

<b><u>No:</u></b>	<b>BH2020/02836</b>	<b><u>Ward:</u></b>	<b>Rottingdean Coastal Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Land South of Ovingdean Road, Brighton</b>		
<b><u>Proposal:</u></b>	<b>Variation of conditions 4 (drawings) and 20 (parking site plan) of application BH2016/05530 (Outline planning application with appearance reserved for the construction of 45 no. one, two, three, four and five bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space, strategic landscaping and part retention/reconfiguration of existing paddocks. New vehicular access from Ovingdean Road and junction improvements.) in order to revise site layout and landscaping.</b>		
<b><u>Officer:</u></b>	<b>Luke Austin, tel: 294495</b>	<b><u>Valid Date:</u></b>	<b>05.10.2020</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>04.01.2021</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>EOT:</u></b>	<b>17.03.2021</b>
<b><u>Agent:</u></b>	<b>N/A</b>		
<b><u>Applicant:</u></b>	<b>Brookworth Homes Ltd Brookworth House 99 Bell Street Reigate RH2 7AN</b>		

## 1. RECOMMENDATION

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

Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	FA20-1779-050	E	12 November 2020
Proposed Drawing	P20-2021_01	B	5 January 2021
Location Plan	BRS.4783_04-1	B	3 October 2016
Proposed Drawing	6197:90	REFUS E TRACKI NG	12 November 2020

2. Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval on or before 26 June 2021:
- (i) Appearance,
  - b) The reserved matters shall be carried out as approved.

c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

**Reason:** To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

3. The development hereby permitted must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

4. No development shall commence until full details of the existing and proposed ground levels showing any changes to levels, finished ground slab levels, and cross sections to show the buildings adjoining the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved 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.

5. Prior to the commencement of development, an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. The Arboricultural Method Statement shall include the details of the specification and location of tree and hedgerow protection, shown on a Tree Protection Plan (TPP). The TPP shall also show root protection areas of all retained trees, and details of pruning or removal of trees and hedges both within and overhanging the site. The Arboricultural Method Statement shall provide details of any construction activities that may require works within the protected root areas, including service runs and soakaways. All works shall be carried out 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 to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

6. Prior to the commencement of any works protective fencing in accordance with the approved Tree Protection Plan shall be erected on the site and shall be retained for the duration of the construction period.

**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 and SPD06:Trees and Development Sites.

7. Prior to occupation of the development hereby permitted, a scheme for hard landscaping, together with a programme of implementation, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- a) Details of all hard surfacing; and
  - b) The positions, height, design, materials and type of all existing and proposed boundary treatments.
- All hard landscaping and means of enclosure shall be completed in accordance with the approved details and programme of implementation prior to first occupation of the development. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained.
- 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 and CP13 of the Brighton & Hove City Plan Part One.
8. All planting, seeding or turfing comprised in the scheme of landscaping as set out in the landscaping plans listed in condition 4 shall be carried out in the first planting and seeding seasons following the first occupation of the dwellings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.
9. Notwithstanding the provisions of Schedule 2, Part 1, Classes B and C 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 roof alterations or roof extensions shall be erected to the dwellings on plots 2,3,4,28,29,30,31,38,39 and 45.
- 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 QD14 and QD27 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
10. No clearance or destruction of any vegetation or structure which may be used as a breeding site shall take place during the bird breeding season, (1 March to 31 August) unless otherwise previously agreed in writing with the Local Planning Authority.
- Reason:** To safeguard these protected species from the impact of the development in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One.

11. The development shall be carried out in accordance with the Red Star Thistle Mitigation Strategy approved under application BH2019/01310.  
**Reason:** To safeguard these protected species from the impact of the development in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One.
12. No development shall take place (including demolition, groundworks, vegetation clearance) until a Biodiversity 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) Measures for the interim protection of the paddocks and informal open space, with a view to conserving the habitat of the Hornet Robberfly, the Cinnabar Moth and protection of reptiles;
  - b) Identification of "biodiversity protection zones";
  - c) Practical measures to avoid or reduce impacts during construction;
  - d) The location and timing of sensitive works to avoid harm to biodiversity features;
  - e) The times during construction when specialist ecologists need to be present on site to oversee and supervise works;
  - f) Responsible persons and lines of communication;
  - g) The role and responsibilities on site of an Ecological Clerk Of Works or similarly competent person; and
  - h) Use of protective fences and exclusion barriers and warning signs;
- The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period.  
**Reason:** As this matter is fundamental to the acceptable delivery of the permission to ensure the long-term management of the ecological areas and to comply with policies QD18 and NC4 in the Brighton and Hove Local Plan 2005, policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
13. No development shall commence until a Habitat Mitigation and Enhancement Plan together with a programme for implementation has been submitted to and approved in writing by the Local Planning Authority. The Plan shall generally accord with the measures identified in Section 6.0 of the Aspect Ecology Ecological Appraisal dated September 2016. The approved Plan shall be implemented in full in accordance with the approved programme.  
**Reason:** To protected habitats and species identified in the ecological surveys from adverse impacts during construction.
14. No development shall take place until a programme of archaeological work has been secured in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority.  
**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.
15. The development hereby permitted shall not be brought into use until the archaeological site investigation and post-investigation assessment has been

completed in accordance with the programme set out in the Written Scheme of Archaeological Investigation and provision for analysis, publication and dissemination of results, and archive deposition, has been secured.

**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

16. No development shall commence until details of the following highway works, together with a Stage 2 Road Safety Audit and an implementation programme, have been submitted to and approved in writing by the Local Planning Authority. The works should be in accordance with the principles within the Transport Planning Associates Revised Transport Assessment dated March 2017:
- a) The access to the site from Ovingdean Road, including the side road entry;
  - b) A vehicular crossover to serve Plot 1;
  - c) The removal of the redundant crossover on Ovingdean Road and reinstatement of the footpath;
  - d) A right turn lane with a pedestrian refuge at the junction of Falmer Road/Ovingdean Road;
  - e) Parking restrictions or measures to prevent parking on Falmer Road and the adjacent verge; and
  - f) Bus shelters, including Real Time Passenger Information signs and Kassell kerbs at the two bus stops on Ovingdean Road directly opposite the site, and the two bus stops closest to the site on Falmer Road.

The scheme shall be implemented in accordance with the approved details and agreed programme.

Details of the standards to which the streets, footways and cycle routes are to be constructed shall be submitted to and approved in writing by the Local Planning Authority. No dwelling hereby approved shall be occupied until the streets, footways and cycle routes have been constructed in accordance with the approved details.

**Reason:** To ensure that suitable vehicle and pedestrian access provision is provided to and from the development and to comply with policy CP9 of the City Plan Part One and policy TR7 of the Brighton & Hove Local Plan.

17. No development shall commence, other than site clearance, until details of the standards to which the streets, footways and cycle routes are to be constructed shall be submitted to and approved in writing by the Local Planning Authority. No dwelling hereby approved shall be occupied until the streets, footways and cycle routes have been constructed in accordance with the approved details.

**Reason:** To ensure that suitable vehicle and pedestrian access provision is provided to and from the development and to comply with policy CP9 of the City Plan Part One and policy TR7 of the Brighton & Hove Local Plan.

18. The dwellings hereby approved shall not be occupied until refuse and recycling storage facilities have been installed to the side or rear of the dwellings 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 policy QD27 of the Brighton & Hove Local Plan, 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.

19. No dwelling shall be occupied until space has been laid out for that dwelling in accordance with drawing no: FA20-1779-050 Revision E for cars to be parked. The parking spaces shall thereafter be kept available at all times for the parking of vehicles by the occupants of the dwellings and visitors.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One.
20. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of and visitors to the development, together with a programme of implementation, shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided in accordance with the approved details and programme of implementation and shall thereafter be retained.  
**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 and SPD14: Parking Standards.
21. The development hereby permitted shall not be commenced until details of the foul drainage scheme to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved details prior to the first occupation of the development.  
**Reason:** 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.
22. The development hereby permitted shall not be commenced until a detailed design and associated management and maintenance plan for surface water drainage works for the site using sustainable drainage methods shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved details prior to the first occupation of the development.  
**Reason:** 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.
23. The development shall not include appliances for solid or liquid fuel burning, and any boilers within the development should be ultra-low NOx gas boilers, details of which are to be submitted to and approved in writing by the Local Planning Authority prior to installation. The agreed scheme shall be implemented in accordance with the approved details prior to the first occupation of the development.  
**Reason:** To mitigate the impact of the development on air quality including the Rottingdean Air Quality Management Area and to comply with policy SU9 of the Brighton & Hove Local Plan.

24. No dwellings shall be occupied unless it achieves 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 Brighton & Hove City Plan Part One.
25. Prior to the first occupation of the development hereby approved, details shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the dwellings hereby permitted shall achieve energy efficiency standards of a minimum of 19% CO2 improvement over Building Regulations Part L 2013. The scheme shall be implemented in accordance with the approved details.  
**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.
26. Prior to the first occupation of the development hereby approved, an Energy Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Strategy should include a renewables feasibility study and proposals to install renewable energy generation, a strategy for energy efficiency and a means to achieve the 19% carbon reduction target. The scheme shall be implemented in accordance with the approved details.  
**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.
27. Prior to the first occupation of the development hereby approved, details of the number and location of electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The charging points shall be provided prior to the occupation of the dwellings hereby permitted and shall thereafter be permanently retained.  
**Reason:** To encourage travel by more sustainable means and seek measures which reduce fuel use and greenhouse gas emissions and to comply with policy CP9 of the Brighton & Hove Brighton & Hove City Plan Part One and SPD14: Parking Standards.
28. Prior to the commencement of development a 'check' contamination analysis shall be undertaken to confirm a conceptual model and allow a generic quantitative risk assessment to be undertaken. If notified in writing by the Local Planning Authority that the results of the risk assessment are such that site remediation is required, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority.  
**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
29. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning

Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

30. No development shall take place until a Construction Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The Plan shall provide for:
- i. The phases of the proposed development including the forecast completion dates;
  - ii. A commitment to apply to the Council for Prior Consent under the Control of Pollution Act 1974 and not commence development until such consent has been obtained;
  - iii. Arrangements to liaise with local residents to ensure that residents are kept aware of site progress and to address any complaints;
  - iv. Measures to control the emission of noise, dust, and vibration;
  - v. Details of the hours of construction including all associated vehicular movements;
  - vi. Details of construction traffic routes which should only access the application site from the north and avoid the Rottingdean Air Quality Management Area; and vii) A scheme for recycling/disposing of waste resulting from demolition and construction works;

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

**Reason:** As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

Informatives:

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

**2. SITE LOCATION**

- 2.1. The application relates to a parcel of land located on the southern side of Ovingdean Road, to the west of Falmer Road (B2123) and to the east of The Vale. The application site comprises approximately 3.72 hectares. Historic maps show that the site has always comprised open agricultural downland.
- 2.2. The boundary of the site is currently defined by a wire fence and posts to the east, west, and north, and by a hedgerow to the south. The site comprises a large field which has been divided into smaller paddocks for the keeping and



grazing of horses. Stables and associated buildings are located in the southwestern corner of the site.

- 2.3. Immediately to the north of the site are residential properties, with other horse paddocks/grazing land beyond, known as Ovingdean Road Horse Paddocks. The residential area of Woodingdean is located further to the north-west of the site, with agricultural fields located immediately to the east of the site, on the opposite side of Falmer Road. Residential properties are located to the west/southwest of the site on The Vale. Playing fields, associated with Longhill School/Deans Leisure Centre, are located directly to the south of the site, with the school/leisure centre building, additional school playing fields and Rottingdean village located further to the south.
- 2.4. The site generally falls across the site from east to west, from between approximately 60m (AOD) adjacent to the Falmer Road (B2123) to approximately 45m (AOD) along the western edge of the site, adjacent to The Vale. To the east of the site and Falmer Road the land rises to an area known as The Bostle. The land to the west of the site and The Vale rises to a ridge (known as Longhill).
- 2.5. Boundaries of the South Downs National Park (SDNP) are located to the east of the site, on the opposite side of Falmer Road, and to the north of the residential properties located on the northern side of Ovingdean Road.
- 2.6. A boundary of the Ovingdean Conservation Area is located to the west of the site, on the western side of Longhill Road whilst boundaries of the Rottingdean Conservation Area are located to the south of the site, either side of The Rotyngs.
- 2.7. The nearest Listed Buildings are located to the south of the site on Falmer Road (New Barn Farm) in Rottingdean and to the west on Ovingdean Road in Ovingdean (part of Ovingdean Hall School and The Nook, Flints and The Cottage). Buildings located directly opposite the site, to the north of Ovingdean Road, which once formed part of Woodingdean Farm but have since been converted to housing, are considered to be 'non-designated' heritage assets and as such are included on the Council's adopted local list of heritage assets.
- 2.8. The application site is not covered by any designations, statutory or non-statutory, for nature conservation interest. However, Sites of Nature Conservation Importance (SNCIs) are located to the west (Wanderdown Road Open Space), north-east (Cowley Drive Paddocks) and north (Ovingdean Road Horse Paddocks) of the site but these areas do not immediately adjoin the site. Beacon Hill, which is a Local Nature Reserve, is located to the south of the site between Ovingdean and the coast, whilst Castle Hill, which is a National Nature Reserve and a Site of Special Scientific Interest, is located to the north-east, beyond Woodingdean.
- 2.9. The site currently comprises semi-improved neutral grassland, scrub and ruderal vegetation, hedgerow with scattered trees and buildings.

- 2.10. The site is shown as forming part of The Vale character area of Ovingdean, in the Council's Urban Characterisation Study. The Vale is stated to have "very low density housing in a curved street pattern on the ridge of the valley slope, mainly in the form of bungalows, but surrounded by mature planting which gives it a rural feel".

### 3. RELEVANT HISTORY

- 3.1. **PRE2020/00065** - Reserved matters application for appearance of 45 dwellings, pursuant to outline consent ref: BH2016/05530. Also to run concurrently with the above would be an application for non-material amendment to the layout and landscaping approved under the same outline reference.
- 3.2. **BH2016/05530** - Outline planning application with appearance reserved for the construction of 45 no one, two, three, four and five bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space, strategic landscaping and part retention/reconfiguration of existing paddocks. New vehicular access from Ovingdean Road and junction improvements. Allowed at Appeal 26/06/2018.
- 3.3. **BH2014/02589** - Outline planning application with appearance reserved for the construction of 85 no. one, two, three and four bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space and strategic landscaping. New vehicular access from Ovingdean Road and junction improvements. Refused 29/01/2015. Dismissed at Appeal 29/03/2015.

### 4. APPLICATION DESCRIPTION

- 4.1. Outline planning permission for application BH2016/05530 was granted at appeal (ref. APP/Q1445/W/17/3177606) in 2018 for the residential development of the site. Matters relating to layout, scale, landscaping and access were approved, with the only reserved matter being the appearance of the development. The approved scheme comprised the following accommodation split (including 40% affordable housing):
- 1 bedroom x 2 (both affordable)
  - 2 bedroom x 8 (all affordable)
  - 3 bedroom x 16 (including 8 affordable)
  - 4 bedroom x 10, and
  - 5 bedroom x 9
- 4.2. The site has now been taken on by a different developer who has submitted the current application. They wish to make minor amendments to the approved scheme to meet their requirements, and also to take account of the substantial changes in gradient on the site.

- 4.3. The total number of units (45) would be unchanged, as would the 40% affordable housing provision (18 units). However, the accommodation split would change in favour of more 3-bed units and fewer 4- and 5-bed units, as set out below:
- 1 bedroom x 2 (both affordable)
  - 2 bedroom x 8 (all affordable)
  - 3 bedroom x 27 (including 8 affordable)
  - 4 bedroom x 7, and
  - 5 bedroom x 1
- 4.4. The scheme has been amended during the assessment of the application as a response to comments from the Urban Design Officer and County Ecologist. These amendments include:
- Inclusion of a tree bank to the east of the developed area of the site
  - Details provided of indicative tree planting within private rear gardens.
  - Increase in ground level planting across the site, especially to the fronts of the western terraced houses.
  - Amendments to increase the amount of Red Start Thistle on site.

## 5. REPRESENTATIONS

- 5.1. **Three (3)** letters has been received, objecting to the proposed development for the following reasons:
- Concerns from the previous application remain
  - Increased traffic and congestion
  - Increased noise and air pollution
  - Relocated access is likely to be detrimental to neighbouring amenity
- 5.2. **One (1)** letter has been providing the following comments on the proposed development:
- The site is in a sensitive location close to two nature reserves.
  - Request that the development achieves net gains to biodiversity.
  - Concerned that the paddock is not ploughed up during construction
  - Ask that the houses are built as low as possible
  - Properties along The Vale will look out onto backs of houses at westernmost part of site.
- 5.3. **Councillor comments:** A copy of the representation from **Councillor Mary Mears** is attached.

## 6. CONSULTATIONS

### EXTERNAL CONSULTEES

- 6.1. **Brighton and Hove Archaeological Society:** Comment  
The application site is close to several important archaeological find spots. B&H Archaeological society recommend contacting County Archaeology for recommendations.

- 6.2. **Brighton and Hove Archaeological Society:** No objection  
Site is still required to be subject to a 'programme of archaeological works.
- 6.3. **Ecology:** No objection.  
Initial concerns over significant effect on ecology, most notably the population of the Nationally Rare and Critically Endangered Red Star-thistle. Amended proposal would allow retention of the majority of the original thistle population, and additional space for translocation of any Red Star-thistle that would be lost and any new plants that have developed within the development footprint since the translocation.
- 6.4. **Natural England:** No Comment
- 6.5. **Sussex Police:** Comment  
No further comments required.

#### **INTERNAL CONSULTEES**

- 6.6. **Planning Policy:** No Comment
- 6.7. **Private Sector Housing:** No Comment
- 6.8. **Sustainability:** No Comment
- 6.9. **Sustainable Transport:**  
Initial Comment - Unable to Support  
Tracking submitted for a refuse vehicle; however, we also require tracking to be submitted of a fire appliance and passenger vehicle.
- 6.10. The proposed vehicular access leading to plot 002 off Ovingdean Road has been widened and relocated. Road Safety Audit undertaken for approved application under the previous standards HD19/15 (now GG119), and did not take into account the secondary access to the individual unit no.2.
- 6.11. **Urban Design:** Comments  
Layout is an improvement over previous proposals, but concerns about lack of biodiversity gains to generate an appropriate verdant character relative to context, to protect the setting of the SDNP, to address sustainable drainage, or to promote a social and active community. Increase in planting across site during process positive but could be much more extensive. No improvements have been made regarding social functionality of the street environment, though it is acknowledged that the proposed shared surface area may be used for play. Concern remains regarding the lack of a SUDS strategy.

#### **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 Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour JAAP (adopted October 2019).
- 7.3. 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.

## 8. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the key CPP2 policies considered in determining this application is set out below where applicable.

DM1 – Housing Quality, Choice and Mix – significant weight  
DM18 – High Quality Design and Places – significant weight  
DM20 – Protection of Amenity – significant weight  
DM22 – Landscape Design and Trees – significant weight  
DM26 – Conservation Areas – significant weight  
DM28 – Locally Listed Heritage Assets – significant weight  
DM31 – Archaeological Interest – more weight than retained Local Plan policy.  
DM33 – Safe, Sustainable, and Active Travel – significant weight  
DM35 – Travel Plans/Transport Assessments – significant weight  
DM36 – Parking and Servicing – significant weight  
DM37 – Green Infrastructure and Nature Conservation – limited weight  
DM40 – Protection of the Environment and Health – significant weight

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP1 Housing delivery  
CP2 Sustainable economic development  
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
SA4	Urban Fringe
SA5	The Setting of the National Park
SA6	Sustainable Neighbourhoods

Brighton and 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
NC4	Sites of Nature Conservation Importance
HE6	Development within or affecting the setting of conservation areas
HE10	Buildings of local interest
HE12	Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD11	Nature Conservation & Development
SPD14	Parking Standards

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the principle of the development; and the impact of the variation of the conditions on the appearance of the development, the housing mix provided, and the highway.

Principle of Development

- 9.2. The original outline scheme (BH2016/05530) was allowed on appeal in June 2018. The scheme was considered acceptable in all regards by the Inspector, and various details and measures were secured by conditions in addition to contributions via a legal agreement.
- 9.3. In this case it is considered that the policy context has not changed substantially in regard to the principle of development, uses proposed and design issues. Overall, it is considered that there is no justifiable reason to take a decision contrary to that made previously by the Local Planning Authority and therefore no objection is raised to the principle of development.

Proposed Variation of Conditions 4 and 20:

- 9.4. The application seeks for the variation of condition 4 (approved plans) and 20 (car park layout) of BH2016/05530 to allow for amendments to the approved scheme. As set out above, this approved scheme is an outline planning permission for matters including layout, access, landscaping and scale; the appearance of the dwellings remains reserved and will require further consideration at a later stage.
- 9.5. The applicant has indicated that due to the steep gradient on site, the approved layout would result in a considerable incline on paths and access roads unless substantial level changes were undertaken which are not considered practical. The applicant therefore seeks to vary the approved scheme to better take account of the gradient of the site, and to allow for their own requirements as the new developer. The following changes are proposed:
- Straightening of the spine road where necessary to accommodate a refuse vehicle.
  - Slight relocation of the second access to the one single dwelling on site.
  - Amendments to the distribution of dwellings, parking spaces and general layout by way of adjusting orientation of dwellings and adjustment to garden shapes/sizes.
  - Amendments to the accommodation of the private mix of dwellings weighted more in favour of 3 bed homes and fewer 4 and 5 beds.
  - A reduction in the total floor area of market residential accommodation by over 550sqm and an increase in floor area of affordable housing by 50sqm (N.B. the number of units remains the same for both market and residential).
  - Amendments to landscaping
- 9.6. The number of units and the level of affordable housing provision (40%) would remain unchanged. The proposed amendments would shift the balance of accommodation towards three-bedroom units as set out below. The accommodation split of the affordable dwellings would remain unchanged, as noted above.
- 9.7. The proposed accommodation split aligns closer to CPP1 Policy CP19 requirements than the approved scheme and therefore no objections are raised in this regard.
- 9.8. The Urban Design Officer has confirmed that the current proposal is an improvement in comparison to the approved scheme and further amendments

have been made to address several concerns. It is noted that the Urban Design Officer still raises concerns relating to landscaping, social functionality and a Sustainable Urban Drainage Strategy. However, given that there is an extant permission in place which could be implemented at any time in and that the current scheme is considered to be a notable improvement in comparison to the approved scheme, no further amendments are considered reasonable in this case. Further matters relating to landscaping and drainage would be secured by condition.

- 9.9. Transport Officers have advised that the Road Safety Audit (RSA) for the approved scheme did not take account for the second vehicle access to an individual unit and have therefore requested a further RSA to account for this. However, the RSA for the previous application was carried out in 2017 and remains relevant, particularly as it confirmed the safety of the single access from the public highway (Ovingdean Road). It is not considered necessary or reasonable to request an updated RSA to account for one single dwelling, particularly as the approved scheme remains extant and could be implemented based on the current approved details.
- 9.10. In order to account for the changes in layout, the applicant seeks permission to amend the wording of condition 20 set out below.  
*No dwelling shall be occupied until space has been laid out for that dwelling in accordance with drawing no: FA20-1779-050 Revision E for cars to be parked. The parking spaces shall thereafter be kept available at all times for the parking of vehicles by the occupants of the dwellings and visitors.*
- 9.11. No objections are raised to the revised wording.
- 9.12. Overall it is considered that the revised scheme represents an improvement in comparison to the approved scheme as it would address the issues relating to the gradient of the site and would improve the usability and quality of life for future occupiers, whilst retaining the ecological benefits of the approved scheme.
- Other Matters:
- 9.13. The County Ecologist raised objections to the proposed application as originally submitted due to the potential for losses of the population of the Nationally Rare and Critically Endangered Red Star-thistle (RST) due to regrading areas of the site.
- 9.14. The original permission (BH2019/01310) was allowed at appeal on the basis that an appropriate amount of RST would be retained on site, and the remainder would be translocated to other areas of the site or to off-site locations. A mitigation strategy was also secured via condition. As originally submitted, the current application proposed to translocate the majority of the RST to off-site locations where it was considered there was insufficient evidence to confirm that the RST would thrive.
- 9.15. Following discussions with the County Ecologist and the applicant, the proposal has been amended in order to retain the majority of the original RST on site as



well as the additional space for the translocation of any RST that would be lost and any new plants that have developed within the site, in line with approved scheme and mitigation strategy. The County Ecologist has confirmed this to be acceptable and is in support of the application.

**10. COMMUNITY INFRASTRUCTURE LEVY**

- 10.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The scheme does not result in a net gain of gross internal floor area over the approved scheme and is therefore not CIL liable.

**11. EQUALITIES**

None identified

