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| <u>No:</u> | BH2023/03361 | <u>Ward:</u> | Coldean & Stanmer Ward |
| <u>App Type:</u> | Full Planning | | |
| <u>Address:</u> | Southern Projects Ltd Southern House Lewes Road Falmer Brighton BN1 9PY | | |
| <u>Proposal:</u> | Construction and operation of nitrate treatment plant building, 3no equipment kiosks, pumping station building and fencing. | | |
| <u>Officer:</u> | Jane Moseley, tel: 292192 | <u>Valid Date:</u> | 18.12.2023 |
| <u>Con Area:</u> | None | <u>Expiry Date:</u> | 18.03.2024 |
| <u>Listed Building Grade:</u> | | <u>EOT:</u> | 12.07.2024 |
| <u>Agent:</u> | Arcadis Arcadis 2nd Floor Tempus Court Onslow Street Guildford GU1 4SS | | |
| <u>Applicant:</u> | Southern Water Southern House Lewes Road Falmer Brighton Sussex BN1 9PY | | |

1. RECOMMENDATION

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

Conditions:

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

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

| Plan Type | Reference | Version | Date Received |
|-------------------------|-----------------------------------|----------------|----------------------|
| Location Plan | 710004-MW X-ZZ-00-D R -T-00001 | P03 | 18 December 2023 |
| Location and block plan | 710004-MW X-ZZ-00-D R -T-00002 | P07 | 18 December 2023 |
| Block Plan | 710004-MW X-ZZ-00-D R -T-00003P01 | P01 | 18 December 2023 |
| Proposed Drawing | 710004-MWX-ZZ-00-DR-T-01400 | P04 | 18 December 2023 |
| Proposed Drawing | 710004-MWX-ZZ-00-DR-T-01401 | P02 | 18 December 2023 |
| Proposed Drawing | 710004-MWX-ZZ-00-DR-T-01600 | P02 | 18 December 2023 |
| Proposed Drawing | 710004-MW X-ZZ-00-D R -T-06001 | P03 | 18 December 2023 |
| Proposed Drawing | 710004-MWX-ZZ-00-DR-T-09000 | P03 | 18 December 2023 |
| Proposed Drawing | 710004-MW X-ZZ-00-DR-T-05300 | P02 | 18 December 2023 |
| Proposed Drawing | 710004-MW X-ZZ-00-D R -EN-00001 | P01 | 18 December 2023 |

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| Proposed Drawing | 710004-MW X-ZZ-00-D R -EN-00002 | P01 | 18 December 2023 |
| Block Plan | 710004-MW X-ZZ-00-D R -T-00005 | P05 | 18 December 2023 |
| Report/Statement | 710004 | Response to LLFA - P02 | 15 February 2024 |
| Report/Statement | 710004-QAX-XX-XX-RP-EN-00001 | Noise Impact Assessment | 18 December 2023 |
| Report/Statement | 331101000 100.00114 | Arboricultural IA Rev.01 | 18 December 2023 |

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. Piling, other foundation designs or investigation boreholes using penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details.
Reason: To ensure that the proposed development, does not harm groundwater resources in line with paragraph 180 of the National Planning Policy Framework (NPPF). Piling, other foundation designs or investigation boreholes using penetrative methods can result in risks to potable supplies from, for example, pollution/turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways.

4. Prior to first use of the development hereby approved, details of any facilities for the storage of chemicals associated with this development shall be submitted to and approved by the local planning authority. The details shall include:
 - secondary containment that is impermeable to both the chemical and water, with no opening used to drain the system;
 - a minimum volume of secondary containment at least equivalent to the capacity of the tank plus 10% or, if there is more than one tank in the secondary containment, at least equivalent to the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest;
 - all fill points, vents, gauges and sight gauge located within the secondary containment;
 - associated above ground pipework protected from accidental damage;
 - below ground pipework having no mechanical joints, except at inspection hatches and have either leak detection equipment installed or regular leak checks; and

- all fill points and tank vent pipe outlets designed to discharge downwards into the bund The scheme shall be implemented as approved prior to any storage of chemicals

Reason: To ensure that the proposed development does not harm groundwater resources in line with paragraph 180 of the NPPF and policies DM40 and DM42 of City Plan Part 2.

5. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

- (1) A preliminary risk assessment which has identified:
 - all previous uses o potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
- (2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- (3) The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- (4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 180 of the NPPF and Policies DM40 and DM42 of CPP2.

6. Prior to any part of the permitted development being brought into use, a verification report demonstrating the completion of works set out in the approved Remediation Strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete, in accordance with paragraph 180 of the NPPF and policies DM40 and DM42 of CPP2.

7. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation

strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site, in accordance with paragraph 180 of the NPPF and Policies DM40 and DM42 of CPP2.

8. The landscaping detailed on the approved Landscaping Plans (drawing no.s 71004-MWx-ZZ-00-DR-EN-00001 rev. P01 and P02, received on 19 December 2023) shall be carried out in the first planting and seeding season following the first use of the buildings hereby permitted 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, 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, and CP12 of the Brighton & Hove City Plan Part One.

9. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until the protection measures identified in sections 5, 6 and 7 of the submitted Stantec Arboricultural Impact Assessment (ref. Stantec Arboricultural Impact Assessment (ref. 331101000 100.00114 dated 8 August 2023) are in place, which shall be retained throughout the construction process. The fences shall be erected in accordance with British Standard BS5837 (2012) Trees in relation to design, demolition and construction - Recommendations and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

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

10. No construction or demolition or associated movement of vehicles shall be undertaken other than between the hours of 0800 and 1800 Monday to Friday, and 0800 and 1400 on Saturday with no operations taking place on Sundays or Bank/Public Holidays, unless otherwise agreed in advance and in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

11. No development above ground floor slab level of any part of the development hereby permitted shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site has been submitted to and approved in writing by the Local Planning Authority, in accordance with the details set out in the Site Drainage Strategy (ref. 710004-MWX-ZZ-00-DR-T-05300 rev. P02) received on 18 December 2023, and the GTB Report Responding to Comments from Development Control for Planning Application (ref. 710004, rev P02) received on 15 February 2024, and including an assessment of the risks to controlled waters if infiltration is proposed. The approved drainage system shall be implemented in full in accordance with the approved details and maintained as such thereafter.
Reason: To protect controlled waters in accordance with paragraph 180 of the NPPF, and to comply with policies DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.

12. No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of 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 policies DM31 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

13. The archaeological work shall be carried out in accordance with the approved written scheme of investigation and a written record of all archaeological works undertaken shall be submitted to the Local Planning Authority for approval in writing within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is agreed in advance and in writing with the Local Planning Authority.
Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policies DM31 of Brighton & Hove City Plan Part 2, and CP15 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's attention is drawn to the response of the Environment Agency dated 22 January 2024 regarding the use of infiltration SuDS systems, and CL:AIRE protocols for waste.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. This application relates to an area within the Southern Water site in the very northern part of the city adjacent to (south of) the A27 and A270, with the railway corridor running along the southern edge of the site. It is accessed off Lewes

Road (the A270) in the north-western corner of the wider site which contains the Southern Water offices and some operational areas associated with water treatment. The application site is currently in use as a large hard-sealed carparking area.

- 2.2. The site is not within a conservation area or otherwise subject to any designations, but all trees within it are covered by an area Tree Preservation Order, and the site is located over a Principal Aquifer.
- 2.3. Planning permission is sought to install various plant and buildings to allow for nitrate treatment associated with the treatment of potable water for supply to the city. The works comprise the installation of a nitrate treatment plant building, a sodium hypochlorite dosing kiosk, a substation kiosk, pumping station building and associated security fencing/gates.
- 2.4. The proposal comprises the following:
 - Nitrate treatment building: 20.7m X 44.0m with a flat roof to a maximum of 9.5m height, dropping to 7.2m, steel framed, green in colour;
 - Pumping station building: 14.6m X 11.8m to a maximum of 7.7m height (albeit with metal balustrade above to allow access to the roof area), steel framed, green in colour;
 - Chemical dosing kiosks: 3.5m X 8.1m to 3.6m in height;
 - Substation kiosk: 4m X 4m to 3.8m in height;
 - Fencing: green mesh fencing and gate to 3m in height.

3. RELEVANT HISTORY

- 3.1. BH2024/00618: Installation of entrance doors and weathering canopy to entrance. Approved 10 May 2024.
- 3.2. BH2023/01838: Prior notification of demolition of a conventional single storey brick/block building previously used for offices/laboratories, a double stack portable office building and pre-cast concrete panelled garage units. Approved 24 August 2023.

4. REPRESENTATIONS

None received.

5. CONSULTATIONS

Internal:

- 5.1. **Lead Local Flooding Authority** : No objection subject to conditions. Drainage scheme submitted along with maintenance and management plan for each element but need confirmation of responsibility. Groundwater contamination risk assessment submitted but need to clarify measures regarding parking areas if permeable paving to be used. Performance of drainage system including

soakaway to be demonstrated by infiltration testing, but would be betterment over existing.

- 5.2. **Planning Policy:** No objection. Principle of a green metal fabric supported; infilling of gaps along property's boundary line supported to improve screening/reduce views into site.
 - 5.3. **Sustainability Officers:** No comments to make,
 - 5.4. **Urban Design:** No objection. Development is necessary because monitoring of water quality has identified risk of failing to meet quality standards so additional treatment plant required to remove nitrates. Use will make more effective use of existing site in accordance with Policy DM19. Officer should consider whether there are likely to be increased impacts on residential uses through noise and odour.
- External:
- 5.5. **County Archaeology:** No objection subject to conditions to secure a Written Scheme of Investigation and implementation thereof. Note that site is within a dry valley with potential to preserve archaeological and palaeoenvironmental evidence of past human interaction with the landscape within deep superficial valley deposits; no archaeological information provided and HER not consulted.
 - 5.6. **County Landscape:** Support. Would have minor and beneficial effects on local townscape character and visual amenity, subject to conditions. Note site is on urban fringe between A27 and rail corridor, few public views into site, largely screened by buildings and trees. Demolition of older buildings provides opportunity to improve character and visual appearance of site. Arboricultural report provided to support application with details of tree removal, noting a category B tree would be removed. Removal compensated with new tree planting around boundaries to infill existing tree screen. Conditions recommended to secure tree protection measures set out in Arboricultural Report, and landscape enhancements.
 - 5.7. **Environment Agency:** No objection subject to conditions requiring that piling and similar penetrative activities are not be carried out without written consent of LPA; securing chemical storage; and requiring land contamination details.
 - 5.8. **National Highways:** No objection. Satisfied proposal would not materially affect the safety, reliability and/or operation of strategic road network.
 - 5.9. **South Downs National Park:** No objection subject to new planting being carried out as per the Landscape Mitigation Plans.
 - 5.10. **Southern Water** (as water utility providers): No objection

6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove 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 (adopted October 2019).

7. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

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|------|--|
| SS1 | Presumption in Favour of Sustainable Development |
| CP1 | Housing delivery |
| CP2 | Sustainable economic development |
| CP8 | Sustainable buildings |
| CP10 | Biodiversity |
| CP11 | Flood risk |
| CP12 | Urban design |

Brighton & Hove City Plan Part Two

| | |
|------|--|
| DM18 | High quality design and places |
| DM20 | Protection of Amenity |
| DM22 | Landscape Design and Trees |
| DM31 | Archaeological Interest |
| DM37 | Green Infrastructure and Nature Conservation |
| DM40 | Protection of the Environment and Health - Pollution and Nuisance. |
| DM42 | Protecting the water environment |
| DM43 | Sustainable Drainage |

8. **CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to the principle of the development, its design and appearance, and the impact on amenity, and on the environment, including trees.

Principle of Development:

- 8.2. The principle of the use of the site for the provision of water treatment equipment is well established, and provides essential infrastructure for the city. This scheme would allow for a more efficient use of the site by providing additional facilities within the existing site. It is therefore supported in principle.

Design and Appearance:

- 8.3. The proposed buildings/plant would be functional in appearance, as with most of the buildings on site, and would be relatively large in scale, with the nitrate treatment building being around three storeys in height. However, they would be set well into the site with limited opportunities for off-site views, particularly from public vantage points. Furthermore, they would be set against the existing large infrastructure/buildings on the site, and would be in keeping with the site's industrial use. The site is well enclosed with mature trees, further reducing the impact on the surrounding area, particularly noting that the site is bounded by the major transport infrastructure of the A27 to the north and railway corridor to the south, with the main Southern Water buildings to the west.
- 8.4. The design and appearance of the development is therefore considered acceptable in this context and would not harm the appearance of the area.

Impact on Residential Amenity:

- 8.5. The proposed buildings would be set well into the site, more than 75m away from the nearest residential properties at Stanmer Court so there would be no loss of light or outlook, particularly as the flats are set at an angle, and are themselves four storeys in height. There is a thick belt of trees along the common boundary that would also reduce any visual impact from the development. The works relate to the treatment of potable water so there would be no increased odour.
- 8.6. The development would result in some increased noise from plant to be installed on site but the submitted Noise Impact Assessment confirms that this would not exceed background levels at Stanmer Court, particularly given the existing background noise from the major transport corridors adjacent. There may be some increased disturbance during construction but given the separation distance and background noise, this is not considered to be significant. Access to the site would be from the south-west, away from residential properties which would help limit the impact, and while there would be some construction noise, with limitations on hours of works, to be secured by condition, this would be acceptable.
- 8.7. On this basis, the scheme is considered acceptable in terms of its impact on the residential amenity of neighbours, in accordance with Policy DM20 of CPP2.

Impact on the Environment

- 8.8. As already noted, the site is subject to an area Tree Preservation Order (TPO). An Arboricultural Impact Assessment (AIA) has been submitted, confirming that two trees and one group of trees would need removal to facilitate the development. One tree would be B category (moderate quality/value), and one tree and the group are C category (low quality/value). It is noted that the removal of the trees would require agreement through the separate TPO process.
- 8.9. Mitigation planting is proposed to offset this loss, as set out in a Landscape Mitigation Plan, comprising tree planting along the northern and eastern

boundaries of the site, along with enhanced grassland. This would be secured by condition, an approach supported by the County Landscape Architect.

- 8.10. In addition, works are to take place within the root protection areas of three trees. The AIA includes measures to protect trees during construction, which would be secured by condition, and includes tree protective fencing and oversight by an Arboricultural Consultant.
- 8.11. On this basis, the impact on trees would be acceptable.
- 8.12. As noted in the comments of the County Archaeologist, the site has the potential to contain features of archaeological significance, but no details have been provided with the submission. This would be secured by condition, an approach they are satisfied will provide the appropriate protection.
- 8.13. The impact on the sensitive water environment (i.e. the principal aquifer below the site) is considered to be acceptable, subject to conditions requiring that piling is not undertaken, that chemicals are stored appropriately, and requiring details of land contamination, which would be secured by condition.
- 8.14. A drainage scheme has been provided but as noted above, the Lead Local Flooding Authority has queried the details, requiring further information to be secured by condition which it would be.
- 8.15. On the basis of the above, the proposal is considered acceptable in terms of its impact on the environment, subject to conditions.

9. COMMUNITY INFRASTRUCTURE LEVY

- 9.1. 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 proposal relates to buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery so is exempt from CIL payment.

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 have determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

