.

10. EQUALITIES

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

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

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

NEW APPEALS RECEIVED BETWEEN
04/06/2026 - 01/07/2026

Ward	Regency
Appeal Ref	APL2026/00031
Appeal App Number	BH2026/00119
Address	10 Windlesham Road Brighton BN1 3AG
Development Description	Alterations to existing 10no person house in multiple occupation (Sui Generis) with erection of single storey rear extensions and conversion of garage to habitable space, with creation of managers accommodation studio and 1no self-contained studio (C3), resulting in 10 residents plus onsite manager (part retrospective).
Application Status	APPEAL IN PROGRESS
Appeal Received Date	05/06/2026
Application Decision Level	Delegated

Ward	Round Hill
Appeal Ref	APL2026/00032
Appeal App Number	BH2026/00144
Address	16 And 16A Richmond Road Brighton BN2 3RN
Development Description	Replacement windows in lower ground, ground and first floor bays.
Application Status	APPEAL IN PROGRESS
Appeal Received Date	30/06/2026
Application Decision Level	Delegated

APPEAL DECISIONS FOR THE PERIOD BETWEEN
17/06/2026 - 21/07/2026

Wardname Goldsmid
Appeal Application Number APL2026/00007
Address Pavement Outside
100 Goldstone Villas
Hove
BN3 3RU
Development Description Removal of existing public payphone box and installation of 1no communication street hub unit.
Appeal Type Against Refusal
Appeal Decision Appeal Dismissed
Planning Application Number BH2025/02371
Application Decision Level Delegated

Wardname Goldsmid
Appeal Application Number APL2026/00009
Address Pavement Outside
100 Goldstone Villas
Hove
BN3 3RU
Development Description Display of internally illuminated digital LCD screen to both sides of freestanding street hub unit.
Appeal Type Against Refusal
Appeal Decision Appeal Dismissed
Planning Application Number BH2025/02372
Application Decision Level Delegated

Wardname Goldsmid
Appeal Application Number APL2026/00020
Address First Floor Front Flat C
56 Cromwell Road
Hove
BN3 3ES
Development Description Replacement of timber windows and door to balcony with UPVC units at front of the property on the first floor. (Retrospective).
Appeal Type Against Refusal
Appeal Decision Appeal Dismissed
Planning Application Number BH2025/02215

Application Decision Level Delegated

Wardname Hanover & Elm Grove
Appeal Application Number APL2026/00017
Address 44A Southover Street
Brighton
BN2 9UE

Development Description Installation of roof terrace to first floor.
Appeal Type Against Refusal
Appeal Decision Appeal Dismissed
Planning Application Number BH2025/01788
Application Decision Level Delegated

Wardname Moulsecoomb & Bevendean
Appeal Application Number APL2026/00015
Address Land To The Rear Of 99 The Highway
Brighton
BN2 4GD
Development Description Extension and conversion of garage into a dwellinghouse (C3), and associated alterations.
Appeal Type Against Refusal
Appeal Decision Appeal Dismissed
Planning Application Number BH2025/01949
Application Decision Level Delegated

Wardname North Portslade
Appeal Application Number APL2026/00024
Address 1 Hillbank Close
Portslade
BN41 2WE
Development Description Erection of three-storey detached dwellinghouse (C3) to rear of existing dwelling. Associated landscaping, parking and new vehicle crossover to Mile Oak Road.
Appeal Type Against Refusal
Appeal Decision Appeal Dismissed
Planning Application Number BH2025/02475
Application Decision Level Delegated

Wardname Patcham & Hollingbury
Appeal Application Number APL2026/00021
Address 1 Ridgeside Avenue
Brighton
BN1 8WD

Development Description Change of use from 5no bedroom dwellinghouse (Use Class C3) to 7no double bedroom, 14no person house in multiple occupation (Sui-Generis) with single storey infill extension to front.

Appeal Type Against Refusal
Appeal Decision Appeal Dismissed
Planning Application Number BH2025/02433
Application Decision Level Delegated

Wardname West Hill & North Laine
Appeal Application Number APL2026/00022
Address 42 Tidy Street
Brighton
BN1 4EL

Development Description Change of use from private dwelling (C3) to flexible use as holiday let/private dwelling (Sui Generis/C3) (retrospective).

Appeal Type Against Refusal
Appeal Decision Appeal Dismissed
Planning Application Number BH2025/03000
Application Decision Level Delegated
