

<b><u>No:</u></b>	<b>BH2025/01359</b>	<b><u>Ward:</u></b>	<b>Goldsmid Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Kap Ltd Newtown Road Hove BN3 7BA</b>		
<b><u>Proposal:</u></b>	<b>Application to vary condition 14 of planning permission BH2018/03356 to change the minimum BREEAM new construction rating from 'Excellent' to a 'Very Good' rating.</b>		
<b><u>Officer:</u></b>	Michael Tucker, tel: 292359	<b><u>Valid Date:</u></b>	27.05.2025
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	26.08.2025
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b>Agent:</b>	ECE Planning Limited 64-68 Brighton Road Worthing BN112EN		
<b>Applicant:</b>	Blue Goldstone Ltd C/o ECE Planning Ltd 64-68 Brighton Road Worthing BN11 2EN		

## 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
Other		XDA Letter	27-May-25
Proposed Drawing	PROPOSED CYCLE STORE ELEVATIONS	YO269_264	9 January 2020
Proposed Drawing	PROPOSED ROOF PLAN	YO269_130_Rev A	9 January 2020
Proposed Drawing	PROPOSED THIRD FLOOR PLAN	YO269_123_Rev K	9 January 2020
Proposed Drawing	PROPOSED LOWER GROUND FLOOR PLAN	YO269_119_Rev G	9 January 2020
Proposed Drawing	PROPOSED GROUND FLOOR PLAN	YO269_120_REV K	11 March 2020
Proposed Drawing	PROPOSED FIRST FLOOR PLAN	YO269_121_REV J	11 March 2020
Proposed Drawing	PROPOSED SECOND FLOOR PLAN	YO269_122_REV I	9 January 2020

Proposed Drawing	PROPOSED FOURTH FLOOR PLAN	YO269_12 9_REV I	9 January 2020
Proposed Drawing	PROPOSED FIFTH/SIXTH FLOOR PLAN	YO269_12 4_REV K	9 January 2020
Proposed Drawing	PROPOSED SEVENTH FLOOR PLAN	YO269_12 5_REV I	9 January 2020
Proposed Drawing	PROPOSED EIGHTH/NINTH FLOOR PLAN	YO269_12 6_REV H	9 January 2020
Proposed Drawing	PROPOSED TENTH FLOOR PLAN	YO269_12 8_REV H	9 January 2020
Proposed Drawing	PROPOSED NORTH ELEVATION_BLOCK A	YO269_25 0_REV C	16 October 2019
Proposed Drawing	PROPOSED SOUTH ELEVATION_BLOCK A	YO269_25 1_REV E	2 December 2019
Proposed Drawing	PROPOSED EAST ELEVATION_BLOCK A	YO269_25 2_REV C	2 December 2019
Proposed Drawing	PROPOSED WEST ELEVATION_BLOCK A	YO269_25 3_REV C	8 October 2019
Proposed Drawing	PROPOSED NORTH ELEVATION_BLOCK B	YO269_25 5_REV D	9 January 2020
Proposed Drawing	PROPOSED SOUTH ELEVATION_BLOCK B_COLOUR	YO269_25 4_REV G	9 January 2020
Proposed Drawing	PROPOSED EAST ELEVATION_BLOCK B	YO269_25 6_REV E	9 January 2020
Proposed Drawing	PROPOSED WEST ELEVATION_BLOCK B	YO269_25 7_REV E	2 December 2019
Proposed Drawing	PROPOSED NORTH ELEVATION_BLOCK C	YO269_25 8_REV C	9 January 2020
Proposed Drawing	PROPOSED SITE ELEVATION 1_COLOUR	YO269_26 0_REV D	16 October 2019
Proposed Drawing	PROPOSED SITE ELEVATION 2	YO269_26 1_REV E	9 January 2020
Proposed Drawing	PROPOSED SITE ELEVATION 3	YO269_26 2_REV C	9 January 2020
Proposed Drawing	PROPOSED SITE ELEVATION 4	YO269_26 3_REV E	9 January 2020

Location and block plan	SITE BLOCK AND LOCATION PLAN	YO269_001_REV A	9 January 2020
Location Plan	SITE PLAN	YO269_005_REV A	9 January 2020
Other	SITE ELEVATIONS	YO269_0600	31 October 2019
Proposed Drawing	PROPOSED SITE PLAN	YO269_110_Rev D	9 January 2020

2. Not used.
3. The development hereby permitted shall be carried out in accordance with the details of the external materials approved under application BH2023/02568.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies CP12 and CP13 of the Brighton & Hove City Plan Part One.
4. The scheme for the storage of refuse and recycling approved under application BH2024/02277 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 CP8 of the Brighton & Hove City Plan Part One, Policy DM20 of the Brighton & Hove City Plan Part Two and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
5. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policy CP12 of the Brighton & Hove City Plan Part One.
6. The office floorspace (E(g(i))) hereby permitted shall be used solely as an office (Use Class E(g(i))) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission obtained from the Local Planning Authority.  
**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 supply of office floorspace in the city given the identified shortage, to comply with policies CP3 and DA6 of Brighton & Hove City Plan Part One.
7. The scheme for landscaping approved under application BH2024/02277 shall be implemented in full accordance with the approved details in the first planting

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

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies CP12 and CP13 of the Brighton & Hove City Plan Part One and policy DM22 of the Brighton & Hove City Plan Part Two.

8. The cycle parking facilities approved under application BH2024/02277 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 DM33 of the Brighton & Hove City Plan Part Two and paragraph 110b of the National Planning Policy Framework.

9. The scheme of management and layout of the vehicle parking areas approved under application BH2024/02794 shall be implemented prior to the occupation of the building and thereafter be retained and maintained.

**Reason:** To ensure the development maintains a sustainable transport strategy and to comply with Policy CP9 of the Brighton & Hove City Plan Part One and Policies DM33 and DM36 of the Brighton & Hove City Plan Part Two.

10. All waste, recycling and associated storage and collection activities shall be carried out in accordance with the Waste & Recycling Management Plan approved under application BH2024/02600.

**Reason:** In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policies DM20 and DM33 of the Brighton & Hove City Plan Part Two and the Waste and Minerals Plan for East Sussex, South Downs and Brighton & Hove.

11. The wheelchair accessible dwelling(s) hereby permitted as detailed on the approved drawings 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 & Hove Local Plan.

12. Not used.

13. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
14. Within 6 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' shall be submitted to, and approved in writing by, the Local Planning Authority. In addition, it shall be demonstrated that the available mandatory credits required for a BREEAM rating of 'Excellent' as set out in Table 2.5 "Minimum BREEAM standards by rating level" of BREEAM UK New Construction Version 6.1 Technical Manual SD5079, and as identified in the submitted supporting letter as being targeted (XDA Consulting, received 27th May 2025), have been achieved.  
**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.
15. The energy plant room(s) hereby permitted shall be carried out in accordance with the details approved under application BH2021/03304.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policies DA6 and CP8 of the Brighton & Hove City Plan Part One.
16. The rooftop photovoltaic array shall be installed in accordance with the details approved under application BH2024/02277.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One.
17. All separating walls and floors between the residential units and commercial floorspace, plant rooms, recycling and refuse stores and vehicle and cycle parking areas shall be designed to achieve a sound insulation value of 5dB better than that required by Approved Document E of the building regulations performance standards for airborne and impact noise.  
**Reason:** To safeguard the amenities of the future occupiers and to comply with policy DM20 of the Brighton & Hove City Plan Part Two.
18. The development hereby permitted shall be carried out in strict accordance with the scheme for the treatment of plant and machinery against the transmission of sound and/or vibration approved under application BH2021/02110. The implemented measures shall be retained as such thereafter.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.

19. The external lighting shall be installed, operated and maintained in accordance with the details approved under BH2024/02277 and thereafter retained.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to protect light sensitive biodiversity and to comply with policy CP10 of the Brighton and Hove City Plan and policies DM20 and DM37 of the Brighton & Hove City Plan Part Two.
20. The development hereby permitted shall be carried out in accordance with the Site Waste Management Plan approved under application BH2021/03901.  
**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.
21. The scheme for ventilation to each residential unit approved under application BH2023/01434 shall be implemented prior to occupation of each residential unit hereby permitted and retained as such thereafter.  
**Reason:** To safeguard the amenities of the occupiers of the development and to comply with policy DM20 of the Brighton & Hove City Plan Part Two.
22. 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 in accordance with the details approved under application BH2021/03305 that the remediation scheme 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 and amenity of future residents or occupiers of the site and neighbouring residents and to comply with policies DM20, DM40 and DM41 of the Brighton & Hove City Plan Part Two.
23. If during development, 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 and approved in writing by the Local Planning Authority. 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 from unidentified contamination and 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 or risk to public health from previously unidentified contamination sources at the development site and to comply with policies DM20, DM40 and DM41 of the Brighton & Hove City Plan Part Two and the terms of paragraph 170 of the National Planning Policy Framework.

24. The Acoustic Report and Acoustic Design Statement approved under application BH2021/2110 shall be implemented prior to occupation of any of the development and shall be permanently retained thereafter. Prior to occupation the development details shall be submitted to the Local Planning Authority certifying that the agreed noise mitigation measures have been achieved and installed.  
**Reason:** To protect the amenity of future residential and commercial occupiers of the development and also to protect the amenity nearby residents, in accordance with policy DM20 of the Brighton & Hove City Plan Part Two.
25. Noise associated with plant and machinery shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed the representative background noise level. Rating Level and existing representative background noise levels to be determined as per the guidance provided in BS 4142:2014. In addition, there should be no significant adverse impacts from low frequency noise.  
**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy DM20 of the Brighton & Hove City Plan Part Two.
26. The management of the communal external amenity spaces, including roof terraces, smoking arrangements for commercial operations and management of on-site events hereby permitted shall be carried out in accordance with the Noise Management Plan approved under application BH2024/02277.  
**Reason:** To protect the amenity of future residential and commercial occupiers of the development and also to protect the amenity nearby residents, in accordance with policy DM20 of the Brighton & Hove City Plan Part Two.
27. The drainage scheme approved under application BH2021/03469 shall be implemented fully in accordance with the approved details.  
**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy DM43 of the Brighton & Hove City Plan Part Two.
28. The development shall be carried out in accordance with the foul water drainage strategy and timetable approved under application BH2021/03469.  
**Reason:** To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy DM43 of the Brighton & Hove City Plan Part Two.
29. The remediation strategy approved under application BH2021/03305 shall be implemented in full accordance with the approved details.  
**Reason:** As this matter is fundamental to the acceptable delivery of the permission and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policies DM40 and DM41 of the Brighton & Hove City Plan Part Two and paragraph 170 of the National Planning Policy Framework.
30. Not used.

31. Not used
32. Piling using penetrative methods shall not be carried out other than with the written consent of the local planning authority unless in full accordance with the details of piling methods approved under application BH2022/02126.  
**Reason:** To ensure that the proposed development, does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework and Position Statement of the 'The Environment Agency's approach to groundwater protection' and to comply with policy DM42 of the Brighton & Hove City Plan Part Two.
33. The scheme for managing boreholes approved under application BH2021/03027 shall be implemented prior to the occupation of the development hereby approved.  
**Reason:** To ensure that the proposed development, does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework and Position Statement of the 'The Environment Agency's approach to groundwater protection' and to comply with Policy DM41 of the Brighton & Hove City Plan Part Two.
34. Prior to first occupation the ecological design strategy (EDS) approved under application BH2021/02638 shall be implemented in full accordance with the approved details and all features shall be retained in that manner thereafter.  
**Reason:** To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this.
35. The development hereby permitted shall be carried out in accordance with the scheme for compensatory bird, bat and insect bricks / boxes approved under application BH2024/02600. The implemented measures shall be retained as such thereafter.  
**Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with Policy CP10 of the Brighton & Hove City Plan Part One, Policy DM37 of the Brighton & Hove City Plan Part Two and SPD11: Nature Conservation and Development.
36. The development hereby permitted shall be carried out and completed fully in accordance with the details of windows, including reveals and cills and commercial ground floor frontages, approved under application BH2024/01434 and shall be retained as such thereafter.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton & Hove City Plan Part One.
37. All boiler flues shall have vertical termination above roof.  
**Reason:** To safeguard the amenities of the local residents and minimise air pollution and to comply with policy CP8 of the Brighton & Hove City Plan Part One and policy DM20 of the Brighton & Hove City Plan Part Two.



38. Prior to occupation of the development hereby permitted a wind mitigation scheme outlining specific landscaping and screening to ensure the safe use of the public realm and the external amenity areas shall be submitted to and approved in writing by the Local Planning Authority.  
**Reason:** To ensure the safety and amenity of future occupiers and comply with policy DM20 of the Brighton and Hove City Plan Part Two.
39. The crime prevention measures approved under application BH2024/02600 shall be implemented prior to first occupation of the development hereby permitted and retained thereafter.  
**Reason:** In the interests of crime prevention, to comply with policy CP12 of the Brighton and Hove City Plan Part One.
40. The glazed frontages to the ground floor office use adjacent to Newtown Road, other than for plant / storage shall be fitted with clear glass which shall be retained and kept unobstructed at all times.  
**Reason:** To ensure an active frontage is maintained and to comply with policy CP12 of the Brighton and Hove City Plan Part One.
41. The green roofs shall then be constructed in accordance with the details approved under BH2023/02818 and shall be retained as such thereafter.  
**Reason:** To ensure that the development contributes to ecological enhancement on the site and in accordance with policy CP10 of the Brighton & Hove City Plan Part One.
42. Planters and screening to balconies and flat roofs shall be constructed in accordance with the details approved under application BH2023/01434 and shall be retained as such thereafter.  
**Reason:** To ensure that the development is in accordance with policy QD27 of the Brighton & Hove City Local Plan.
43. Not used.
44. The construction hereby permitted shall be carried out in accordance with the Construction Environmental Management Plan (CEMP) approved under application BH2021/02563.  
**Reason:** As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies DM20, DM33 and DM40 of Brighton & Hove City Plan Part Two, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.
45. Prior to the first occupation of the development hereby approved a Delivery & Service Management Plan, which includes details of the types of vehicles, time and method of deliveries, servicing and refuse collection will take place and the frequency of those vehicle movements shall be submitted to and approved in writing by the Local Planning Authority. All deliveries servicing and refuse collection shall thereafter be carried out in accordance with the approved plan.

**Reason:** In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policies DM20, DM33 and DM40 of Brighton & Hove City Plan Part Two.

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. Crime prevention measures could be evidenced by a Secure By Design Developers Award Certificate or equivalent.
3. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
4. The water efficiency standard required is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
5. The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: [ehlpollution@brighton-hove.gov.uk](mailto:ehlpollution@brighton-hove.gov.uk) website: [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)).
6. The applicant is advised that under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting wild birds, their nests and eggs is a criminal offence. The nesting season is normally taken as being from 1st March - 30th September. The developer should take appropriate steps to ensure nesting birds, their nests and eggs are not disturbed and are protected until such time as they have left the nest.
7. The applicant is advised that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a

sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or [www.southernwater.co.uk](http://www.southernwater.co.uk)

8. Planning permission is no defence against a statutory noise nuisance investigation. The council is required to investigate under the provisions of the Environmental Protection Act 1990 to determine whether or not a statutory nuisance is occurring and if any action is appropriate.
9. Not used.
10. 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.
11. The applicant is advised that Part L – Conservation of Fuel and Power of the Building Regulations 2022 now requires non-residential development to have achieved a 27% improvement on the carbon emissions against Part L 2013

## **2. SITE LOCATION**

- 2.1. The application relates to a redevelopment site on the northern/western side of Newtown Road. The former KAP garage, planning permission (BH2018/03356) was granted in 2020 for the following:  
*Demolition of existing buildings in association with car dealership (sui generis) to facilitate the erection of a mixed use redevelopment to provide 148 dwellings (Class C3), 954sqm of office floorspace (Class B1), within a scheme of 3no Blocks ranging from 4 to 11 storeys in height with associated underground car parking, cycle parking and landscaping and 22 sqm of cafe floorspace (Class A3).*
- 2.2. The permission provides for a residential led mixed-use development including 148 dwellings and 954sqm of office floorspace, arranged within three blocks ranging from four to eleven storeys in height.
- 2.3. The development has commenced, and works are well underway on site.

## **3. RELEVANT HISTORY**

- 3.1. **BH2018/03356** - Demolition of existing buildings in association with car dealership (sui generis) to facilitate the erection of a mixed use redevelopment to provide 148 dwellings (Class C3), 954sqm of office floorspace (Class B1), within a scheme of 3no Blocks ranging from 4 to 11 storeys in height with associated underground car parking, cycle parking and landscaping and 22 sqm of cafe floorspace (Class A3). Approved.

- 3.2. There have also been numerous applications to discharge conditions and to make non-material amendments to the above scheme.

#### **4. APPLICATION DESCRIPTION**

- 4.1. The application seeks to vary condition 14 of BH2018/03356, to change the minimum BREEAM new construction rating from 'Excellent' to 'Very Good'. The reasons for this change are set out in the Considerations & Assessment section below.

#### **5. REPRESENTATIONS**

None received.

#### **6. CONSULTATIONS**

##### **Sustainability / Net Zero:**

- 6.1. No objection, subject to an additional proviso that the applicable individual minimum requirements for Excellent, as set out in Table 2.5 of BREEAM New Construction 2018, are still met.

#### **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, revised October 2024);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour Joint Area Action Plan (adopted October 2019).
  - Hove Station Neighbourhood Plan (made March 2024)

#### **8. POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP8	Sustainable buildings

## 9. CONSIDERATIONS & ASSESSMENT

- 9.1. As this is an application under Section 73 of the Town and Country Planning Act, consideration is limited to those matters which vary compared to the extant permission. In this case this would be the sustainability credentials of the development.

### **Sustainability:**

- 9.2. Condition 14 of BH2018/03356 set a target BREEAM rating of 'excellent' for the non-residential part of the development:

*'Within 6 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment has issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of "Excellent" and such certificate has been 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'.*

- 9.3. The current application seeks to vary the wording of this condition to lower the target BREEAM New Construction rating to 'Very Good'.
- 9.4. The reasoning given within the submission is that the previous developer (who submitted the original planning application) failed to record evidence of a number of early-stage BREEAM actions. These BREEAM credits can only be achieved during early design stages. This would have been RIBA stage 1 and 2, prior to submission of the planning application. These credits are no longer available to the current developer, who took on the site after planning permission was obtained. As a result of this, although the original planning application details on sustainability state that BREEAM 'Excellent' could be achieved, without these early credits, the applicant has set out that this is no longer technically feasible.
- 9.5. The application includes an assessment that identifies both the credits that were missed and the credits that are still being targeted. The scheme as proposed is now targeting BREEAM 'Very Good' with an overall score of 59.2%, which is approximately 1/3rd into the 'Very Good' bracket (which extends from 55%-69%). The scheme is also still targeting all remaining relevant credits that would have been mandatory for the scheme to achieve BREEAM 'Excellent', including five credits relating to the reduction of energy use and carbon emissions. These are the largest category of mandatory credits and ensuring that these credits are achieved would further the Council's ambition to become carbon neutral by 2030.

- 9.6. This assessment has been reviewed by the Council's Net Zero team who have raised no objection, subject to the proviso that the condition wording also be varied to require these additional energy related credits are to be achieved. The Net Zero team have also confirmed that it would be difficult for the scheme to achieve 'Excellent' without the early-stage credits which can no longer be obtained.
- 9.7. It is disappointing that the original developer did not take the necessary actions to register the early-stage credits that would have enabled the original target of BREEAM 'Excellent' to be achieved. However, the scheme would still include other sustainability measures such as energy and water efficiency standards for the residential component in accordance with Policy CP8 of the City Plan Part One, and PV arrays to the rooftops of the new buildings.
- 9.8. Policy CP8 of the City Plan Part One sets the BREEAM target of 'Excellent' for non-residential development, but does also allow for flexibility where it can be demonstrated that achieving 'Excellent' is not technically feasible. In this case it is considered that these circumstances would apply to this S73 application.
- 9.9. The new wording of condition 14 is proposed to be:  
*Within 6 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' shall be submitted to, and approved in writing by, the Local Planning Authority. In addition, it shall be demonstrated that the available mandatory credits required for a BREEAM rating of 'Excellent' as set out in Table 2.5 "Minimum BREEAM standards by rating level" of BREEAM UK New Construction Version 6.1 Technical Manual SD5079, and as identified in the submitted supporting letter as being targeted (XDA Consulting, received 27th May 2025), have been achieved.*  
**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.*
- 9.10. It is noted that the conditions associated with the original application have been updated as necessary to relate to any details that have already been approved and discharged via previous conditions applications. Any planning permission granted will also be subject to the s106 agreement (and any subsequent variations to this agreement) attached to the original planning permission.
- Conclusion:**
- 9.11. The application has provided evidence to demonstrate that it would not be technically feasible for the development to achieve BREEAM 'Excellent'. It is considered that lowering the requirement to BREEAM 'Very Good' would be acceptable, on the proviso that the remaining available credits that would be mandatory for BREEAM 'Excellent' are also achieved. The Net Zero do not object to the proposal and overall, it is considered that the development is in accordance with the thrust of policy CP8 and the recommendation is to approve.

## **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.

