

<u>No:</u>	BH2023/03054	<u>Ward:</u>	Whitehawk & Marina Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Racehill Warren Road Woodingdean Brighton BN2 9XX		
<u>Proposal:</u>	Replacement and extension of aggregate surface to part of existing parking site (part retrospective).		
<u>Officer:</u>	Steven Dover, tel:	<u>Valid Date:</u>	18.11.2023
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	13.01.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	12.06.2024
<u>Agent:</u>	Moorside Planning Ltd 92 Station Road Burley in Wharfedale LS29 7NS		
<u>Applicant:</u>	Brighton Racecourse C/O Moorside Planning Ltd 92 Station Road Burley In Wharfedale LS29 7NS		

1. RECOMMENDATION

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

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Proposed Drawing	REV 1		15 April 2024
Location Plan			18 November 2023
Proposed Drawing	1535-BRIGHTON-PLANNING-V1.1	A	18 November 2023
Report/Statement	Planning _ Design _ Access Statement		18 November 2023

2. Unless otherwise agreed in writing, within six (6) months of the application hereby approved, an assessment and report of the contamination risk to groundwater using the simple index approach method as described in the CIRIA SuDS Manual (C753), with any appropriate mitigation measures identified shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details within six (6) months.

Reason: To ensure that the principles of sustainable drainage and to prevent pollution are incorporated into this development and to comply with policies

DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.

3. Unless otherwise agreed in writing, the landscaping scheme detailed on drawing no. REV 1 received on 15th April 2024 shall be carried out in the first planting and seeding season following the development hereby permitted. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become, in the opinion of the Local Planning Authority, seriously damaged or diseased, shall be replaced 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 provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that the application site and surrounding land is located within an Archaeological Notification Area (ANA) and any ground works could negatively impact archaeological remains. A full assessment of any proposed groundworks should be undertaken in liaison with the East Sussex County Archaeologist prior to any works commencing and/or application for planning approving being submitted to the Local Planning Authority.

2. SITE LOCATION

- 2.1. The site comprises a previously predominantly grassed area that is to the western side of the Brighton Racecourse, and to the east of Freshfield Road. It comprises approximately 5885m² of land in a roughly rectangular shape oriented in a north south direction.
- 2.2. The site lies within the Urban Fringe of Brighton & Hove (SA4) and the Brighton and Lewes Downs UNESCO Biosphere Reserve, but is otherwise not designated for its nature conservation interest. It is designated as Nature Improvement Area (NIA-CP10), an Area of Open Space (CP16) in the City Plan Part One and an Archaeological Notification Area (ANA). The boundary of the South Downs National Park lies approximately 849m east. Whitehawk/Race Hill Local Nature Reserve (LNR) lies c. 178m east and Woodvale, Extra-mural & Downs Cemeteries Local Wildlife Site (LWS) lies c. 169m north.

3. RELEVANT HISTORY

- 3.1. **BH2013/01242** Permanent use of land for park and ride facilities for up to 700 cars in conjunction with outdoor events (no more than 50 per year) at the American Express Community Stadium Falmer. Approved

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the re-surfacing of part of the existing parking area, located to the west of Brighton Racecourse, between Freshfield Road and the racecourse buildings. The submitted layout plan (drawing number: 1535-Brighton-Planning-V1.1) indicates the area (5885m²) of grassland re-surfaced, with a capacity for approximately 200 vehicles which is already used as car parking space, inline with the approved application BH2013/01242. The works have replaced the topsoil (maximum 15mm in depth) with a permeable geotextile membrane finished with compacted Tarmac Plainings. All the other existing drainage and soakaways remain as currently installed.
- 4.2. When originally submitted, the application was part retrospective as the proposed work had only been partially commenced. Subsequently the applicant confirmed that the works had been completed and this was confirmed via an officer site visit. The description of the scheme was amended to be fully retrospective when Officers were made aware all the works had already been completed in January 2024. The agent has stated that the works were commenced initially as a license for the works had been issued by Brighton and Hove City Council (September 2023). This was erroneously thought to mean a separate planning permission was not required for the now completed works.
- 4.3. Additional plans have been submitted during the course of the application to provide a native hedge row to the north and western boundary, to reduce long views into the site and increase biodiversity to the benefit of the site. The proposed hedge and plan have been reconsulted with the County Arboriculturalist and the County Ecologist to secure their updated opinion, which is described below. In addition, the Policy Team has been consulted for an official comment in relation to the form of development carried out and the proposed native hedging (mitigation), again detailed below. The native hedging is still proposed to be planted; therefore the application has now reverted to being part retrospective.

5. REPRESENTATIONS

- 5.1. **Thirteen (13)** people raising the following issues in objection to the scheme:
- The development is overdevelopment
 - The development is a poor design
 - The development would generate additional traffic
 - The development would result in loss of view
 - The development would harm residential amenity
 - The development encourages car use
 - The development would cause/increase water run off
 - The development is not sustainable

- The development was completed without planning permission
- The development would mean loss of green space
- The development would harm the character of the area

5.2. **One (1)** person raising the following:

- The development would regularise the land use and enable any appropriate conditions

5.3. A letter of objection has been submitted by **Councillor Rowkins**. A copy of the letter is attached to this report.

6. CONSULTATIONS

Internal:

6.1. **Arboricultural** - following receipt of additional hedge plan No objection
The proposed hedgerow is considered more appropriate than isolated individual trees, and an improvement over the existing with a native hedgerow increasing bio diversity.

6.2. **Policy Comment**

Whilst the proposal is not considered to meet any of the criteria of CPP1 policy CP16 in relation to justifying the loss of open space, the extant permission for the car-park is a material consideration, which already limits the use of the site for an open space purpose. The park and ride facility provided on the site for the Amex Stadium contributes towards sustainable travel to the venue on match days and that its use as such was found acceptable in previous planning applications. The ability of the site to continue to provide this function and help the transfer journeys onto more sustainable means is supported by CPP1 policy CP9.

6.3. The proposed native hedgerow is welcomed and would support delivery of ecological enhancements, as required by policy CP10 and DM37, as well as provide visual mitigation protecting the landscape role of this urban fringe site as required by CPP1 policy SA4.

6.4. **Sustainable Drainage** No objection - subject to condition

The information submitted includes a design and access statement, which confirms that the existing drainage methods are proposed to remain; there will be no foul water to discharge, and all surface water is infiltrated via an existing soakaway. The grass will be replaced with a permeable membrane below inert aggregate and tarmac plainings.

6.5. **Transport** No objection

A significant area of grassland is being replaced which is usually a natural soak away for rainwater and reduces rainwater run-off on to the highway. We have therefore liaised with the City Council's flood risk manager on its removal and the new surfacing being proposed. On assessment they consider the proposals to be acceptable and that the new surface's introduction is unlikely to result in any significant increase of rainwater run-off onto the surrounding public highway.

- 6.6. As there are no alterations to the layout or access points, or increase in parking spaces, there is unlikely to be a significant increase in trips or intensification of parking proposed. The new surface should improve accessibility on the site and this is welcomed. The existing access points do not directly impact the highway and are on private land.

External

6.7. **County Archaeology Comment**

Assuming no further excavations of any description are required under this application the initial recommended archaeological conditions are superfluous. Accept that the addition of archaeological conditions pre-commencement conditions would not be practical on this fully retrospective application. However requests condition and informative be attached stating that any further works which involve disturbance of the existing ground are subject to a scheme of investigation and pre-application advice should be sought by the applicant from East Sussex County Archaeological.

6.8. **Brighton and Hove Archaeological Society Comment**

The development is relatively close to the location of the location of a Neolithic Causewayed enclosure. Contact County Archaeologist for recommendations

6.9. **County Ecology** - following receipt of additional hedge plan No objection

The information provided is satisfactory and the proposals are unlikely to have a significant impact on biodiversity.

- 6.10. In summary, the development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. If the applicant is prepared to offer an extended length of native hedgerow which will also work in terms of visual mitigation, that is positive.

7. MATERIAL CONSIDERATIONS

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

- 7.2. The development plan is:

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

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
SA4	Urban Fringe
SA5	The Setting of the South Downs National Park
CP9	Sustainable Transport
CP10	Biodiversity
CP11	Flood Risk
CP12	Urban Design
CP13	Public Streets and Spaces
CP15	Heritage
CP16	Open Space

Brighton & Hove City Plan Part Two (CPP2)

DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM33	Safe, Sustainable and Active Travel
DM36	Parking and Servicing
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM42	Protecting the Water Environment
DM43	Sustainable Drainage
DM44	Energy Efficiency and Renewables

Supplementary Planning Documents

SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPD16	Sustainable Drainage
SPD17	Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of development; the design and appearance of the development; the potential impacts on the amenities of local residents; on highway safety; and on biodiversity and open space.
- 9.2. An Officer site visit was undertaken in January 2024 and March 2024.

Principle of Development

Urban Fringe

- 9.3. The application site is located within the Urban Fringe and therefore policy SA4 applies which seeks to ensure that any development in these areas needs to reflect the setting of the areas which generally form part of the transition from

the built-up area of Brighton and Hove and the surrounding South Downs National Park (SDNP). These Urban Fringe areas frequently are classified as existing open space. Therefore development will only be permitted where a countryside location is justified, and where it can be demonstrated that:

- c) *the proposal has had regard to the downland landscape setting of the city;*
- d) *any adverse impacts of development are minimised and appropriately mitigated and/or compensated for; and*
- e) *where appropriate, the proposal helps to achieve the policy objectives set out above.*

- 9.4. The location is considered justified as it is a part resurfacing of the existing facility, with the remainder of the western car park area remaining grassed predominantly, which forms part of the western open space. Considering the distance from the SDNP (over 800m to east), the pre-existing carpark surface (a mixture of bare earth, odd tarmac and grassed areas), and the backdrop of the existing buildings to the east which separate the development from the SDNP, and that the proposed native hedgerow would further mitigate views into the site, the impacts are considered relatively minor in relation to the pre-existing and current development.
- 9.5. this basis the application is considered to accord with the policy aims of SA4 and is therefore further assessed on its merit in relation to other policies below.

Car parking

- 9.6. The development partially resurfaces an area of land to the west of the Brighton Racecourse buildings, to improve the surface for the movement and parking of cars (approximately 200 spaces as identified by transport officers). The use of the application site land as a car parking area has been for over 10 years and found acceptable previously by the LPA in an application in 2013 (BH2013/01242) for a park and ride development across the wider site, which would serve the Amex Stadium (albeit with retention of the grassed area). On this basis the use of the land for car parking has already been established for a significant period of time and the principle of use for car parking has previously been considered acceptable and as such does not form part of this application. Transport matters regarding the current application will be discussed later but the development has been considered acceptable by Highways Officers.

Design and Appearance

- 9.7. The completed development is considered to be acceptable in terms of design and appearance. The appearance is recognised as significantly different from the previously pre-dominantly grassed appearance, but due to the elevated position above Freshfield Road and the associated footpath, the development is not highly visible in the wider public realm and does not bring significant harm to the streetscene, when viewed with the backdrop of the existing buildings to the east. The majority of the open views into and out of the site are retained as they were prior to the completed development apart from the area of the proposed native hedgerow which is designed to mitigate views into the site from the north and partially to the west in long views.

- 9.8. The parking of cars on the land will continue as it has prior to the completed development, so no major visual changes occur when surveyed from the wider public realm, with the majority of the change occurring opposite the Brighton General Hospital on the opposite side of Freshfield road, rather than residential dwellings which could have their views/outlook impacted.
- 9.9. The applicant has stated that the works were necessary to ensure that the car parking area could be utilised throughout the year with a surface which was permeable but also resilient to movements and parking of vehicles. During wetter weather the previous grass and bare soil would become inaccessible for vehicles and present a very poor appearance.
- 9.10. The design and appearance of the resurfaced car parking area is therefore considered acceptable.

Open Space

- 9.11. As detailed above the area is currently designated as open space in the City Plan Part One - policy CP16. It not a public space and is privately owned. The development in respect of the re-surfacing does not impose any new structures above ground which reduce the pre-existing short and long views across the site to the adjacent South Downs Park and surrounding open spaces. It is acknowledged that the appearance/surface of the open space has changed, especially when walking across, but as it is not open to the general public and was previously used as car parking, that change in surface is not considered to cause such harm to the open space that refusal would be warranted. The proposed native hedgerow would be reflective of the surrounding greenery and open spaces which is currently onsite or adjacent.

Biodiversity and Ecology

- 9.12. The pre-existing surface to the developed area was predominantly short grass, with areas of bare soil and tarmacking. The development has removed this surface and replaced with a loose aggregate finish which is inert and provides no replacement of this grass. The County Ecologist has been consulted in relation to the application to ensure the potential negative impacts of the development have been fully assessed in relation to Biodiversity and Ecological impact. No ecological information/assessment was provided by the applicant as the works had already been completed.
- 9.13. The Ecologist has confirmed that the pre-existing habitat would have been unlikely to have significant value to biodiversity due its past/current use and appearance.
- 9.14. Consideration has also been given to the surrounding Whitehawk/Racehill Local Nature Reserve (LNR) to the east (180m approximately) and the Woodvale Extra-mural & Downs Cemeteries Local Wildlife sites (LWS) to the north (170m approximately), the Ecologist has confirmed that given the nature, scale and location of the development there are unlikely to be any impacts on any designated site.

- 9.15. Since submission of the application, Officers have sought suitable improvements to the scheme which would improve biodiversity and potentially limit some long views into the site from the north (SDNP). The applicant has now agreed to plant suitable native hedge rows to the west and north of the development to increase biodiversity onsite. This is welcomed and supported by the Council's Arboriculturist and Ecological Officers who were re-consulted regarding this addition, and its provision would be secured by condition.

Archaeology

- 9.16. The County Archaeologist has been consulted and, originally when the development work had not been completed, they were requesting a condition for a scheme of investigation and written reports in relation to archaeology prior to the works proceeding. As the works have now been completed the County Archaeologist has confirmed that there are no conditions that they would wish to impose on the current development, which would be needed to make it acceptable. They confirm that as the stripping of the subsoil has already occurred to 150mm, which has then been infilled with the aggregate material, any archaeological evidence has either been covered again - and remains insitu; or has been removed - and therefore impossible to accurately categorise or assess. Whilst regrettable, that works carried out have potentially impacted remains if they existed, this is not considered a reason to refuse the application.
- 9.17. They have reiterated that the works should not have commenced without their consultation and advised that any future disturbance of any ground onsite should be discussed with them prior to commencement, to ensure suitable mitigation of potential impacts and archaeological remains. They have requested a condition would be attached to this effect for the development site and an informative attached for the wider area.
- 9.18. However, as the development has already been completed and no further works form part of the current application it is not considered that an Archaeological condition meets the relevant tests to impose. It would have no relation to the suitability or not of development in the current application, and would refer to unknown future works, therefore failing the tests of being necessary, relevant to the development permitted, and reasonable in all other aspects. An informative would be attached as requested.
- 9.19. It is regrettable that the works have been undertaken prior to any proper scheme of investigation being undertaken, but it is not considered reasonable to refuse the development purely on this basis, if found otherwise acceptable.

Impact on Amenities

- 9.20. The development resurfaces an existing area of land which has historically been used for car parking and that use would continue. No neighbouring amenity harm over and above the pre-existing situation is anticipated due to noise and disruption from the development. The new surface is not considered to significantly increase noise to such a level where vehicle movements would have an effect on the residential amenity of surrounding dwellings, due the associated noise of the vehicles, the noise already generated from Freshfield Road, and the distance of existing residential dwellings from the application site located across

Freshfield Road to the north-west and south-west. No above ground structures are erected and site is not located adjacent to any form of residential development.

Impact on the Public Highway

- 9.21. The development would not alter the existing connections or layout of vehicles accessing or leaving the site, continuing the current arrangement and use of the land for car parking. Transport Officers have assessed the scheme and consider it is acceptable, with no significant impact on the public highway or safety over the pre-existing situation.

Sustainable Drainage

- 9.22. The Flood Risk Manager has assessed the application (at the point it was still proposed works) and confirmed that new aggregate surface would not increase the likelihood of flooding and that the current system for surface water to soakaway is sufficient to remain. They have confirmed that no flood risk assessment was needed, and considering the form of development and scale, calculations and reports in terms of full design and performance for the soakaway were not required, nor a maintenance and management plan.
- 9.23. However, they did note that the risk of contamination to groundwater has not been assessed in the application statement (the site is not located in a groundwater protection zone) and they have requested a condition that an assessment of that risk should be carried out and any necessary mitigation measures are implemented.
- 9.24. As the works have already been completed a condition would be attached to ensure this report and any mitigation measures proposed are submitted to the LPA for approval within six months of the granting of permission and any mitigation measures installed and retained thereafter.

Conclusion

- 9.25. The development is considered acceptable with no significantly harmful impacts over the pre-existing situation identified and the proposed native hedgerow would bring some visual improvements and increase bio diversity onsite. The development does bring small improvements to the associated business at Brighton Racecourse, with improved parking provision throughout the year. Although it is acknowledged to be visual different from the areas of grass which previously existed onsite, the immediate visual harm caused is not considered to warrant refusal on this element alone.
- 9.26. The majority of works have already been carried out prior to the granting of planning permission and the application is therefore part retrospective. However this has no bearing on the planning balance, weight and considerations that should be applied to the determination of the current application.
- 9.27. A planning condition shall be included in the interest of preventing groundwater contamination from surface water and to ensure that the proposed landscaping mitigation is installed. For the foregoing reasons the proposal is considered on

balance to be in accordance with policies SA4, SA5, CP9, CP10, CP11, CP12, CP13, and CP16 of the Brighton and Hove City Plan Part One, and DM18, DM19, DM20, DM29, DM36, DM37, DM40, DM42, DM43 and DM44 of the City Plan Part Two.

10. EQUALITIES

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

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

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

