

<u>No:</u>	BH2016/00320	<u>Ward:</u>	Rottingdean Coastal Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	67 Falmer Road, Rottingdean, Brighton, BN2 7FJ (67 Falmer Road Brighton)		
<u>Proposal:</u>	Demolition of existing house and garage and erection of 4no four bedroom and 5no three bedroom houses (C3).		
<u>Officer:</u>	Chris Swain, tel: 292178	<u>Valid Date:</u>	16.02.2016
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	12.04.2016
		<u>EoT/PPA Date</u>	
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Turner Associates 19a Wilbury Avenue, Hove, BN3 6HS		
<u>Applicant:</u>	Denton Homes Ltd Mr Craig Lee Commercial House, 52 Perrymount Road, Haywards Heath, West Sussex, RH16 3DT		

This application has to be reconsidered as the applicant has not agreed to the additional Head of Terms requiring a review mechanism of the affordable housing contribution as the Planning Committee resolved to include in the Section 106 Agreement at the 11 January Meeting. Further details are set out in Paragraphs 8.31 to 8.38.

1. RECOMMENDATION

1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement and the following Conditions and Informatives:

1.2 S106 Heads Of Terms

- A Transport Contribution of £12,000 to be allocated towards footway improvements on Falmer Road in the vicinity of the site, including, but not limited to, the junctions with New Barn Road and Court Farm Road and/or bus stop accessibility improvements at stops to the south of the development site,
- A Residential Travel Plan to promote sustainable transport to and from the site,
- An affordable housing contribution of £30,000 in the event the Ground Investigation Report concludes that piling is not required as part of the Development.

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
Streetscene elevation proposed	TA943/P24	A	22 April 2016
Block Plan	TA943/P10	C	22 April 2016
Sections Proposed	TA943/P23	A	22 April 2016
Site Layout Plan	TA943/P12	D	22 April 2016
Floor Plans Proposed	TA943/P13		29 January 2016
Floor Plans Proposed	TA943/P14	A	29 January 2016
Floor Plans Proposed	TA943/P15		29 January 2016
Elevations Proposed	TA943/P16		29 January 2016
Elevations Proposed	TA943/P17	A	29 January 2016
Elevations Proposed	TA943/P18		29 January 2016
Sections Proposed	TA943/P19	A	22 April 2016
Sections Proposed	TA943/P20	A	22 April 2016
Elevations Proposed	TA943/P21	A	22 April 2016
Elevations Proposed	TA943/P22	A	22 April 2016
Location Plan	TA943/PO1		29 January 2016
Site Layout Plan	TA943/P11	D	22 April 2016

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

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

3. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings and hard surfaced areas hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton and Hove City Plan Part One.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement, alteration or provision within the curtilage of the dwellings, as provided for within Schedule 2, Part 1, Classes A-E, other than those expressly authorised by this permission, shall be carried out within the curtilage of any dwelling house.

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 policy QD14 and QD27 of the Brighton & Hove Local Plan.

- 5 The development hereby approved shall be carried out in accordance with the conclusions and recommendations set out in the Ecology Report, produced by Applied Ecology and dated 21 January 2016 (received 29 January 2016).
Reason: To mitigate any impact from the development hereby approved and to comply with Policy CP10 of the Brighton and Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
- 6 The parking areas shown on the approved plans shall be completed prior to the first occupation of the development and retained for that use for the occupants and visitors of the development thereafter.
Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton and Hove City Plan Part One.
- 7 Notwithstanding details on the approved plans, prior to first occupation of the development hereby approved, details of disabled parking, for the occupants and visitors of the development, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented and available for use prior to the first occupation of the development and shall thereafter be retained for that use.
Reason: To ensure the development provides for the needs of disabled occupants and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPD14 guidance.
- 8 No development shall commence until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydro-geological context of the development has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the maintenance and management of such a scheme. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed and thereafter maintained and managed in accordance with it.
Reason: As this matter is fundamental to ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.
- 9 Notwithstanding details on the approved plans, prior to first occupation of the development hereby approved, details of secure cycle parking facilities for the occupants and visitors of the development shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented and available for use prior to the first occupation of the development and shall thereafter be retained for that use.
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 TR14 of the Brighton & Hove Local Plan.
- 10 All tree work shall be carried out in accordance with the British Standard 3998 (2010) Recommendations for Tree Work.
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 comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

- 11 All the trees and hedges shown on the approved plans as "to be retained" and/or any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the Local Planning Authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.
[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]
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 comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
- 12 The dwellings hereby approved shall be completed in accordance with the Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to the 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 building control body to check compliance.
Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
- 13 None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.
- 14 None of the residential units hereby approved shall be occupied until each residential unit has achieved a water efficiency standard using not more than 11litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
- 15 No development shall take place until detailed drawings of the site's access road and footway to include junction treatment, dropped kerbs, tactile paving and street lighting, has been submitted to and approved in writing by the Local Planning Authority. The works shall be designed to as near adoptable standards as is possible and be implemented in accordance with the details approved prior to the first occupation of the development and retained as approved thereafter.

Reason: As this matter is fundamental to ensure highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

- 16 The amended crossover and access shall be constructed prior to the first occupation of the development hereby permitted.

Reason: In the interests of highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

- 17 No development shall commence until full details of existing and proposed ground levels (referenced by Ordinance Datum) with the site and on land and buildings adjoining the site by means of spot heights and cross sections showing the proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved levels 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 policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

- 18 Prior to the first occupation of the development hereby approved, a detailed plan showing the position, 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 prior to the first occupation of the development as approved and retained in such a condition thereafter.

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 QD15 and QD27 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

- 19 Prior to the first occupation of the dwellings hereby permitted, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include: planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants (noting numbers, densities and implementation programme and extensive replacement tree planting. It shall also include a scheme to enhance the nature conservation interest of the site, to accord with the standards described in Annex 7 of Supplementary Planning Document 11: Nature Conservation and Development.

The landscaping scheme shall be carried out strictly in accordance with the agreed details and shall be carried out within the first planting season after the first occupation of the development. The landscaping shall be maintained to the satisfaction of the Local Planning Authority for a period of 5 years after planting, such maintenance to include the replacement of any trees and shrubs that die or have otherwise become, in the opinion of the Local Planning Authority,

seriously damaged or defective. Such replacements to be of a similar species and size as those originally planted.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One and SPD11: Nature Conservation and Development.

- 20 Prior to the first occupation of the development hereby permitted, full details of the acoustic fence to be located along the boundary of the access road and 71 Falmer Road, shall be submitted to and approved in writing by the Local Planning Authority. The fence, as approved, shall be constructed prior to the first occupation of the development and retained as approved thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

- 21 The development hereby approved shall not be first occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. They shall be retained as approved and for that use thereafter.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan.

- 22 The development hereby permitted shall not be commenced until details of electric vehicle charging points for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason: To encourage travel by more sustainable means and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14.

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 planning permission granted includes works which require 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 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 highway works are required to be constructed under licence from the Head of Asset and Network Management. The applicant must contact the Streetworks Team (01273 293 366) prior to any works commencing on the public highway.

- 3 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 must contact the Streetworks Team (01273 293 366) prior to any works commencing on the public highway.
- 4 The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
- 5 The water efficiency standard required under condition 14 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 advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website (www.communities.gov.uk).

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to a property located on the western side of Falmer Road, between the junctions with Court Ord Road and Court Farm Road.
- 2.2 The existing 2 storey pitched roofed (part brick part rendered) dwelling, which comprises a large L-shaped garden, is set back from Falmer road by approximately 15m. A detached garage is located to the north-east of the dwellinghouse.
- 2.3 A boundary of the South Downs National Park is located on the eastern side of Falmer Road, approximately 8.6m from the front boundary of the application site.

- 2.4 Planning permission is sought for the demolition of one detached dwelling and garage and the erection of 4no four bedroom and 5no three bedroom dwellings.
- 2.5 The application proposes revisions to the approved scheme BH2015/02049. These alterations have been set out below:
- Plots 5-9 have been reduced in height by 400mm, omitting the second floor loft accommodation. These 5 dwellings will now comprise 3 bedrooms rather than 4.
 - Plots 5-8 at the rear have been relocated 1.4m to the east.
 - Site boundaries have been revised with the proposed development now set 200mm closer to the southern side boundary.

3. RELEVANT HISTORY

BH2015/02049 - Demolition of existing house and garage and erection of 9 no. four bedroom houses. Refused on 1 December 2015 for the following reasons;

1. The proposed development by reason of its design is out of keeping with the prevailing character of the area and does not emphasise its positive characteristics in terms of prevailing density, height, scale, bulk and relationship to adjoining dwellings contrary to policies QD1, QD2, QD3 and HO4 of the Brighton & Hove Local Plan 2005.
2. The proposed development by reason of its height and proximity to no. 6 Court Ord Road would result in an unneighbourly development contrary to policy QD27 of the Brighton & Hove Local Plan 2005. Planning permission was granted at appeal **APP/Q1445/W/16/3142069** on 17 November 2016.

BH2001/02258/FP - Replacement conservatory and alterations to porch to side and rear of the property. Approved 30/10/2001.

BH2000/00327/FP - Erection of single storey addition and first floor extension with balcony. Approved 14/03/2000.

4. REPRESENTATIONS

- 4.1 **Neighbours:** 32 representations have been received from **4, 6, 12, 17, 19, 21, 25 Court Ord Road, 29 Eley Crescent, 15, 16, 34, 45, 67, 69 Eley Drive, 5, 17, 40 Elvin Crescent, 61, 63, 71 Falmer Road, 3 Court Ord Cottages, 63 Meadow Close, 22 Chailey Avenue, 3, 10, 12, 17 Court Farm Road, 7 St Aubyns Mead, 16 The Rotyngs, 16 Rowan Way, 74 Saltdean Drive and one unspecified address** objecting to the application for the following reasons:
- The developer has not addressed the previous reasons for refusal,
 - Height, scale, architectural detailing, bulk, layout, density and design out of character with the area. Proposal does not integrate well into its context and the development would fail to emphasise and enhance the

positive qualities and particular characteristics of the area and would set a precedent for garden in-fill and upward development of properties,

- Impact on neighbours in terms of noise and disturbance, loss of views, loss of privacy, overlooking, over-shadowing, loss of light/direct sunlight and outlook,
- Density analysis inaccurate,
- Increased highway / road safety impacts,
- Increased noise and pollution from vehicular movements,
- Increased traffic and congestion. Assumption that Rottingdean Village can simply absorb increased traffic is an unsustainable policy, given the present transport infrastructure,
- Lack of parking and increased parking stress,
- Not a sustainable transport location,
- Proximity of proposed properties to existing dwellings,
- Lack of electric vehicle charging points, below SPD14 standards,
- Provision of solar panels would add height and bulk above the already excessive roof-line of the proposed houses,
- Would not comply with Lifetime Homes standards,
- Has been no pre-application consultation with neighbours,
- Proposal is contrary to Local Planning Policy,
- Negative impacts of the proposed development far out-weigh any potential contributions to the area,
- Loss of views to the South Downs National Park. Would appear unduly prominent in strategic views into and from the South Downs National Park and Beacon Hill Nature Reserve,
- An existing lamp post falls in the proposed access-way,
- Development does not allow generous gaps, spacings or good sized gardens, they are much less typical in the area,
- Inaccuracies in plans and misleading comments in application documents,
- Application quotes Winton Cottages as a precedent however neighbouring terrace of houses that were built to be in keeping with the terrace known as Court Ord Cottages. Winton Cottages have a public highway on both sides so were not built to fit in between existing houses and as such should not be used as a precedent,
- Development goes against the Council's aims for new buildings 'to make a positive contribution to the visual quality of the environment',
- Will devalue neighbouring properties in area whilst 'making someone rich at the expense of the community',
- Loss of trees, flora and fauna would have a negative impact on local ecology,
- Over-development. Development is too dense for the area, the local plan for this area indicates the need for smaller properties. Additional homes are not in line with local housing needs identified in the emerging Rottingdean Neighbourhood Plan and the supporting 2015 Housing Needs Survey, in terms of the size and potential affordability of the proposed units being sold on the open market. Development will not help with housing target as new homes already built in the area are unsold,

- Would serve as a precedent for even further development in a small village,
- Lack of drainage, increased flood risk and effect on water run-off.
- The proposed waste storage and collection point would be very close to the kitchen/diner and back door of no. 71 Falmer Road, resulting in excess noise, loss of privacy, hygiene concerns and an unpleasant outlook,
- Absence of a viable plan to dispose of foul sewage is a risk to the proposal,
- Increased pressure on local amenities and infrastructure. Area has one small overused doctor's surgery and 3 oversubscribed schools, need better infrastructure to support new residential development. Council should consult local doctors, dentists and schools before granting planning permission,
- Seems to be a determination to build in Rottingdean. Rottingdean has its own geographical constraints coupled with conservation issues making it very difficult to build in, development should be restricted to brownfield sites only,
- 9 properties crammed into such a space is environmentally unsound,
- Access for emergency services is too restricted for the number of properties proposed,
- Pollution levels in Rottingdean Village High Street already exceed the acceptable levels required by EU regulations and are a serious health risk to residents in the village. Allowing development would knowingly be acting ultra-vires by encouraging even greater non-compliance with statutory EU legislation and increased poor air quality,
- Will not have a positive effect on the local Rottingdean community or environment.
- Proposed 6ft acoustic fence will result in loss of light to kitchen, diner and downstairs toilet windows and front garden area of no. 71 Falmer Road and loss of view of Falmer Road when exiting existing driveway of no. 71 creating safety implications,
- Loss of security for adjoining properties,
- No. 71 is obliged to retain the existing hedges along the borders of the garden and provide legal boundary with neighbouring gardens,
- Will set a precedent for the area, which will have a negative impact on the future character of Rottingdean,
- View from front of development will be negatively impacted upon having general waste and recycling bins situated at front of the development and clearly visible from road. There is no precedent for such positioning and not in keeping with character of houses in area. Concerned about potential odour from such facilities especially in hot weather,
- Dwellings do not provide a mix of accommodation to suit the needs of the community,
- No party wall agreements,
- Proposal does not accord with SPD14.

4.2 **Councillor Mary Mears:** Objects to the proposal. Email attached.

- 4.3 **Simon Kirby MP: Objects**. Concerns are raised about the high density of the development, increased traffic congestion and air pollution, adverse environmental impact of the loss of trees and the detrimental impact of the development on neighbouring amenity.
- 4.4 Understands that the development would also necessitate a number of trees at the site being felled which would be regrettable and would have adverse environmental impacts.
- 4.5 Has been contacted by a number of constituents with their specific concerns about this application; they feel that the buildings' impacts on neighbouring properties will be significant and that this revised application differs very little from that which was refused at the site by BHCC at the end of 2015.
- 4.6 Rottingdean Parish Council: Object. A similar application has previously been refused. Nine dwellings of this scale is too large a development for the plot. The proposal would result in harm to the amenity of adjoining properties. Traffic volumes are already excessive and have led to air pollution in the High Street above EU limits. There is no mention of the infrastructure needs, schools are already at capacity, GP services are stretched, dentists similarly.

5. CONSULTATIONS

- 5.1 **County Ecologist: No objection**
The proposed development will require a European Protected Species Mitigation Licence.
Provided the recommended mitigation measures are implemented, the proposed development is unlikely to have any negative impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NPPF and the NERC Act.
- 5.2 **East Sussex Fire and Rescue: Comment**
Please ensure that access and facilities for the Fire and Rescue Service are provided in accordance with B5 of the Approved Document B Vol. 1 to the Building Regulations, Section 11: Vehicle Access, whereby there should be vehicle access for pump appliance to within 45m of all points within each dwellinghouse.
- 5.3 **South Downs National Park: No objection**
(from application BH2015/02049) - No objection to the principle of the proposed development of 9 dwellings, although the SDNP would recommend that if the existing trees along the frontage were not able to be retained, suitable replacement trees in a similar location were planted in order to maintain the semi-rural character of the urban edge, which forms the boundary with the South Downs National Park.
- 5.4 **Arboriculture Team: No objection**
The proposal will result in the loss of several trees and shrubs, nevertheless these are not considered worthy of Tree Preservation Order status.

There is no objection subject to suitable conditions being attached to any planning consent granted.

- 5.5 **Environmental Health: No objection**
(From application **BH2015/02049**) Whilst drawings show a new acoustic fence which separates the access to the properties from 71 Falmer Road, it is not clear how long or how high this particular fence would be.
- 5.6 An acoustic fence works on the principle of being long, thin and rigid, with no breaks (or gaps) and additionally breaking the line of sight. If line of sight is compromised, there will only ever be approximately a 5dB loss, regardless of how the fence is built (i.e. brick, timber etc.).
- 5.7 Therefore, with the lack of detail, would support that a condition is necessary to have further details. What is also unclear is the extent of the fence line and whether this surrounds the whole development or not. A condition could also include or rather incorporate that any scheme is also to the satisfaction of the transport team. This may assist in achieving the compromise in terms of heights and visibilities in what locations.
- 5.8 Air Quality - Recommend approval. This is a small development of 9 houses, the impact on air quality will be negligible.
- 5.9 **Flood Risk Management Officer: No objection**
The LLFA has no objections to the proposed development provided no development shall take place until a detailed design of surface water drainage for the site using sustainable drainage methods, as per the Flood Risk Assessment dated August 2015, 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 detailed design prior to building commencing.
- 5.10 It should be noted that the site is defended by the New Barn Valley flood defences; however there is still a residual risk of flooding present.
- 5.11 **Sustainable Transport: No objection**
The Highway Authority would not wish to restrict grant of consent of this planning application subject to the inclusion of the necessary conditions and informative. The application is largely the same in highways and transport terms to the similar scheme reference BH2015/02049 which was recently allowed on appeal.
- 5.12 Given the uplift in trip generation and impact on the highway, a sustainable transport contribution of £12,000 is sought in accordance with the council's standard contributions formula. This will be allocated to footway and public transport improvements in order to ensure that the development serves the needs of pedestrians and public transport users in accordance with policy CP9 of the Brighton & Hove City Plan Part One.

- 5.13 In addition, a scheme of residential Travel Plan measures is recommended in order to ensure the development maintains a sustainable transport strategy and to comply with policies CP9 of the Brighton & Hove City Plan Part One and TR4 of the Brighton & Hove Local Plan.

6. MATERIAL CONSIDERATIONS

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

6.2 The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
SA5 The South Downs
CP1 Housing delivery
CP7 Infrastructure and developer contributions
CP8 Sustainable buildings
CP9 Sustainable transport
CP10 Biodiversity
CP11 Flood risk
CP12 Urban design
CP14 Housing density
CP18 Healthy city
CP19 Housing mix
CP20 Affordable housing

Brighton & Hove Local Plan (retained policies March 2016):

TR4 Travel plans
TR7 Safe Development
TR14 Cycle access and parking
SU9 Pollution and nuisance control

SU10 Noise Nuisance
QD5 Design - street frontages
QD15 Landscape design
QD16 Trees and hedgerows
QD18 Species protection
QD27 Protection of amenity
HO5 Provision of private amenity space in residential development
HO13 Accessible housing and lifetime homes

Supplementary Planning Documents:

SPD06 Trees & Development Sites
SPD11 Nature Conservation & Development
SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of the proposed development, the impacts of the proposed development upon the visual amenities of the area including the setting of the South Downs National Park, the living conditions for future occupiers and the impact upon the amenities of the neighbouring properties. Sustainability, ecology, flood risk and transport impacts are also relevant.
- 8.2 The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.
- 8.3 **Planning History:**
A similar proposal for 9 dwellings was refused in November 2015 on the grounds that the design would be out of keeping with the prevailing character of the area and that there would be an unneighbourly impact on the adjoining property to the rear, No.6 Court Ord Road. The scheme was subsequently allowed on appeal in November 2016.
- 8.4 In regards to design the Inspector stated, 'I conclude that the appeal proposal would not adversely affect the character or appearance of the locality and would generally accord with CP Policies CP12 and CP14.'
- 8.5 In relation to neighbour amenity the Inspector stated, 'I conclude that the appeal development would not adversely affect the living conditions of neighbouring occupiers, with regard to daylight, sunlight, outlook, overlooking or noise and disturbance.'
- 8.6 It is considered that the principle of 9 dwellings on the site has thus been established through application **BH2015/02049**.

- 8.7 **Design and Appearance:**
The general scale, density, mass, bulk and design approach have been established through the recently approved scheme for nine dwellings (BH2005/02049). The re-siting of the dwellings 200mm closer to the southern side boundary in comparison to the approved scheme would not materially alter this relationship and is considered acceptable.
- 8.8 The dwellings on plots 5-9 have been reduced in height, with the dwellings on plots 5-8 also and set further away from the rear boundary. This has a minimal impact on the design and the appearance of the proposed development in comparison to the approved scheme and is considered acceptable.
- 8.9 Overall the proposal is considered to have an acceptable impact on the appearance and character of the site and the wider surrounding area, including the setting of the South Downs National Park.
- 8.10 **Impact on Amenity:**
Policy QD27 of the Brighton & Hove Local Plan 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.
- 8.11 In comparison to the approved scheme plots 1-4 would be sited 200mm closer to the southern boundary of the site. There is still considered to be sufficient separation between the development and the adjoining property, No. 63 Falmer Road to ensure that there would not be any significant harm to this property by way of overshadowing, loss of light, outlook and privacy or an unacceptable overbearing impact.
- 8.12 The proposed dwellings to the rear of the site, plots 5-9, in comparison to the approved scheme are lower in overall height, are set in from the boundary and do not have accommodation at second floor level. It is considered these dwellings would have a lesser impact on the adjoining properties in comparison to the approved scheme and the proposal is acceptable in this regard.
- 8.13 Overall the proposed scheme would have an acceptable impact on the residential amenity currently enjoyed by the occupiers of the neighbouring properties.
- 8.14 Further details of the acoustic report are to be secured by condition and subject to the acceptability of these details the proposed would not result in harm to neighbouring amenity by way of noise and disturbance.
- 8.15 **Sustainable Transport:**
The proposal would result in a net increase of eight dwellings on the site which would lead to a sizeable uplift in trip generation compared to the existing situation. The Sustainable Transport Team are satisfied that the proposal would have an acceptable highways impact subject to a legal agreement providing for

a contribution of £12,000 for footway / bus stop improvement and a residential travel plan and also conditions relating to secure cycle parking / disabled parking, details of the acoustic fence, site access details and crossover and parking implementation and retention.

8.16 Standard of accommodation:

Policy QD27 of the Brighton & Hove Local Plan will not permit development which would cause a material nuisance or loss of amenity to the proposed, existing and/or adjacent users, residents or occupiers where it would be liable to be detrimental to human health.

8.17 The proposed units would provide rooms of sufficient size for their function with adequate circulation space. There is considered to be satisfactory levels of natural light, outlook and privacy for future occupiers and the overall standard of accommodation provided is considered to be acceptable.

8.18 The level of private amenity space is considered acceptable in relation to the scale of the development, in accordance with policy HO5.

8.19 Policy HO13 requires all new residential dwellings to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the (new-build) dwellings appears to be achievable; therefore, relevant conditions are attached to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.

8.20 Sustainability:

City Plan Part One policy CP8 requires new residential development demonstrate efficiency in the use of water and energy, setting standards that mirror the national technical standard for water and energy consumption. Conditions are applied to ensure the development meets these standards as set out in policy CP8.

8.21 Affordable Housing:

CP20 of the City Plan Part One (adopted 24 March 2016) requires developments of between 5 and 9 (net) residential units to provide 20% affordable housing as an equivalent financial contribution. In this instance, based on the methodology set out in the Developer Contributions Technical Guidance Paper (approved by Economic Development & Culture Committee on 16 June 2016) the 9 new units (8 net) the representative provision of affordable housing would be 1 four bedroom dwelling and 1 three bedroom dwelling which in Zone 2 equates to a total contribution of £501,250.

8.22 The general approach to the calculation is set out in the Council's Developer Contributions Technical Guidance. The commuted sum payment is based on a sum equal to the difference between Open Market Value and Affordable Housing Value.

- 8.23 During the appeal for the approved scheme (BH2015/02049) the applicant submitted a Viability Assessment which was assessed by the District Valuer. The appraisal considered that due to specific site constraints that the development could not viably provide for the full contribution and a lower amount was put forward. A signed section 106 agreement setting out this agreed contribution was provided at appeal stage. The Inspector considered that a financial contribution for affordable housing was necessary, in accordance with CP20 and planning permission granted on this basis.
- 8.24 In the current application a Viability Assessment has also been submitted setting out that there are site specific circumstances that would render a policy compliant scheme unviable.
- 8.25 The District Valuer's independent assessment of the applicant's Viability Assessment concludes that the development could viably provide a financial contribution of £30,000 if piling is not required. If the applicant provides evidence that the ground conditions are such that piling is required then the DV's assessment indicates that the proposed development cannot provide a financial contribution towards Affordable Housing.
- 8.26 The applicant has agreed to the principle of this review mechanism and this can also be secured in the s106 agreement.
- 8.27 The council acknowledges that national planning policy and guidance as set out in the Written Ministerial Statement (WMS) of November 2014 and National Planning Policy Guidance (NPPG, paragraphs 21- 23) with respect to affordable housing contributions and the application of Vacant Building Credit (VBC) are significant material considerations which should be taken into account in decision taking.
- 8.28 Following the recent Court of Appeal decision (11 May 2016) regarding these matters, BHCC note that the provisions of national policy are not mandatory and that local circumstances may justify an appropriate exception to the approach outlined in national policy and guidance. In applying Development Plan Policy CP20 Affordable Housing, BHCC consider that there are specific and genuine local circumstances that justify an exception to national policy and guidance as set out in the WMS (November 2014) and NPPG (paragraphs 21- 23). This is specifically in terms of NPPG regarding site size thresholds for affordable housing contributions and the application of VBC.
- 8.29 In summary, those local circumstances constitute:
- The significant need for affordable housing in the city
 - A constrained housing land supply
 - The nature of land supply in terms of high residential delivery from smaller sites and brownfield site conversions, changes of use and redevelopment including vacant buildings.
- 8.30 The council consider that the provisions of Policy CP20 will therefore apply to this application and the proposal is in accordance with this policy.

- 8.31 The current application was originally considered at the Planning Committee Meeting of 11 January 2017. At this meeting, in light of the reduced affordable housing contribution committee members voted to add an additional clause to the Section 106 Agreement to provide for a 'review mechanism' so that the viability of the scheme could be reassessed in the future using actual build costs and sales values. If it was demonstrated that the scheme could viably support the full or a higher affordable housing contribution then this would be sought.
- 8.32 This approach is set out within the Developer Contributions Technical Guidance, June 2016 (p3) which states that a review mechanism may be required, where due to viability at the time of determination reduced contributions are agreed upon granting planning permission.
- 8.33 In this instance, whilst the applicant agreed to a 'review mechanism' in regards to the need for piling they do not agree that a 'review mechanism' should be added in regards to viability and as such the Legal Agreement has not been signed and the application remains undetermined.
- 8.34 It is not considered appropriate for a minor application of this scale to be subject to a review mechanism. The LPA did not include provision for a review mechanism in regards to viability in the Legal Agreement attached to the previous scheme for nine dwellings which was allowed at appeal late in 2016. This scheme is extant.
- 8.35 The LPA has not sought a review mechanism previously for minor applications where reduced contributions are agreed and it is considered that a consistent approach should be maintained.
- 8.36 In accordance with the advice in National Planning Practice Guidance (paragraph 017) viability assessment in decision taking should be based on current costs and values. A review mechanism would typically only be sought be for larger scale applications, especially where phasing of schemes is proposed. In these circumstances viability would be revisited when actual build costs and sales values are known.
- 8.37 The LPA has to be mindful of the tests for planning obligations set out in the Community Infrastructure Levy Regulations. In this case, it is not considered that a review mechanism would be fairly and reasonably related in scale and kind to the development.
- 8.38 To conclude, as set out above, it is not considered that the additional of a review mechanism is appropriate in this instance.
- 8.39 **Other Considerations:**
Whilst it is noted that there is an Emerging Rottingdean Neighbourhood Plan, the draft plan has not yet been published and very limited weight can be attached at this stage.
- 8.40 Representations have been received that outline concerns relating to ownership issues on the boundaries of the site. The applicant has provided revised site

plans clarifying the boundaries and has stated that they consider that the correct ownership certificates have been signed on the application form.

9. EQUALITIES

- 9.1 The development is required to comply with Part M of the Building Regulations and conditions are proposed which will ensure compliance with lifetime homes standards.

