

<u>No:</u>	BH2022/00456	<u>Ward:</u>	Hove Park Ward
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	Former Dairy 35 - 39 The Drove Hove BN3 6LF		
<u>Proposal:</u>	Application to vary condition 1 of planning permission BH2020/00931 to permit amendments to site and internal layout, elevations, roof design, materials, fenestration, amenity space, landscaping, cycle and bin storage.		
<u>Officer:</u>	Emily Stanbridge, 293311	tel: <u>Valid Date:</u>	18.02.2022
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	20.05.2022
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	12.10.2022
<u>Agent:</u>	Mialex Work.Life Core Brown Street Manchester M2 1DH		
<u>Applicant:</u>	Superstone Homes Ltd Former Dairy 35-39 The Drove Hove BN3 6LF		

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.
(Note: Drawing list will be included on the Late Representations List)
Reason: For the avoidance of doubt and in the interests of proper planning.
2. The development hereby permitted shall be commenced before the 18th November 2024.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
3. The non-residential commercial uses hereby approved shall be retained as Class E use and shall not be used for any other purpose.
Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policy QD27 of the Brighton & Hove Local Plan.
4. No activities associated with the non-residential uses hereby approved, including servicing and deliveries, shall take place outside the hours of 07.00 to 23.00.

Reason: To protect the amenity of neighbouring occupiers and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.

5. The development shall be constructed and laid out in accordance with the disabled bays shown on drawing 043-02-P101 rev 01 received on the 26th of July 2022. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

Reason: To ensure the development provides for the needs of disabled residents and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPD14 guidance.

6. Noise associated with plant and machinery throughout the development shall be controlled such that the Rating Level, calculated at -metre from the façade of the nearest proposed residential unit, shall not exceed a level 5dB(A) below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014.

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

7. Prior to first occupation of the development hereby approved, full details of a proposed external lighting scheme shall be submitted for approval by the Local Planning Authority. No external lighting other than that which forms part of the approved scheme shall be installed.

Reason: To ensure the satisfactory preservation of this locally listed building, to protect neighbouring amenity, and to comply with policies QD25, QD27 and HE10 of the Brighton and Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

8. The construction of the development hereby approved shall be carried out in accordance with the approved CEMP 01 rev A received on the 17th August 2022.

Reason: In the interests of amenity and road safety and to comply with policies TR7, SU3, SU5, SU9, SU10, QD27 and HE6 of the Brighton & Hove Local Plan and CP1, CP2, CP3, CP7, CP9, CP11, CP12, CP13 and CP15 of the City Plan Part One.

9. The development hereby permitted shall not be occupied until a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments, including gated access, has been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to occupation of the development and shall thereafter be retained at all times.

Reason: To enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan, and CP12 and CP13 of the Brighton & Hove City Plan Part One.

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

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan and policy CP12 of the Brighton and Hove City Plan Part One.

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

- a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
- b. a schedule detailing sizes and numbers/densities of all proposed trees/plants, to include food-bearing plants, including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- c. details of all boundary treatments to include type, position, design, dimensions and materials.
- d. details of all proposed areas of defensible space as shown on the proposed level 0 plan. The defensible space to the front of units 13-19 should be no less than 0.6m in depth.

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

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

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

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and 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.

13. All hard landscape surfaces hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 and CP11 of the Brighton and Hove City Plan Part One.
14. The development hereby permitted shall be carried out in accordance with the material schedule 043-MS-01 Rev B received on the 26th July 2022.
Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 and HE10 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.
15. No development above ground floor slab level of any part of the development hereby permitted shall take place until a sample panel of flintwork has been constructed on the site and approved in writing by the Local Planning Authority. The flintwork comprised within the development shall be carried out and completed to match the approved sample flint panel prior to the development hereby permitted being occupied.
Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 and HE10 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.
16. The rooflights hereby approved shall have steel or cast metal frames colour-finished black or dark grey, fitted flush with the adjoining roof surface and shall not project above the plane of the roof.
Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 and HE10 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.
17. The cycle parking within the development hereby permitted shall be carried out in accordance with drawing 043-02-P101 received on the 26th of July 2022. The approved cycle parking facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and National Planning Policy Framework Paragraph 110.
18. The electric vehicle chargers within the development hereby permitted shall be carried out in accordance with drawing 043-02-P101 received on the 26th of July 2022. These charging 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. Plus passive bays shall be bought into active service in accordance with the approved arrangements.
Reason: To encourage travel by more sustainable means and seek measures which reduce fuel use and greenhouse gas emissions and to comply with

policies SA6, CP7, CP9, CP12, CP13 and CP15 of the City Plan Part One and SPD14 Parking Standards.

19. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.
Reason: The SUDS Management and Maintenance Plan (Nimbus Jan 2020) states that due to groundwater levels infiltration SUDS is not appropriate at this site. However this condition is required to ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants, and to comply with policy SU3 of the Brighton & Hove Local Plan.
20. The layout and management/allocation of the vehicle parking areas within the development shall be carried out in accordance with drawing 043-02-P101 received on the 26th of July 2022. The approved layout and management arrangements shall be implemented prior to the occupation of the buildings and thereafter be retained and maintained.
Reason: To ensure the development maintains a sustainable transport strategy and to comply with policies TR7, TR12, TR14 and TR18 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.
21. Not used.
22. None of the new build residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton and Hove City Plan Part One.
23. Unless otherwise agreed in writing by the Local Planning Authority, within 3 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent' shall be submitted to, and approved in writing by, the Local Planning Authority.
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.
24. The development hereby permitted shall be constructed in accordance with drawing 043-02-P107 which secures a dwelling for a wheelchair user. This shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter.

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

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

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

25. All ecological measures and/or works shall be carried out in accordance with the details contained in Ecological Design Strategy (Bakerwell, August 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

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

26.

- (i). No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:

- (a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice;

And if notified in writing by the local planning authority that the desk top study identifies potentially contaminant linkages that require further investigation then,

- (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A1:2013;

And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,

- (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report by a competent person approved under the provisions of condition (i)c that any remediation scheme required and approved under the provisions of condition (i)c has been implemented fully in accordance with the approved details (unless

varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:

- a) built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

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

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

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with 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.

28. Other than demolition works and works to trees, the development hereby permitted shall not be commenced until a surface water drainage scheme for the site, based on sustainable 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. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: As this matter is fundamental to the acceptable delivery of the permission to prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

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

Reason: To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy SU5 of the Brighton & Hove Local Plan.

30. If during site investigation on construction any asbestos containing materials are found, which present significant risk/s to the end user/s then: a) A report shall be submitted to the local planning authority in writing, containing evidence to show that all asbestos containing materials have been removed from the premises and taken to a suitably licensed waste deposit site.

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.

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

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

32. The level 1-bedroom windows in the northern elevation of unit 12 of the development hereby permitted shall not be glazed otherwise than with obscured glass up to 1.7m in height and thereafter permanently retained as such.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan, and Policies DM20 and DM21 of the Submission City Plan Part 2.

33. At least nineteen bee bricks shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter.

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

34. The development hereby permitted shall incorporate at least 38 (thirty eight) swift bricks/boxes within the external walls of the development and shall be retained thereafter.

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

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. A formal application for connection to the public sewerage system is required in order to service this development. Please read the Southern Water New Connections Services Charging Arrangements documents which has now been published and is available to read on the website via the following link: southernwater.co.uk/infrastructure-charges.
3. A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water for further information.

4. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
5. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
6. The applicant is advised that Part L – Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.
7. The applicant is advised that Part O of Building Regulations 2022 has been introduced. This standard is aimed at designing out the need for mechanical air conditioning systems in dwellings that would otherwise be prone to overheating and limiting unwanted solar gains. There are optional methods to demonstrate compliance through the Building Regulations.

2. SITE LOCATION

- 2.1. The application relates to a vacant commercial site located to the north of The Drove way, Hove. The wider area is predominantly residential, including mostly 2 storey buildings with traditional and modern design. There is a retail store on the south side of the street opposite.
- 2.2. This site is a locally listed heritage asset comprising single storey, early 19th century out-buildings associated with a larger dairy farm, and was used as a commercial dairy depot for many years until 2016. The site appears to have been used for dairy throughout its history, but historic mapping shows that the actual arrangement of buildings has altered over time. The Dairy Depot use of the site continued in some form until 2016 when the site was vacated and put up for sale.

3. RELEVANT HISTORY

- 3.1. **BH2022/01506** Application for approval of details reserved by conditions 5(disabled parking),7(external lighting), 8(CEMP), 10(ground levels), 12(tree protection), 14(external surfaces), 17(cycle parking), 18(electric vehicle charging points), 19(drainage systems), 20(vehicle parking), 24(Building Regulations Optional Requirement M4(3)(2b)), 25(ecological design strategy), 26(contaminated land), 27(refuse & recycling), 28(surface water drainage), 29(drainage strategy) and 30(asbestos) of application BH2020/00931. Withdrawn August 2022.

- 3.2. **PRE2021/00145** Pre-Application Enquiry proposing a series of minor amendments to the approved design and layout of the scheme approved in association with planning application Ref BH2020/00931. Written response issued November 2021. Summary: The proposals could be supported in principle however further amendments and justifications required.
- 3.3. **BH2020/00931** Change of use from former Dairy Crest depot (B8) to mixed-use development comprised of 19no. dwellings (Use Class C3) & commercial space (Use Class E), including partial demolition of the existing & erection of a new northern wing; erection of a new central wing to courtyard; onsite car & cycle parking; & associated works (Amended Plans). - Approved 22.06.2021
- 3.4. **BH2018/03798** Change of use from former Dairy Crest depot (B8) to a Mixed use flexible commercial development of 1435sqm (Flexible between use classes B1(a), A1, A2, A3, D1) incorporating alterations including removal of northern extension and erection of a new wing with 14no residential units (C3). Erection of a new central wing to court-yard, onsite car parking, cycle storage and areas for storage of waste and recycling - Approved 18/09/2020
- 3.5. **BH2017/04050** Change of use from former Dairy Crest depot (B8) to Mixed-use flexible commercial development of 1383sqm (Flexible between use classes B1(a), A1, A2, A3, D1) incorporating alterations including removal of northern extension and erection of a new wing with 14no residential units (C3). Erection of a new central wing to court-yard, onsite car parking, cycle storage and areas for storage of waste and recycling - Appeal Allowed 25/10/2019

4. APPLICATION DESCRIPTION

- 4.1. This application seeks to vary condition 1 of planning permission BH2020/00931 to permit amendments to the approved drawings in relation to site and internal layouts, elevations, roof design, materials, fenestration, amenity space, landscaping, cycle and bin storage.
- 4.2. Following approval of application BH2020/00931, the applicant undertook a review of the site and approved scheme and identified a number of opportunities to improve the external design and enhance the layout of the scheme. The applicant submitted a pre-application enquiry engaging with heritage and design officers and it was considered by the local planning authority that the amendments sought could be regularised by way of a Section 73 application.
- 4.3. At pre-application stage it was advised that the reformatting of the site offered the potential to create better amenity spaces and improve the quality of living accommodation across the site. It was acknowledged however that careful consideration should be had to ensure any such changes referenced the character and history of the site.
- 4.4. This application also contains additional details to effectively discharge some of the conditions attached to the original planning approval (BH2020/00931),

including those relating to drainage, site levels, CEMP, materials, ecology, landscaping, parking, contaminated land and lighting.

5. CONSULTATIONS

Internal:

- 5.1. **Air Quality** No objection
- 5.2. **Arboriculture** No objection Tree protection measures required.
- 5.3. **Environmental Health** Insufficient information to discharge conditions 26 and 31 of BH2020/00931 (contaminated land)
- 5.4. **Heritage** Initial Comments 04.03.2022 Commenting: No objection is had to the design and layout changes proposed under condition 1. However, it is unclear where all of the proposed external materials are intended to be used in the development. Annotated elevations and plans should be provided to clarify this. It is not clear how well the proposed plain clay tile product relates to the existing clay tiles on the main barn roof in terms of colour and finish.

Further comments following submission of additional information 05.07.2022
- 5.5. Comment: The new build central range should be finished in Ibstock Chailey Rustic (or similar). Drawing no. 2048-SK-126 B shows a brick soldier course to the flint facing on the south end of the new central range. There is no local tradition for such soldier courses on flintwork and it was not shown on the approved elevations. It should be omitted so that the south end matches that of the existing east and west ranges.
- 5.6. The paving to the courtyards is to be 'Marshalls Drivesett Deco block paving [colour: Cotswold]'. This colour has no local precedent in historic settings - instead either the 'Traditional' or 'Cinder' colour should be used.
- 5.7. **Sustainability** No objection
- 5.8. **Sustainable drainage** No objection to the scheme overall. Some concerns are had in relation to the specific information submitted to discharge the drainage conditions applied to BH2020/00931.
- 5.9. **Sustainable transport** Initial Comments 04.04.2022
Further information required in relation to cycle parking provision, electric vehicle, disabled parking provision and motorcycle parking. The number of accessible residential units is also required to be provided. In addition to this, confirmation is sought in relation to the type of commercial use proposed at the site to assess cycle and car parking provision.

Additional comments 13.07.2022
- 5.10. The Construction Environment Management Plan is considered to be acceptable.

Additional comments 31.08.2022

- 5.11. Further information required in relation to electric vehicle charging provision and motorcycle parking provision.
- 5.12. **Urban Design Officer Comment:** Summary - The proposals are generally an improvement upon the approved scheme.
Units 1, 2 and 3: Agree that changes to internal layout are an improvement. The position of small trees will help to informally demarcate defensible space.
- 5.13. Units 4, 7 and 8: Generally agree that changes to internal layout are an improvement. Unit 4 - two en-suite bedrooms would benefit from being flipped so bedroom windows face south and bathrooms face north.
- 5.14. Units 5, 6 and C1: Proposed revisions are generally supported, especially the legibility of the western archway and enlivened frontage to the east courtyard. A refuse storage has been relocated to the north of Commercial Unit C3. This generates improvements to the street frontage, and the refuse storage area appears more spacious. However, it is unclear how refuse collection will function. The general strategy to split residential and commercial activity between the two courtyards is supported.
- 5.15. New build central wing to front courtyard: Separating the new and existing roof forms is successful, respecting the form of the existing barn and appearing more like a farmyard cluster than a single extended building, and responding to the existing junctions between the main barn and the east and west ranges. The proposed roof form is now connected as an extension to the existing barn. This is also considered acceptable. Revised elevational detailing is an improvement, appearing contemporary in character whilst remaining sensitive to the heritage context. Larger apertures which align between ground and first floors generate the impression of continuous apertures from ground to eaves height as recommended. Eaves height appears to have been lowered to more closely match that of the existing east and west ranges. The horizontal band at 1st floor level has been retained, however this is less of a concern in light of revisions to apertures. As such, proposed revisions are supported.
- 5.16. Units 9, 10, 11 and 12: Generally, proposals are an improvement. Amended layouts improve amenity provision and quality, as well as internal daylight and outlook. The contemporary architectural character of this group of dwellings is also supported. Unit 12 - the glazed eastern gable presents a rather incongruous form / appearance as viewed from Mallory Road. To achieve outlook and light for this room, perhaps a south facing dormer window (similar to those in units 10 and 11) would be more appropriate and a solid gable would more sensitively address Mallory Road. Trees need to be protected.
- 5.17. North Terrace of Houses: Revised internal layouts are supported and it is agreed that the terrace presents a stronger and more legible identity than approved proposals. The architecture appears more refined and cohesive with other elements of the scheme. The stepped building line has been retained but the stepped eaves line has been omitted, which is supported and refines the expression of this terrace enough that the stepped building line is considered

acceptable. Revised proposals indicate communal amenity space to front gardens to the south of the terrace, including natural play, food growth, natural planting and lawn area. This is strongly supported. However, no defensible space to adjacent dwelling is proposed. Even a small strip e.g., 600mm of planting in front of these dwellings would be an improvement and is recommended.

5.18. Landscape design: This is considered successful in principle.

External:

5.19. **Ecology:** No objection subject to condition

5.20. **Southern Water** No objection

5.21. **Sussex Police** No objection

6. REPRESENTATIONS

6.1. **Fourteen (14)** letters of representation have been received objecting to the proposed development on the following grounds:

- The revised location of the new bin store causing issues of noise and odour
- Increased roof heights
- Additional overlooking
- Roof forms are not typical of the area
- Pedestrian or vehicle access to the site from Mallory Road
- Increase in traffic and other highways issues
- Overshadowing and loss of light
- Non-compliance with policy
- Disruption during the build
- The proximity of the terrace to No.6 Mallory Road
- The changes proposed are not minor in nature
- Light pollution
- Impact on trees
- Impacts on drainage
- Unit 12 is of a larger volume than previously approved
- No construction traffic should be allowed down Mallory Road
- The application proposes numerous changes
- Dust during construction
- Proximity of the dwellings to No.6 Mallory Road
- Concerns over lack of landscaping details
- Construction traffic
- Units 11 and 12 appear at odds with Mallory Road
- Roofing materials not in keeping with Mallory Road
- Air pollution

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 Joint Area Action Plan (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. **RELEVANT POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

SA6 Sustainable Neighbourhoods

CP1 Housing delivery

CP2 Sustainable economic development

CP3 Employment land

CP4 Retail provision

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

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
QD14 Extensions and alterations
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
EM4 New business and industrial uses on unidentified sites
HE10 Buildings of local interest
HE12 Scheduled ancient monuments and other important archaeological sites

Brighton & Hove City Plan Part 2 (Proposed submission October 2020)

The Inspector published her Final Report into the Examination of the City Plan Part Two 19 July 2022. The Report is a material consideration. The Inspector has concluded that with her recommended changes (the schedule of changes as appended to the Report) that Plan is sound and can be adopted. The Inspector's report concludes the examination of City Plan Part Two. City Plan Part Two policies, as amended by the Inspector's schedule of Main Modifications, can be afforded significant weight but they will not have full weight until the City Plan Part Two is formally adopted.

DM1 Housing Quality, Choice and Mix
DM11 New Business Floorspace
DM18 High quality design and places
DM19 Maximising Development Potential
DM20 Protection of Amenity
DM22 Landscape Design and Trees
DM26 Conservation Areas
DM33 Safe, Sustainable and Active Travel
DM36 Parking and Servicing
DM37 Green Infrastructure and Nature Conservation
DM40 Protection of the Environment and Health - Pollution and Nuisance
DM43 Sustainable Urban Drainage
DM44 Energy Efficiency and Renewables

Supplementary Planning Documents:

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

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The principle of the development is accepted. The original approved scheme (BH2020/00931) was granted on the 22nd June 2021. The current application seeks to vary this permission. The Local Planning Authority considered the previous schemes to be acceptable in all regards and secured various details

and measures by planning conditions and via a S106 agreement. In terms of planning policy, there are considered to be no significant changes in circumstances or new material considerations since the original permission was granted, except the advancement of City Plan Part Two and the greater weight given to its policies.

- 9.2. The considerations to be taken into account in this application solely relate to the variation of condition 1 of application BH2020/00931, which relates to the approved drawings. The main considerations in the determination of this application relate to:
- the visual impact of the development on the character and appearance of the site and wider area, including heritage considerations
 - the standard of accommodation provided
 - any potential impacts on neighbouring amenity
- 9.3. These considerations are assessed against each respective part of the site for clarity, as set out below.

Condition 1

- 9.4. This application provides a revised scheme to the original approval which is led by design and layout changes. This follows on from pre-application advice provided in 2021, which included discussions with both Heritage and Design officers, and revised proposals have been submitted.
- 9.5. The proposed scheme will deliver the same number of residential units and will largely comprise the same cumulative residential and commercial floor space as the approved scheme. The mix of housing units is largely the same as the approved application with the exception of unit 10 which as approved comprised a two-bedroom unit and as proposed comprises a three-bedroom unit. This new dwelling would still meet the national space standards for this housing type. This alteration is considered acceptable as a varied mix of units is still achieved across the site with 6 smaller two-bedroom properties proposed, in compliance with policy. It is important to note also, that each of the two-bedroom dwellings proposed on the site would exceed the minimum required space standard.
- 9.6. The proposals also include the same vehicular access and number of car and cycle parking spaces as the approved scheme.
- 9.7. The proposed amendments to the scheme are summarised below.

Units 1, 2 and 3

- 9.8. These units are located to the south eastern corner of the site.
- 9.9. The internal floor spaces of these units have been reduced from 101sqm to 82.3sqm (which would still exceed the respective national space standards) and provide internal living spaces that are more suitable for future occupants. At ground floor the layout has been altered to provide a larger shared open plan kitchen/dining/living area provide a more flexible space for occupants. In addition, the first floor ensuite bathrooms have been removed.

- 9.10. The height, scale and roof form of these dwellings will remain consistent with the approved application. However, improvements have been made to the external design of the buildings by incorporating additional glazing at ground floor and a strip of rooflights which replace the two individual roof lights previously proposed. The use of strip roof lights on the eastern range is welcomed by the Heritage team.
- 9.11. The proposed site plan indicates how external areas within the courtyard would appear to be in the ownership of individual dwellings through the use of metal studs. However, it is considered that the position of small trees will further help to informally demarcate defensible spaces and these details are sought within the overall landscaping condition.

Units 4, 7 and 8

- 9.12. These units are positioned centrally within the site and are located adjacent to the archway which provides pedestrian access between the front and rear parts of the site.
- 9.13. The internal layouts of these units have been amended to create a more efficient layout. The relocation of the staircase in these units has improved the layout at first floor, by creating bedrooms that are less narrow and therefore accommodate likely furniture items more suitably. The position of the en-suites and bedrooms at first floor in these units has also been amended so that now the bedrooms proposed are south facing, thereby providing better living accommodation.
- 9.14. As approved, the private amenity space to unit 4 was to the north of the property. This has been altered and as such the amenity space for this unit is now proposed to the south, resulting in improved sunlight and daylight. Owing to layout changes with the adjacent unit to the east (which will be discussed later in the report) it is not considered that any harmful impact would result from neighbouring occupiers to this external space. A planting buffer is also proposed to the north of the property to maintain privacy levels, further details of which will be required as part of the overall landscaping condition for the site.
- 9.15. The proposals incorporate the removal of the north facing ground floor external amenity spaces as a consequence of relocating vehicle parking on the site to the rear boundary of units 7. A subsequent amendment to the scheme is the incorporation of balconies to units 7 and 8 to the northern elevation. These balconies will be raised above ground level to provide further privacy and usability. Whilst the amenity space represents a reduction from the approved scheme, given that the communal amenity space to the north has been improved and expanded this is considered acceptable and in accordance with policy HO5 of the Local Plan.
- 9.16. Externally the windows to the northern elevation all now benefit from brick dress detailing as requested by Heritage officers. The southern elevations remain as approved.

Eastern and Western Courtyards and the re-arrangement of units 5, 6 and C1

- 9.17. The approved commercial unit C1 (located within the centre of the site) is proposed to be split and provide two commercial units (C1a and C1b), these two units will provide the same combined floorspace as that approved. The proposed Unit C1b will interchange positions with units 5 and 6. The result of this is that the western courtyard will as a whole become more commercial in nature. The removal of the grassed area from the historic western courtyard is welcomed by heritage officers and results in a more flexible courtyard area that will provide further opportunities for the commercial units. The proposals to split the residential and commercial activity between the two courtyards is supported.
- 9.18. It is considered that the relation of units 5 and 6 will allow for visual interest to be incorporated to the eastern elevation of the central wing and is also considered to result in a better outlook to the east and west for future occupiers.
- 9.19. As a result of these layout changes, the cycle stores will be relocated close to the frontage of the site which will improve accessibility. The refuse store has also been repositioned from the archway between units 4 and 8 to the west of the site, to the rear of unit C3. This generates improvements across the site and appears more spacious. Concerns have been raised however, by neighbouring residents with regards to issues of noise and odour. Further details have been provided by the applicant to advise that the refuse store will now be fully enclosed to mitigate these impacts. Full details of the refuse store are already sought under condition 27 of the approved scheme. Discussions with city clean confirm that the location of the bin store is acceptable and is not considered to be at a distance that is too far for residents. The team did advise that were any future occupants in need of assistance in this regard then it would be for the managing agents of the site to assist with this. CityClean also confirm that the refuse teams would walk into the site and collect refuse and recycling.

New central wing

- 9.20. The new central wing accommodates units 5 and 6 and commercial unit C1a.
- 9.21. The external design of this element of the scheme has been revised to ensure that the wing appears less domestic in appearance. As a result, the fenestration layout has been amended so that it adopts a less vertical emphasis. Larger apertures which align between the ground and first floors generates the impression of continuous apertures as recommended by design officers.
- 9.22. The plans show that the roof design has been maintained so that it joins the main barn in accordance with its original character and the overall height is reduced.
- 9.23. The amendments to the design of the new central wing and the retained barns satisfactorily reflect the pre-application advice that was given. It is noted that the scale of the central wing does not exceed that of the approved plans and indeed the ridge line is slightly lower due to a reduced roof pitch; this is considered to be acceptable as this is a clearly new element (albeit following a historic

footprint) In accordance with policy CP15 of the CPP2 and HE10 of the Local Plan.

Units 9, 10, 11 and 12

- 9.24. These units are positioned along the eastern boundary of the site, extending to the northern boundary.
- 9.25. Previously a terrace was proposed here. The applicant has advised of a number of issues with these units specifically relating to internal layouts, outlook, lighting. As a result of the proposals unit 9 has been reduced in size and is now positioned to the south of unit 4 and accessed from within the eastern courtyard. As a result, this property now benefits from an improved outlook and light levels. The previously approved private courtyard was surrounded by high walls and offered limited outlook to future occupiers. The revised layout allows for a larger courtyard which does not limit outward views.
- 9.26. The size and layout of units 10 and 11 have also been revised so that both units now form courtyard dwellings. Alterations to the plan form of the development mean that the now proposed unit 11 is positioned further south within the site adjacent to No.10, facing both east and west. These dwellings would however still feature a set back from the northern courtyard by way of a planting buffer. The dwellings would benefit from suitable light and outlook levels and feature external amenity spaces with greater privacy.
- 9.27. Unit 10 features an additional bedroom, however the overall floor space of the building still complies with national minimum space standards, this is not considered to impact upon the viability assessment for affordable housing as submitted as part of the original application.
- 9.28. Amendments to the layout of the scheme result in the creation of a detached unit (12) in the north-eastern corner of the site. This property is positioned so that it provides a break from the rest of the terrace. As a result, this property now seeks to respond the Mallory Road in terms of its design. The visual break from the northern terrace is considered successful and avoids any awkward junctions between these two elements. It is confirmed that no communal access will be had into the site from Mallory Road, the steps to the western side of unit 12 provide access to this property private rear amenity space.
- 9.29. The revised form and massing of the now unit 12, on the north-eastern corner has addressed the concerns set out by the Urban Design officer as part of the 2020 application. The gable ended roof form and eaves level are more in keeping with the character of other buildings on Mallory Road. The lower volume on the east also softens the visual impact of the otherwise relatively tall building here.
- 9.30. The contemporary architecture of this group of dwellings (10, 11 and 12) is supported. The solid roof form proposed to No.12 is also supported. Amended plans have been received during the lifetime of this application to overcome concerns by the design officer with regard to the glazed eastern gable of this property. Amendments have been received which reduce the level of glazing on

the gable end to a single pane of glass either side of the central brickwork. This is considered an improvement. In order to not impact on light levels into this room, as recommended by the design officer, a dormer similar to that proposed on units 10 and 11 is proposed on the southern elevation. It is considered that this unit more sensitively address Mallory Road than the approved scheme in accordance with CP12 of the City Plan Part 1.

- 9.31. In terms of impact to neighbours, Unit 12 is positioned close to the northern boundary than the approved scheme by approximately 2.3m. A separation distance would be maintained of 7.6m between the rear elevation of this unit and the northern boundary. No.6 Mallory Road is located immediately north of the site. The height of unit 12 which fronts Mallory Road has been reduced in height when compared to earlier schemes. The highest ridge point of the dwelling also does not exceed the 2018 approval. It is acknowledged that this new dwelling will have some impact on the light levels received by the side windows of No.6 Mallory Road. However, it is noted that these are secondary windows to a kitchen and living room which also benefit from windows to the front or rear. The impacted window at first floor serves a bathroom. As such it is not considered that the development would result in harm so significant as to warrant the refusal of this application.
- 9.32. It is noted that objections have been received in respect of a lack of privacy towards this privacy. The windows facing on to the side elevation of 6 Mallory Road serve a central staircase and two first floor bedrooms, which would be comparable to the ground floor of properties on Mallory Road.
- 9.33. This new dwelling proposes two windows at first floor which serve bedrooms and provide outlook over No.6 Mallory Road. In order to prevent any harmful levels of overlooking and loss of privacy towards this property, it is considered suitable to condition these windows to be obscurely glazed up to 1.7m in height. Whilst it is acknowledged that for the rear bedroom in this unit, there would be limited outlook, on balance this is considered acceptable given the standard of accommodation throughout the rest of the property. As a result this element of the scheme is considered to comply with policies QD27 of the Local Plan and DM20 of the CPP2.
- 9.34. The new built form of unit 12 would be in closer proximity to an existing street tree on Mallory Road than the approved scheme. This application is accompanied by a tree constraints plan and Arboricultural impact assessment. The Arboriculture officer has commented that the construction of a wall and physical protection to the stem during construction are welcomed.

Northern Terrace (Units 13-19)

- 9.35. The approved terrace group to the north of the site are dominated visually by the provision of the main car parking area to the front elevation. This application seeks to relocate the parking area adjacent to the rear elevation of the central barn. A benefit of this is that new south facing communal lawned gardens will be created for residents. Amendments have also been provided to ensure that each of the terrace dwellings features defensible space to the front, consisting of planting. The windows within units 7 and 8 which are located adjacent to the new

parking area have been increased in height to ensure acceptable levels of outlook remain.

- 9.36. The north facing rear terraces include a level change leading to the rear gardens. The approved scheme provided single aspect living spaces. The reduction of the number of units in this terrace from 8 to 7 allows for alterations to the internal layouts of these units.
- 9.37. The terrace features amendments to its external appearance such as the central section stepping forward. Whilst this does not reflect the simple, consistent building lines of the historic buildings, which is regrettable, it is not considered that this would cause any significant harm to the setting of the historic barns.
- 9.38. The external design of the dwellings has been amended to provide a simplified roof design and elevations that are more consistent with the character of the rest of the development. A similar level of glazing is proposed to the proposed ground and first floor levels to the rear elevation with simplified roof lights within the roof slope.
- 9.39. The roof form to the front of this terrace group has been amended which now results in a consistent ridge line. This now appears more refined than the approved 2020 application and more cohesive with other elements of the scheme.
- 9.40. The terrace has been increased in height above the 2020 application by approximately 0.6m. It should be noted however that the eaves height of the terrace is the same as that approved under the 2020 scheme. Further the terrace remains 0.9m below the approved 2018 scheme. A contextual long section has been provided to demonstrate and confirm that the terrace would not be viewed above the main barn when viewed at eye level from The Drove way thereby complying with policy HE10 of the Local Plan.
- 9.41. The footprint of the terrace has positioned further north so that consequently the separation distances between the terrace and No.6 Mallory Road have been reduced. The greatest difference is to the eastern end of the terrace group. It is noted that this end of the terrace is more sensitive, being adjacent to the neighbouring building. The resultant terrace would be approximately 0.5m nearer than the approved 2020 scheme at this point. However, this distance isn't considered to result in a significant impact to the amenities of this neighbouring occupier in the context of the terrace as a whole which has been approved in principle. It is further noted that the central part of the terrace would also measure between 0.6 and 0.9m closer to the boundary however the relationship between the terrace and neighbouring occupier remains acceptable. The development is therefore considered to comply with policies QD27 of the Local Plan and policy DM20 of the CPP2.

Other matters

- 9.42. Details have been submitted in relation to a number of conditions that were imposed on application BH2020/00931.

- 9.43. The details in relation to conditions 5, 8, 14, 17, 18, 20, 24 (relating to disabled parking, cycle parking, electric vehicle charging points, vehicle parking, CEMP, materials and wheelchair accessible dwellings) have been duly considered and are found acceptable. However, given the comments received from consultees, some conditions will have to be re-imposed at this stage as per the 2020 approval (BH2020/00931).
- 9.44. The submitted Construction Environmental Management Plan can ensure neighbouring amenity is satisfactorily protected during construction. External lighting can be controlled by condition to prevent pollution.
- 9.45. S106 - Mitigation measures secured via S106 on the original scheme remain unaffected by this application and would still apply.

Conclusion

- 9.46. Overall, the layout and design changes are considered an improvement and are supported. It is acknowledged that there are some slight changes to the amenities of neighbouring properties, particularly as a result of the repositioning of the northern part of the site. However, on balance in the context of the approved application (BH2020/00931), the amendments proposed to the existing permission would not result in undue harm, and result in a more efficient use of the site and one which is sympathetic to heritage assets. This is welcomed in accordance with policies CP12, CP14 and CP15 of the City Plan Part One, Policy HE10 of the Brighton and Hove Local Plan and Policies DM18, DM19 and DM22 of the City Plan Part Two.

10. BIODIVERSITY & CLIMATE CHANGE

- 10.1. This application makes efficient use of the existing site and buildings. Through conditions attached to both the original application and the current scheme, the proposals will provide improved biodiversity with food growing opportunities within the landscaping and habitat creation with the inclusion of swift boxes. In addition, sustainable measures such as cycle parking is to be provided on site and electric vehicle charging points for all dwellings.

11. EQUALITIES

- 11.1. Conditions are proposed which would ensure all new build dwellings are in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings). In addition, 5% of the new dwellings are to meet Wheelchair Accessible Standards.