



**Brighton & Hove  
City Council**

# **PLANNING COMMITTEE ADDENDUM**

**2.00PM, WEDNESDAY, 26 AUGUST 2015**

**THE RONUK HALL, PORTSLADE TOWN HALL**



# ADDENDUM

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<p>Application BH2013/04337 – Appeal against refusal to grant planning permission for the extension and redevelopment of existing built development to provide additional academic floorspace, student residential accommodation and supporting facilities and infrastructure together with associated landscaping. <b>APPEAL ALLOWED</b>(committee decision)</p>	





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## Appeal Decision

Inquiry opened on 30 June 2015

Site visits made on 29 June and 9 July 2015

**by K D Barton BSc(Hons) Dip Arch Dip Arb RIBA FCI Arb**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 30 July 2015**

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**Appeal Ref: APP/Q1445/W/14/3001303**

**University of Sussex, Rectory Road, Falmer, Brighton BN1 9RL**

- The appeal is made under section 78 of the *Town and Country Planning Act 1990* against a refusal to grant outline planning permission.
  - The appeal is made by the University of Sussex against the decision of Brighton & Hove City Council.
  - The application Ref BH2013/04337, dated 20 December 2013, was refused by notice dated 1 July 2014.
  - The development proposed is described on the application form as "the extension and redevelopment of existing built development to provide additional academic floorspace, student residential accommodation and supporting facilities and infrastructure together with associated landscaping".
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### Preliminary Matters

1. The Inquiry sat for 6 days between 30 June and 8 July. Unaccompanied visits to the campus were made on 29 June and 9 July and an accompanied visit to local wards subject to an Article 4 Direction was also made on 9 July.
2. In an e-mail, dated 8 May 2015, the Council amended its first reason for refusal by omitting reference to ecology. At the start of the fifth day of the Inquiry the Council submitted a 'Position Statement' withdrawing its objection to the appeal proposal, including all four reasons for refusal. Moreover, the Council confirmed that it no longer relied on the evidence that it had already given to the Inquiry. Notwithstanding this, the appeal falls to be determined *de novo* and evidence had already been heard on design, heritage assets and loss of trees. I therefore consider the main issues to be the effect on: firstly, the City's existing housing stock; secondly, the character and appearance of the surrounding area; thirdly, heritage assets; and finally on tree loss and landscape.
3. The application, as originally submitted, indicated that appearance, landscaping and layout were reserved matters and it was advertised on that basis. Following a request by the Council, dated 14 March 2014, the appellant confirmed, by an e-mail dated 15 April 2014, that layout could also be included as a 'fixed' matter for approval and the application was re-advertised on that basis. However, in light of the Council's withdrawal of its objection to the application, the main parties agree that layout should be 'unfixed' to provide more flexibility at reserved matters stage. As the Environmental Statement (ES) was prepared on the basis of layout being reserved, and as the application has been advertised on that basis, I do not consider that anyone would be

prejudiced by considering the proposal with layout reserved for future consideration. That is the basis on which I have determined this appeal.

4. The two main parties agreed, by e-mail dated 11 December 2014, to change the description of development and the revised wording is set out in the decision notice. At the opening of the Inquiry the Inspector proposed a further slight amendment to clarify the reserved matters and this has been further amended in light of the decision to consider the appeal in outline with appearance, landscaping, and layout reserved for future consideration. The drawings, in so far as they show appearance, landscaping, and layout, have been considered on the basis that they are illustrative only in respect of the reserved matters.
5. On 2 June 2015 the Council made a Tree Preservation Order (TPO) in respect of the whole of the University of Sussex campus at Falmer. The appellant objected to the TPO on 26 June 2015 on the grounds that: it was not expedient to make the Order; that it was not made in the interests of public amenity; and, that the TPO was not selective. On 7 July the Council revoked the TPO as "it is an Area Order but was not made in circumstances of an emergency nature and is therefore contrary to *National Planning Practice Guidance (Guidance)*".

### **Decision**

6. The appeal is allowed and planning permission is granted for the demolition of existing buildings and the construction of new buildings to provide new academic facilities (Use Class D1) of circa 59,571m<sup>2</sup>, 4,022 new student accommodation bedrooms (C1), and a new mixed use building of circa 2,000m<sup>2</sup> providing A1, A3, A4, C1, and D1 uses, incorporating new pedestrian, vehicular and service routes, landscaping, new parking, upgrading of related infrastructure, and associated works, with appearance, landscaping, and layout matters reserved for later consideration, at the University of Sussex, Rectory Road, Falmer, Brighton BN1 9RL, in accordance with the terms of the application, Ref BH2013/04337, dated 20 December 2013, subject to the conditions set out in the attached schedule.

### **Environmental Statement**

7. On 8 July 2015 a written submission from Mr Scott, a member of the public, stated that the advertising of the proposal was "not EU-compliant" as the public were not told where and at what price a copy of the ES could be obtained. Further criticisms were that the individual authors of the various ES chapters were not identified and that it was impossible for the ES to be adequate as full details were not available due to the outline nature of the application. In this latter respect reference was made to the 'Rochdale 1' and 'Rochdale 2' judgements. In this case the appellant, at the Inspectors request, had already provided a note setting out how the statutory requirements for the ES had been met.
8. Whilst referring to procedure, Mr Scott did not identify any deficiency in the substance of the ES. Moreover, members of the public, including Mr Scott, had an opportunity to comment on the scheme during the course of the Inquiry. In respect of the outline nature of the proposal, 'Rochdale 2' (R v Rochdale MBC ex parte Milne) accepts that outline applications subject to Environmental Impact Assessment (EIA) can be approved provided that conditions ensure that the process of evolution of the outline proposal takes place within clear

parameters that reflect the likely significant effect of the project. Such conditions could be attached in this case.

### **The Site and Its Surroundings**

9. The University of Sussex campus comprises 94 hectares of land, to the west of Falmer, on the floor and slopes of a dry valley that runs north-south. The valley floor falls from 73 metres AOD in the north to 60 metres AOD in the south. Within the appeal site boundary the highest point of the west slope is 82 metres AOD whilst the highest point on the eastern slope is 93 metres AOD.
10. Surrounding the campus on three sides is the South Downs National Park. Beyond the built envelope to the north east is the Tenant, Lain and Moon Gate Woods Site of Nature Conservation Importance, and fields and buildings associated with Falmer Sports Centre. To the west is grassland and woodland and the land rises to a ridge shared with Stanmer Park, part of the Stanmer Conservation Area and the Stanmer Park/Coldean Local Nature Reserve. The A27 lies beyond the campus to the south with the American Express Community Stadium, home of Brighton and Hove Albion Football Club, beyond that.
11. The appeal site is 23.3 hectares in size and accommodates buildings in use for academic, research and residential accommodation, together with access roads, car parking and areas of open space, predominantly on the eastern and western sides of the campus and in the south east quarter. The appeal site is accessed by internal roads linked to the A27, A270 and B2123 via two access points to the south west and south east of the campus. The majority of the campus lies within the administrative boundary of Brighton and Hove City Council, although a small proportion of the eastern side of the campus falls within the boundary of Lewes District Council to whom a similar application has been made but not yet determined.
12. The early phases of development on the campus were based on a Masterplan and designs by Sir Basil Spence and much of the current building stock was completed between 1962 and the 1970s, with further development since the late 80s. A number of the first buildings in the south west corner of the campus, around Fulton Court, are listed. Falmer House is listed Grade I whilst the Meeting House, Library, Arts A and B building, Mathematical and Physical Sciences building, Chichester building, Engineering building and the Gardner Arts Centre are all listed Grade II\*.

### **Effect of the Proposed Development on the City's Existing Housing Stock**

13. The development plan for the locality includes the *Brighton and Hove Local Plan 2005* (LP). However, it is agreed that the emerging *City Plan* (CP) should also be given significant weight due to its advanced stage in the process towards adoption, and the lack of any particular objection to policies within it relevant to this appeal. The principle of continued expansion of the University, and the benefits that would bring, are supported in both development plan and emerging plan policies. LP Policy QD3 requires efficient and effective use to be made of sites, subject to various factors being met, and higher densities are considered particularly appropriate where there is good public transport accessibility, as in this case. LP Policy EM19 provides that permission will be granted for University uses. The supporting text notes that the University has

not developed to the full extent within land allocated in the *1995 Brighton Borough Local Plan*.

14. The CP built up area boundary has been specifically extended to cover all of the appeal site, including East Slope. The stated objective of CP Policy DA3, which relates to the Lewes Road Area, is "to promote and enhance the role of the area for higher education in Brighton and Hove". Local priority A1 of the policy indicates that the Council will work with the Universities to secure sustainable redevelopment and expansion of the University campuses and deliver appropriate accommodation for students. CP Policy CP21 supports the provision of purpose built student accommodation in appropriate locations, subject to a number of criteria. The East Slope and land adjacent to the east is allocated in CP Policy CP21 for redevelopment to provide a net increase in student bedspaces, subject to positive enhancement of the visual appearance of this part of the campus.
15. There is no policy basis for seeking to restrict the growth of the Universities, as demonstrated by the lack of any reference to policies in the reason for refusal relating to housing. Indeed, there is nothing in the *National Planning Policy Framework (Framework)* that would justify holding up development that was in accordance with the development plan.
16. Local Residents are concerned by the proliferation of Houses in Multiple Occupation (HMO), as illustrated on a map submitted by Mr Taylor, and the impact that has on the amenities of the local community. It is claimed that the Council's data underplays the problem due to the number of illegal HMOs. Overconcentration due to a density of 50-80% HMOs is stated for a number of roads and some residents would like dispersal of the student population.
17. A recognition of the problem is the Council's introduction of an Article 4 Direction, in March 2012. This covers the five wards closest to the University, removing permitted development rights for change of use from a dwelling (C3) to an HMO (C4) if more than 10% of houses within a 50 metre radius are already HMOs. In January 2015 consultation began on extending the Discretionary Licensing Scheme to a further 7 wards. Ms Lynch, a Rule 6 party, maintains that this indicates that around a fifth of Brighton's residents are being affected by 'studentification'. Key workers cannot compete given the City's housing and rental prices. Council Tax receipts are also affected, as students do not pay council tax, costing those who do around £12 million a year. Housing is a finite resource but only 170 affordable houses were built in Brighton last year.
18. Consequent changes to the character and amenity of the affected areas include local family run shops becoming take-aways, off-licences, or further HMOs and pubs and community facilities, such as St Alban's Church, being converted to HMOs or bought by further education establishments for further development. School rolls are falling due to the reduction of families in the area and reduced numbers are threatening bus services relied on by the elderly. Increased density puts pressure on parking and on doctor's rolls. The Article 4 wards have the highest number of complaints to Environmental Health for noise and anti-social behaviour, and to City Clean regarding rubbish and fly tipping. There is a proliferation of to let boards, and higher crime rates, leading to property devaluation.



19. Effectively the Council has a two-pronged approach. The first is reflected in CP Policy CP21 and the Article 4 Direction and includes a range of measures to control illegal or non-compliant activities under other legislation. The second prong is to promote new student accommodation in appropriate locations, a strategy with which the appeal proposal would be consistent. Indeed, Ms Lynch would like to see much more student accommodation on the University campus as the local community has to deal not just with HMOs but also purpose built, off campus, student accommodation.
20. The concerns of Ms Lynch and other local residents reflect dissatisfaction with the Council's control of HMOs and the existing numbers of students and HMOs in certain residential areas. It is for the Council to use its powers to enforce the Article 4 Direction, address complaints about noise and rubbish and to meet its housing need. In terms of these pre-existing problems, there is no basis for seeking to cure them through restrictions on the appeal scheme.
21. Government guidance indicates that the Council must plan for sufficient student accommodation as part of its housing needs assessment. Residents want the Universities, both Sussex and Brighton, to do more to address the problem. However, there is no legal or policy requirement for the University to accommodate all of its students on site. Indeed, this would conflict with the Council's housing strategy to encourage mixed communities. Notwithstanding this, the appeal proposal would contribute towards the second prong of the Council's approach by delivering new student housing and would be more beneficial to local residents than if the application were dismissed whilst growth in student numbers still took place.
22. In any event, information on the breakdown of HMO occupancy in the Article 4 wards, by reference to the most recent census figures, indicates that the majority are tenanted by young working professionals rather than students, although there may be some adjustment required due to some students being listed at their home, rather than term time, address. However, Professor Darren Smith, referred to by Ms Lynch, was commissioned to plot the University's students living in the five Article 4 wards. Completed in 2014 this commission suggests a range of 4.7% to 14.4% of HMOs in the five wards house University students.
23. Data held by the University, pertaining to the last three years, highlights that typically 20% of students do not require accommodation. In the period 2006/07 to 2014/15 the proportion of students who have been accommodated in University bed spaces has increased from some 36% to approximately 47%. In that period the number of full-time students requiring accommodation grew by 2,622 whilst University bed spaces increased by 2,058 indicating it catered for in the region of 78% of net additional student accommodation. The remainder would need to access private rented housing. However, the Article 4 Direction, implemented by the Council, should in future prevent any significant increase in legal HMOs, although residents maintain there are numerous illegal HMOs on which the Council does not seem to act.
24. The University has a growth aspiration for 18,000 students by 2017/18 which it maintains is ambitious. There is no consideration of any further expansion, although Ms Lynch maintains that expansion would not just stop when 18,000 total students is reached. The 18,000 students would lead to a demand for 3,744 additional bedspaces. The University would provide 2,530 of these and

- has arrangements with the Private Sector to deliver a further 1,140 bedspaces. Whilst this would be a shortfall of 74 bedspaces, the proportion of all students accommodated by the University would rise from 46.7% to 60% with 98% of the additional students catered for in University controlled accommodation.
25. Notwithstanding concerns raised by local residents that off campus arrangements are short term and ought not to be considered, the University has arrangements with the private sector for the provision of student bedspaces. In each of the last two years this has provided accommodation for some 600 students that would otherwise have been seeking accommodation in the private rented sector. Private sector schemes in the pipeline include 700 bedspaces on the 'Retained Land' owned by the City, and 440 bedspaces at Pelham Street. Contractual arrangements are in place and there is no reason to suppose that these developments would not be provided and available for students during the coming years supplementing the on campus provision, although there would obviously be a lead in time.
26. If a more realistic student growth rate of 3.6% a year is assumed, as occurred in the period 2006/07 to 2014/15, the target expansion to 18,000 would not be achieved until 2023/24. This would lead to 3,678 additional students which would be balanced by an increase of 3,670 bedspaces meaning the proportion of additional students accommodated by the University would have risen to 99.8%.
27. The University maintains that intensified use of its teaching accommodation would allow student numbers to continue to grow in a no scheme scenario. However, there would be no provision of further student bedspaces. The proportion of additional students accommodated would fall in this scenario and the number of students seeking accommodation outside that managed by the University would increase putting pressure on the existing housing stock.
28. Ms Lynch refers to a number of omissions in the report to committee. Reference is made to existing over-concentrations of students but that is not an effect resulting from the appeal proposal. It is claimed that the proposal would not, in the long term, free up family houses currently in use as HMOs but that the aim could be achieved by building 14,500 additional bedspaces on campus. However, that is not the proposal subject of this appeal.
29. Ms Lynch refers to a lack of discussion of policies CP19, QD27 and SA6 in the Officer's report to Committee. CP19 relates to housing mix and is not relevant to an application for student housing on campus. The on campus proposal would not directly affect the amenity of residents off campus and given that approximately 98% of additional students requiring accommodation would be provided for on campus there would be no significant indirect effect on amenity meaning QD27 is not relevant. Similarly, CP Policy SA6:Sustainable Neighbourhoods would not be relevant as there would be no significant impact on existing neighbourhoods from accommodating 98% of additional students on campus.
30. Cumulative effects are considered in chapter 13 of the ES but no off-site schemes were identified by the Council for inclusion in the cumulative assessment. Some of the schemes identified by Ms Lynch post date the application and so could not have been considered in any cumulative assessment. The lack of reference to CP20 and affordable housing is raised but neither CP Policies DA3 nor CP21 require university related development to

comply with CP Policy CP20 and no contribution was sought by the Council in pre-application consultations.

31. I conclude on this issue that this proposal would have no significant effect on the City's existing housing stock and would accord with the aims of the relevant development plan and emerging plan policies referred to above.

### **Effect on the Character and Appearance of the Surrounding Area**

32. A Masterplan approach to development at the University commenced a number of years ago. Following a period of ad hoc, lower quality, development in the 1980s, more recent development has reflected the original Spence approach and it is accepted that development of the Fulton, Jubilee and Swanborough buildings has positively enhanced the campus. The Masterplan proposal subject of this appeal would increase the density of built form on the campus but growth was at the heart of Spence's vision for the University. The proposal provides an opportunity to return to the Spence principles by replacing the piecemeal development of the past.
33. The appeal scheme would create a new courtyard and open space in the south-east Academic Area of the campus replacing the unattractive Science Area car park. The principle of courtyards in the student accommodation areas, begun by the Swanborough buildings, would allow open space to be introduced. In addition, the new access road on the edge of the campus would remove cars from the centre to the edge of the site with some parking underground. This would give primacy to pedestrians, which was fundamentally important to Spence. The new pedestrian and vehicular access route on the East Slope would allow for views through the East Slope buildings to the tree belt on the West Slope.
34. It is not disputed that the East Slope, Park Village and Park House accommodation is not fit for purpose and their replacement with buildings designed in the architectural language of the Spence buildings would sympathetically provide modern facilities to meet current needs. In addition, provision of new academic facilities in the Science Area would give quality teaching spaces, something Spence saw as critical to the success of the University. The creation of a new social space for students in the northern part of the campus would replace car parking with a new landscaped courtyard. The design of the open spaces between the buildings would provide the opportunity to bring the adjoining downland landscape character into the campus.
35. The withdrawn reason for refusal 2 refers to a denser urban environment due to the proposed scale and height of development. In evidence, the Council was unable to refer to any proposed building that would be unacceptable in terms of scale and height and there were no other objections on that basis. Although there would be an increase in density the proposals, although in outline, demonstrate that the existing character of the campus could be enhanced by replacing the ad hoc buildings with new development reflecting Spence's architectural language and by bringing the downland landscape into the campus. It would, therefore, meet the aims of LP Policy QD1 and CP Policy CP21(B5).

## Effect on Heritage Assets

36. The *Planning (Listed Buildings and Conservation Areas) Act 1990* states at paragraph 66(1) that decision makers should “have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses”. Historic England (HE), formerly English Heritage, the Council’s Heritage Officer and the appellant’s heritage expert have all reviewed the appeal proposal and none allege that there would be any harmful impact to the listed buildings or their settings.
37. HE advised that the Park Houses were not of listable quality, although the Conservation Plan identifies them as having considerable/some significance reflecting their location in a form contemplated by Spence and utilising some of his architectural language. HE welcomed their replacement with buildings built in the Spence style and respectful to the form, scale and location but sought recording of the existing buildings as non-designated heritage assets. Park Village buildings were stated to be of some merit but in poor condition and not of listable quality. Their demolition would result in the total loss of significance of an undesignated heritage asset justifying recording. In terms of East Slope, the Conservation Plan recorded the agreement of all parties that the buildings detract from the campus. In so far as HE considers them of any architectural or historic merit it does not object to their loss.
38. There is no objection to the redevelopment of the north and east parts of the site and I agree with HE which did not consider it would have a significant impact on the near setting of the listed buildings. In terms of wider setting, HE requested further viewpoints on production of which it confirmed orally to the Council that it was satisfied. Long views over the campus from viewpoints A and C are not identified by anyone as heritage views and individual listed buildings are difficult to pick out. If there are any residual concerns about creating views out of the campus to East Slope, the unfixing of the layout would provide an opportunity to revisit them at reserved matters stage, albeit that Officers have already indicated the layout is acceptable by requesting it be fixed prior to submission of the application.
39. If Park Village and Park Houses are treated as non-designated heritage assets their loss through demolition has to be balanced having regard to the scale of any harm and the significance of the heritage asset as set out in *Framework* paragraph 135. The significance of the non-designated assets would be totally lost due to demolition but they would be replaced with buildings reflecting Spence’s architectural language and, in the case of the Park Houses, sited in the same location and original form. Moreover, the existing buildings are not fit for purpose. The Park Village buildings are of even lower quality and do not reflect the Spence principles. They would also be replaced with buildings that would reflect those principles. The East Slope buildings detract from the appearance of the campus as well as not being fit for purpose and their replacement should be encouraged. In respect of all of the buildings to be demolished the benefits of new buildings, fit for purpose, designed to reflect the Spence principles, and using the architectural language of the Spence buildings, would outweigh the total loss of the undesignated heritage assets.
40. Whilst there might be some views of the listed buildings from locations on the campus, their campus setting would remain. Indeed, in wider views the setting

would be enhanced by the removal of the ad hoc buildings and their replacement by new buildings utilising the architectural language of the Spence buildings. The proposal would, therefore, reflect the objectives of LP Policy HE3 and accord with the statutory duty.

### **Effect of Tree Loss and Landscape**

41. A Landscape Character Assessment 2009 describes the University as “suburban downland fringe with educational use” and the scale and density of the campus is described as “compact low rise self contained campus development with a landscape focus”. This at a time when the stadium to the south of the A27 had not been built and the seven storey Arts D building had not been demolished. Having considered the document, the Council has allocated the East Slope for development in CP Policy CP21 and extended the built up area boundary of the City to include the campus.
42. Whilst the campus would be subject to change, the Masterplan proposal would retain all the key woodland belts that Spence inherited from Stanmer Park, including those running up the centre of the campus and those at the top of the valley slopes. Following the Council’s refusal of the application, the site was re-surveyed which confirmed the robustness of the original survey but identified that more trees could be retained and that many of the trees to be lost were not of as high a category as first thought. Although in excess of 500 trees would have to be removed to allow development, this has to be seen in the overall context of the site.
43. There are around 863 individual trees and some 6,000 trees in woodland on the campus, not to mention new trees that would be planted. Only 7% of the trees on campus would be felled to facilitate development and this would be phased over 7 years. The proposals would allow an improved species mix. The redevelopment of the East Slope is supported by CP Policy CP21, and there is the benefit of moving the access road and car parking to the edge of the campus or underground to free up space in the centre of the campus for pedestrians and enhanced planting and green open space.
44. Whilst there would be change this need not be negative. The loss of some trees would be offset by new trees and planting and the removal of vehicles and parking to the edge of the site would reduce their impact. Overall the verdant character of the site and the amenity of the campus users would be preserved. In that respect the proposal would accord with the aims of LP Policy QD16.
45. In terms of ecology the ES identifies various mitigation measures and a note provided by the appellant sets out how the various mitigation measures would be secured.

### **Planning Balance**

46. The proposal would have an insignificant impact on the existing housing stock as around 98% of additional students would be housed in University controlled accommodation on and off campus. The Article 4 Direction is one tool the Council could use to minimise this insignificant impact further. In addition, there would be the total loss of undesignated heritage assets, including Park Village and Park House, together with development on East Slope, all of which it is agreed is sub standard.

47. There would be an increase in density on the campus and the loss of a number of trees but the verdant character of the campus would be preserved, as would the setting of the listed buildings on the campus. New modern academic and residential accommodation would be provided in lieu of the non-designated accommodation that is no longer fit for purpose. The replacement of the ad hoc, lower quality structures by buildings reflecting the Spence principles and architectural language would enhance the character of the site.
48. In addition to these building matters there would also be other benefits. The activities of the University, together with spending by students and those who visit them, generate significant amounts for the local, regional, and national economies. A study by Oxford Economics for the University, based on 2012-13 data, found that it generated £600 million in 2012-13 estimated to rise to £1 billion by 2018 based on the aspirations for growth subject of this appeal. The University supports 3,700 jobs locally and 4,500 across the south of England. It is one of the few large employers in the area with a 2,200 workforce living locally. The University also contributes to local knowledge and expertise through access to the Sussex Innovation Centre and University Conference Centre. It hosts over 250 events for schools and colleges each year, more than 1,000 students volunteer in the local community and the University sponsors and contributes to the Brighton Festival, The Fringe, and the Charleston Festival amongst many other cultural events.
49. The proposal itself would generate a construction spend of around £621.9 million and another £311 million through the supply chain. It would generate some 105 new academic staff jobs plus around 281 support staff positions. Additional students would contribute an additional £9.3 million gross value added supporting 161 jobs in the economy, whilst visiting friends and relatives would add around £1.2 million and 35 full time equivalent jobs.
50. I conclude that the few slight disbenefits of the proposed Masterplan scheme would be far outweighed by the benefits it would generate. The appeal should therefore be allowed.

### **Conditions and Section 106 Agreement**

[Unless otherwise stated the condition numbers in this section are those used in the attached Schedule of Conditions]

51. A number of conditions have been agreed between the two main parties and none were challenged by anyone at the Inquiry. The six tests set out in Framework paragraph 206 have been applied and some slight amendments have been made to the suggested wording in the interests of clarity.
52. The first 8 conditions relate to the Masterplan scheme generally. Conditions 1, 2 and 3 are standard time conditions and reflect the first two suggested conditions. For the avoidance of doubt, and in the interests of good planning, Condition 4 sets out the approved drawings, some of which are illustrative only. Condition 5 requires development to be substantially in accordance with the Masterplan drawing. This is necessary as the development is subject to an EIA and any material change might lead to an impact that has not been assessed by that process. In the interests of protecting amenity, highway safety and managing waste during the approved development Condition 6 would require a Construction Environmental Management Plan (CEMP) to be approved. Condition 7 requires a Travel Plan to be approved to help reduce traffic generation in accordance with LP Policy TR4. Suggested wording for Condition

- 8 requires a phasing plan to be submitted, but approved drawing D/105 shows the three phases and the CEMP is required by Condition 6 to include the forecast completion dates of the phases. Condition 8 has, therefore, been amended to require development to be in accordance with the approved phasing plan.
53. Conditions 9 to 27 apply to the East Slope phase, Conditions 28 to 45 to the Academic Buildings phase, and Conditions 46 to 64 to the West Slope Phase. Many of the conditions are repeated for each phase but some relate specifically to only one phase.
54. A number of conditions are necessary to protect ecology on the site as identified in the ES. Conditions 9, 28 and 46 would protect nesting birds by controlling removal of trees and vegetation, Conditions 26, 44 and 62 seek to protect bats by requiring a lighting design strategy, whilst Condition 17, 36 and 54 make provision for protecting badgers.
55. Landscaping is a reserved matter and important to the acceptability of the proposed scheme. Conditions 15, 34 and 52 setting out which matters should be included in a landscaping scheme should be attached. Conditions 10, 29 and 47 set out timings relating to landscaping and measures to address planting that does not establish in the first 5 years. Due to the importance of trees to the character of the campus Conditions 16, 35 and 53 require an Arboricultural Method Statement to be prepared, approved and implemented.
56. A number of measures are required to prevent pollution of the ground water environment. Conditions 21, 39 and 57 sets out the requirement for a site investigation scheme. Conditions 11, 30 and 48 preclude penetrative foundation methods, and Condition 12, 31 and 49 preclude infiltration of surface water drainage into the ground, until in both cases it has been demonstrated there is no unacceptable risk to groundwater. To prevent increased risk of flooding Conditions 22, 40 and 58 seek a surface water drainage scheme based on sustainable drainage principles.
57. Conditions 14, 33 and 51 require samples of materials to be approved, whilst levels are required by Conditions 25, 43 and 61. Given the importance of design to the character and appearance of the area and the significant slopes within the appeal site the conditions are necessary.
58. In the interests of sustainability and ensuring efficient use of energy, water and materials Conditions 18, 37 and 55, and 19, 38 and 56 requiring a BREEAM assessment of Excellent overall and a rating of 60% in the energy and water sections should be required. Conditions 13, 32 and 50 would protect the amenity of residents of other buildings on the site by limiting noise levels from plant and machinery.
59. In respect of providing for the needs of mobility impaired people on the site Conditions 23, 41 and 59 require details of disabled parking provision to be provided. Conditions 24, 42 and 60 seek details of additions and improvements to on campus pedestrian and cycle routes, bus stops and cycle parking and should be attached to encourage travel by means other than the private car.
60. The ES identifies seven areas of the appeal site that retain archaeological potential. Conditions 27, 45 and 64 are therefore necessary to ensure that a

programme of archaeological work is carried out in accordance with an approved written scheme of investigation. Condition 20 in relation to the East Slope phase only and Condition 63 relating to the West Slope only are also necessary to ensure recording of the buildings, including undesignated heritage assets, that would be demolished.

61. In addition to the conditions mentioned above, a signed Section 106 Agreement has been submitted, similar to an Agreement with Lewes District Council in respect of that part of the overall development within the Lewes administrative boundary. The three main provisions of the Agreement relate to a Habitat Creation and Management Plan (HCMP), Public Art and a Construction Training and Employment Strategy (CTES). Community Infrastructure Levy (CIL) Regulation 122 sets out three tests to be met by planning obligations that they be:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

The Council submitted a note setting out why it considers the tests are met in this case.

62. In respect of the HCMP, the proposal would lead to the permanent loss of some semi-improved grassland, the ES identified bats using the site including three buildings to be demolished, numerous trees that would be lost and the site also supports a small population of common lizard and slow worm. Mitigation and amelioration of these impacts would be provided for by the Agreement which would meet the three tests in that respect, in line with the aims of LP Policies QD15, QD16 ad QD18.

63. LP Policy QD6 seeks the provision of Public Art in major development schemes. In this case, there would be some impact, albeit slight, on the character of the campus. The provision of a modest piece of public art (£15,000) in the context of the scale of the overall Masterplan would help address this impact and create a sense of place. The Public Art contribution would also therefore meet the tests in Regulation 122.

64. Turning to the CTES, emerging Policy CP2 seeks to "secure apprentices, training and job opportunities for local residents through the Brighton and Hove Local Employment Scheme and the linked requirement for contributions from major development schemes towards training". The proposal would generate around 280 full time equivalent jobs and in the policy context of the need to secure training and job opportunities the CTES is necessary to make the scheme acceptable in planning terms. The job and training opportunities arise from the scheme and the requirement would not be overly onerous. The CIL tests would be met in respect of the CTES.

*Ken Barton*

INSPECTOR



## APP/Q1445/W/14/3001303 - Schedule of Conditions

- 1) Details of the appearance, landscaping, and layout, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans but only in respect of those matters not reserved for future consideration:

<b>Plan Type</b>	<b>Reference</b>	<b>LPA Rec'd</b>
Site boundary	D/100	20/12/13
Site Plan the Three Development Phases	D/105	
Site boundary – Brighton & Hove	D/110	20/12/13
Site boundary – Lewes District	D/120	20/12/13
Demolition plan	D/130	20/12/13
Parameter Plan 1 - Access	D/140	20/12/13
Parameter Plan 2 – Landscape	D/150 D	20/12/13
Parameter Plan 3 – Land uses	D/160 A	07/01/14
Parameter Plan 4 – Building heights	D/170	20/12/13
Listed buildings	D/200	20/12/13
Existing topography	D/220 B	20/12/13
Boundaries plan	D/230	20/12/13
Illustrative Masterplan	D/300	20/12/13
Illustrative building heights	D/305 A	19/03/14
Illustrative East slope plans and sections	D/310	20/12/13
Illustrative West slope plans and sections	D/320	20/12/13
Illustrative Academic Area plans and sections	D/330	20/12/13
Tree removal and retention plan	D/400 B	20/12/13

- 5) The development hereby permitted shall be carried out in substantial accordance with the layout submitted as part of the application and shown on drawing number D/300 entitled 'Masterplan'.
- 6) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include:
  - a) The phases of the proposed development including the forecasted completion dates;
  - b) A commitment to apply to the Council for prior consent under the *Control of Pollution Act 1974* and not to commence development until such consent has been obtained;

- c) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress, and how any complaints will be dealt with, reviewed, and recorded (including details of any considerate constructor or similar scheme);
- d) A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management, vibration, site traffic, and deliveries to and from the site;
- e) Details of hours of construction, including all associated vehicular movements;
- f) Details of any construction compound;
- g) A plan showing construction traffic routes;
- h) An audit of all waste generated during construction works.

The approved CEMP shall be adhered to throughout the construction period.

- 7) Prior to first occupation of any part of the development hereby permitted a Travel Plan (a document setting out a package of measures tailored to the needs of the site and aimed at promoting sustainable travel choices and reduce reliance on the car) for the development shall be submitted to, and approved in writing by, the local planning authority. The Travel Plan shall be implemented as approved. The Travel Plan shall include a process of annual monitoring and reports to quantify if the specified targets are being met. The local planning authority shall be able to require proportionate and reasonable additional measures for the promotion of sustainable modes if it is shown that monitoring targets are not being met.
- 8) All phases of the development shall be carried out in accordance with the approved phasing plan D/105.

### **Phase 1: East Slope Development**

- 9) No hedgerow, tree or shrub shall be removed from the Phase 1 Site between 1st March and 31st August inclusive without the prior submission of a report to the local planning authority which sets out the results of a survey to assess the nesting bird activity on the Phase 1 Site and describes a method of working to protect any nesting bird interest. The report must first be agreed in writing by the local planning authority and development shall be carried out in accordance with the approved details.
- 10) All planting, seeding or turfing comprised in the approved scheme of landscaping on the Phase 1 site shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and 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. All hard landscaping and means of enclosure shall be completed before the development on the Phase 1 Site is occupied.
- 11) No piling or any other foundation designs using penetrative methods on the Phase 1 Site shall be carried out until details demonstrating that there

- would be no resultant unacceptable risk to groundwater have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- 12) No infiltration of surface water drainage into the ground of the Phase 1 Site shall be permitted until details demonstrating that there would be no resultant unacceptable risk to controlled waters has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approval details.
- 13) Noise associated with plant and machinery incorporated within the development on the Phase 1 Site shall be controlled such that the Rating Level measured, or calculated, at one metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 10dB(A) below background, measured in accordance with BS4142:2014.
- 14) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development of the Phase 1 Site hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development on the Phase 1 Site shall be carried out in accordance with the approved details.
- 15) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until there has been submitted to, and approved in writing by, the local planning authority a scheme for landscaping on the Phase 1 Site, which shall include hard surfacing, boundary treatments, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.
- 16) No work shall take place on the Phase 1 Site (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement for the Phase 1 Site has been submitted to, and approved in writing by, the local planning authority. No development or other operations shall take place on the Phase 1 Site except in accordance with the approved Method Statement. Such method statement shall include full details of the following:
- a) Implementation, supervision and monitoring of an approved Tree Protection Scheme;
  - b) Implementation, supervision and monitoring of an approved Treework Specification;
  - c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme;
  - d) Timing and phasing of arboricultural works in relation to the approved development.

- 17) No works on the Phase 1 Site which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to, and approved in writing by, the local planning authority. The measures may include the creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of the working day; and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day. The scheme shall be implemented in accordance with the approved details.
- 18) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until:
  - a) Evidence that the development on the Phase 1 Site is registered with the Building Research Establishment (BRE) under BREEAM (either a 'BREEAM Buildings' scheme or a 'bespoke BREEAM') and a Design Stage Assessment Report showing that the development will achieve a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development have been submitted to the local planning authority; and,
  - b) A BRE issued Design Stage Certificate demonstrating that the development on the Phase 1 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development has been submitted to, and approved in writing by, the local planning authority. A completed pre-assessment estimator will not be acceptable.
- 19) The development hereby approved on the Phase 1 Site shall not be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the development built on the Phase 1 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' has been submitted to, and approved in writing by, the local planning authority.
- 20) Prior to the demolition of the East Slope buildings on the Phase 1 site, they shall be recorded by scaled drawings and photographs to be submitted to, and approved in writing by, the local planning authority. The recording shall be in line with the guidance set out in the English Heritage Guidance 2006 'Understanding Historic Buildings: A guide to good recording practice'. The recording of the buildings shall follow the guidance for a Level 2 record. Evidence that a copy of the record has been deposited with the East Sussex Historic Environment Record (HER) shall also be submitted to the local planning authority.
- 21) No development of the Phase 1 Site shall take place until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to, and approved in writing by, the local planning authority:
  - a) A site investigation scheme for the Phase 1 Site, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;

- b) The results of the site investigation and detailed risk assessment referred to in a) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required on the Phase 1 Site and how they are to be undertaken; and,
  - c) 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 b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action on the Phase 1 Site. The scheme shall be implemented as approved.
- 22) No work shall take place at ground floor slab level or above of any part of the development hereby approved on the Phase 1 Site until a surface water drainage scheme for the Phase 1 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 be implemented in accordance with the approved details before the development of the Phase 1 Site is completed and the buildings of the Phase 1 Site are occupied.
- 23) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until details of disabled car parking provision for the students, staff, and visitors to the development hereby approved have been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented and made available for use prior to the first occupation of the development hereby permitted in Phase 1 and shall thereafter be retained for disable parking use at all times.
- 24) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until further details of additions and improvements on campus to pedestrian and cycle routes, bus stops, along with details of cycle parking for the students, staff and visitors to the development hereby approved on the Phase 1 Site have been submitted to, and approved in writing by, the local planning authority. These facilities shall be implemented and made available for use prior to the first occupation of the development permitted on the Phase 1 Site and shall thereafter be retained for that use at all times.
- 25) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until full details of existing and proposed ground levels (referenced as Ordinance Datum) within the site and on land adjoining the site by means of spot heights and cross-sections, and proposed siting and finished floor levels of all buildings and structures on the Phase 1 Site, have been submitted to, and approved in writing by, the local planning authority. The development shall be implemented in accordance with the approved level details.
- 26) Prior to the first occupation of the buildings on the Phase 1 Site, a "lighting design strategy for biodiversity" for the buildings and car parks on the Phase 1 Site shall be submitted to, and approved in writing by, the local planning authority. The strategy shall:

- a) Identify those areas/features that are particularly sensitive for bats and badgers and that are likely to cause disturbance in or around their breeding sites, resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) Show how, and where, external lighting will be installed on the Phase 1 Site (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting on the Phase 1 site shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. No other external lighting shall be installed other than in accordance with the approved strategy.

- 27) No development on the Phase 1 site shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted to, and approved in writing by, the local planning authority. The work shall be undertaken in accordance with the approved details.

## **Phase 2: Academic Buildings**

- 28) No hedgerow, tree or shrub shall be removed from the Phase 2 Site between 1st March and 31st August inclusive without the prior submission of a report to the local planning authority which sets out the results of a survey to assess the nesting bird activity on the Phase 2 Site and describes a method of working to protect any nesting bird interest. The report must first be agreed in writing by the local planning authority and development shall be carried out in accordance with the approved details.
- 29) All planting, seeding or turfing comprised in the approved scheme of landscaping on the Phase 2 site shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and 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. All hard landscaping and means of enclosure shall be completed before the development on the Phase 2 Site is occupied.
- 30) No piling or any other foundation designs using penetrative methods on the Phase 2 Site shall be carried out until details demonstrating that there would be no resultant unacceptable risk to groundwater has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- 31) No infiltration of surface water drainage into the ground of the Phase 2 Site shall be permitted until details demonstrating that there would be no resultant unacceptable risk to controlled waters has been submitted to,

- and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approval details.
- 32) Noise associated with plant and machinery incorporated within the development on the Phase 2 Site shall be controlled such that the Rating Level measured, or calculated, at one metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 10dB(A) below background, measured in accordance with BS4142:2014.
- 33) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development of the Phase 2 Site hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development on the Phase 2 Site shall be carried out in accordance with the approved details.
- 34) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until there has been submitted to, and approved in writing by, the local planning authority a scheme for landscaping on the Phase 2 Site, which shall include hard surfacing, boundary treatments, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.
- 35) No work shall take place on the Phase 2 Site (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement for the Phase 2 Site has been submitted to, and approved in writing by, the local planning authority. No development or other operations shall take place on the Phase 2 Site except in accordance with the approved Method Statement. Such method statement shall include full details of the following:
- a) Implementation, supervision and monitoring of an approved Tree Protection Scheme;
  - b) Implementation, supervision and monitoring of an approved Treework Specification;
  - c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme;
  - d) Timing and phasing of arboricultural works in relation to the approved development.
- 36) No works on the Phase 2 Site which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to, and approved in writing by, the local planning authority. The measures may include the creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of the working day; and open pipework greater than 150 mm outside

diameter being blanked off at the end of each working day. The scheme shall be implemented in accordance with the approved details.

- 37) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until:
- a) Evidence that the development on the Phase 2 Site is registered with the Building Research Establishment (BRE) under BREEAM (either a 'BREEAM Buildings' scheme or a 'bespoke BREEAM') and a Design Stage Assessment Report showing that the development will achieve a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development have been submitted to the local planning authority; and,
  - b) A BRE issued Design Stage Certificate demonstrating that the development on the Phase 2 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development has been submitted to, and approved in writing by, the local planning authority. A completed pre-assessment estimator will not be acceptable.
- 38) The development hereby approved on the Phase 2 Site shall not be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the development built on the Phase 2 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' has been submitted to, and approved in writing by, the local planning authority.
- 39) No development of the Phase 2 Site shall take place until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to, and approved in writing by, the local planning authority:
- a) A site investigation scheme for the Phase 2 Site, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
  - b) The results of the site investigation and detailed risk assessment referred to in a) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required on the Phase 2 Site and how they are to be undertaken; and,
  - c) 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 b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action on the Phase 2 Site.
- Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.
- 40) No work shall take place at ground floor slab level or above of any part of the development hereby approved on the Phase 2 Site until a surface water drainage scheme for the Phase 2 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 of the Phase 2 Site is completed and the buildings of the Phase 2 Site are occupied.

- 41) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until details of disabled car parking provision for the students, staff, and visitors to the development hereby approved have been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented and made available for use prior to the first occupation of the development hereby permitted and shall thereafter be retained for disabled parking use at all times.
- 42) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until further details of additions and improvements on campus to pedestrian and cycle routes, bus stops, along with details of cycle parking for the students, staff and visitors to the development hereby approved on the Phase 2 Site have been submitted to, and approved in writing by, the local planning authority. These facilities shall be implemented and made available for use prior to the first occupation of the development permitted on the Phase 2 Site and shall thereafter be retained for that use at all times.
- 43) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until full details of existing and proposed ground levels (referenced as Ordinance Datum) within the site and on land adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures on the Phase 2 Site, have been submitted to, and approved in writing by, the local planning authority. The development shall be implemented in accordance with the approved level details.
- 44) Prior to the first occupation of the buildings on the Phase 2 Site, a "lighting design strategy for biodiversity" for the buildings and car parks on the Phase 2 Site shall be submitted to, and approved in writing by, the local planning authority. The strategy shall:
  - a) Identify those areas/features that are particularly sensitive for bats and badgers and that are likely to cause disturbance in or around their breeding sites, resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) Show how, and where, external lighting will be installed on the Phase 2 Site (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting on the Phase 2 site shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. No other

external lighting shall be installed other than in accordance with the approved strategy.

- 45) No development on the Phase 2 site shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted to, and approved in writing by, the local planning authority. The work shall be undertaken in accordance with the approved details.

### **Phase 3: West Slope Development**

- 46) No hedgerow, tree or shrub shall be removed from the Phase 3 Site between 1st March and 31st August inclusive without the prior submission of a report to the local planning authority which sets out the results of a survey to assess the nesting bird activity on the Phase 3 Site and describes a method of working to protect any nesting bird interest. The report must first be agreed in writing by the local planning authority and development shall be carried out in strict accordance with the approved details.
- 47) All planting, seeding or turfing comprised in the approved scheme of landscaping on the Phase 3 site shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and 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. All hard landscaping and means of enclosure shall be completed before the development on the Phase 3 Site is occupied.
- 48) No piling or any other foundation designs using penetrative methods on the Phase 3 Site shall be carried out until details demonstrating that there would be no resultant unacceptable risk to groundwater has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- 49) No infiltration of surface water drainage into the ground of the Phase 3 Site shall be permitted until details demonstrating that there would be no resultant unacceptable risk to controlled waters has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approval details.
- 50) Noise associated with plant and machinery incorporated within the development on the Phase 3 Site shall be controlled such that the Rating Level measured, or calculated, at one metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 10dB(A) below background, measured in accordance with BS4142:2014.
- 51) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development of the Phase 3 Site hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development on the Phase 3 Site shall be carried out in accordance with the approved details.

- 52) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until there has been submitted to, and approved in writing by, the local planning authority a scheme for landscaping on the Phase 3 Site, which shall include hard surfacing, boundary treatments, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.
- 53) No work shall take place on the Phase 3 Site (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement for the Phase 3 Site has been submitted to, and approved in writing by, the local planning authority. No development or other operations shall take place on the Phase 3 Site except in complete accordance with the approved Method Statement. Such method statement shall include full details of the following:
- a) Implementation, supervision and monitoring of an approved Tree Protection Scheme;
  - b) Implementation, supervision and monitoring of an approved Treework Specification;
  - c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme;
  - d) Timing and phasing of arboricultural works in relation to the approved development.
- 54) No works on the Phase 3 Site which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to, and approved in writing by, the local planning authority. The measures may include the creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of the working day; and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day. The scheme shall be implemented in accordance with the approved details.
- 55) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until:
- a) Evidence that the development on the Phase 3 Site is registered with the Building Research Establishment (BRE) under BREEAM (either a 'BREEAM Buildings' scheme or a 'bespoke BREEAM') and a Design Stage Assessment Report showing that the development will achieve a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development have been submitted to the local planning authority; and,
  - b) A BRE issued Design Stage Certificate demonstrating that the development on the Phase 3 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment

within overall 'Excellent' for all non-residential development has been submitted to, and approved in writing by, the local planning authority. A completed pre-assessment estimator will not be acceptable.

- 56) The development hereby approved on the Phase 3 Site shall not be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the development built on the Phase 3 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' has been submitted to, and approved in writing by, the local planning authority.
- 57) No development of the Phase 3 Site shall take place until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to, and approved in writing by, the local planning authority:
- a) A site investigation scheme for the Phase 3 Site, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
  - b) The results of the site investigation and detailed risk assessment referred to in 1 and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required on the Phase 3 Site and how they are to be undertaken; and,
  - c) 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 2 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action on the Phase 3 Site.
- Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.
- 58) No work shall take place at ground floor slab level or above of any part of the development hereby approved on the Phase 3 Site until a surface water drainage scheme for the Phase 3 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 be implemented in accordance with the approved details before the development of the Phase 3 Site is completed and the buildings of the Phase 3 Site are occupied.
- 59) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until details of disabled car parking provision for the students, staff, and visitors to the development hereby approved have been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented and made available for use prior to the first occupation of the development hereby permitted and shall thereafter be retained for disable parking use at all times.
- 60) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until further details of

additions and improvements on campus to pedestrian and cycle routes, bus stops, along with details of cycle parking for the students, staff and visitors to the development hereby approved on the Phase 3 Site have been submitted to, and approved in writing by, the local planning authority. These facilities shall be implemented and made available for use prior to the first occupation of the development permitted on the Phase 3 Site and shall thereafter be retained for that use at all times.

- 61) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until full details of existing and proposed ground levels (referenced as Ordinance Datum) within the site and on land adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures on the Phase 3 Site, have been submitted to, and approved in writing by, the local planning authority. The development shall be implemented in accordance with the approved level details.
- 62) Prior to the first occupation of the buildings on the Phase 3 Site, a "lighting design strategy for biodiversity" for the buildings and car parks on the Phase 3 Site shall be submitted to, and approved in writing by, the local planning authority. The strategy shall:
- a) Identify those areas/features that are particularly sensitive for bats and badgers and that are likely to cause disturbance in or around their breeding sites, resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) Show how, and where, external lighting will be installed on the Phase 3 Site (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting on the Phase 3 site shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. No other external lighting shall be installed other than in accordance with the approved strategy.

- 63) Prior to the demolition of the four 'quads' buildings of Lancaster, York, Norwich and Essex and The Park Village buildings on the Phase 3 Site, these buildings shall be recorded by scaled drawing and photographs to be submitted to, and approved in writing by, the local planning authority. The recording shall be in line with the guidance set out in the English heritage guidance 2006 'Understanding Historic Buildings: A guide to good recording practice. The recording to of the buildings shall follow the guidance for a Level 2 record. Evidence that a copy of the record has been deposited with the East Sussex Historic Environment Record (HER) shall also be submitted to the Local Planning Authority.
- 64) No development on the Phase 3 site shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted to, and approved in writing by, the local planning authority. The work shall be undertaken in accordance with the approved details.

**APPEARANCES**

<b>FOR BRIGHTON AND HOVE CITY COUNCIL:</b>	
Robert Williams of Counsel	Instructed by Abraham Ghebre-Ghiorgis, Head of Law, Brighton and Hove City Council
He called	
Laurie Handcock MA MSc MIHBC	Senior Associate Director Historic Buildings Team, CgMs Ltd
John Booth MBA MSc FRICS FICFor CEnv FArborA AARC MEWI MCIHort MISA DipArb(RFS) CUEW LCGI(Hort) NDArb	Director and Principal Consultant, John Booth Arboricultural Consultants Limited
The following submitted a Proof but did not appear	
Kevin Goodwin BA MRTPI	Planning Director, CgMs Ltd

<b>FOR CAROLINE LYNCH (RULE 6 PARTY):</b>	
Caroline Lynch	Local Resident

<b>FOR THE UNIVERSITY OF SUSSEX:</b>	
James Strachan QC Assisted by Rose Grogan of Counsel	Instructed by Pinsent Masons
They called	
Roger FitzGerald BA BArch RIBA	Chairman, ADP
Dr Chris Miele IHBC MRTPI	Senior Partner, Montagu Evans
Richard Hannay MA DipLA CMLI	Director, Land Use Consultants
Richard Laming BA(Hons) DipTP MRTPI	Director and national Head of Economics, Turley
The following submitted Proofs but did not appear	
Simon Stephens MA(Oxon) DipArb(RFS) MArborA MICFor CEnv	Principal, S J Stephens Associates Arboricultural Consultants
Christian Wojtulewski BA(Hons) MTP MRTPI	Director, Parker Dann
John Duffy MA MBA	University of Sussex, Registrar and Secretary

<b>INTERESTED PERSONS:</b>	
Chris Taylor	Chair, Hanover and Elm Grove Local Action Team
Simon Fanshawe OBE	
Peter Rainier	
Richard Scott	

## DOCUMENTS

### Core Documents

	Planning Application Documents
CD1	Letter from the University's Director of Residential, Sport and Trading Services to B&HCC dated 12th December 2013
CD2	Letter from the University's Director of Residential, Sport and Trading Services to B&HCC dated 22nd May 2014
CD3	Design and Access Statement prepared by ADP including drawings illustrating the proposed phasing of the masterplan and Design Guidelines
CD4	Planning Statement prepared by Parker Dann
CD5	Environmental Statement Volume 1. Environmental Statement – Main Report & Figures covering; Ecology, Landscape and Visual Impact, Archaeology and Cultural Heritage, Water Resources and Flood Risk, Traffic and Transport, Noise and Socio-economic impact
CD6	Environmental Statement Volume 2 – Technical Appendices including the Environmental Impact Assessment Scoping Report and Scoping Opinion from the City Council, Flood Risk Assessment, Transport Assessment, ecology surveys and Framework Environmental Management Plan
CD7	Volume 3. Environmental Statement – Non-Technical Summary
CD8	Addendum to the ES covering Additional Assessment of Setting Issues and photomontages (April 2014)
CD9	D-400 Rev. B. Illustrative Tree Removal and Retention Plan (scale 1:2000)
CD10	D-160 Parameter plan 03 Land Uses (scale1:2000)
CD11	Updated University Travel Plan, December 2013 prepared by Steer Davies Gleave
CD12	Arboricultural Report by RW Green Limited including a Tree Constraints Plan
CD12A	Statement of Community Involvement
CD12B	Drawing D-170 Parameter Plan 04 Building Heights
	Consultee Responses to the Planning Application
CD13	B&HCC Design and Conservation Officer response to the planning application dated 5th February 2014
CD14	B&HCC Arboricultural Officer response to the planning application dated 18th February 2014
CD15	Inspector of Historic Buildings and Areas for English Heritage response to the planning application dated 3rd March 2014
CD15A	Letter from Brighton and Hove City Council to Parker Dann dated 14th March 2014.
CD15B	South Downs National Park Authority Consultation Response
CD15C	Natural England Consultation Response
CD15D	County Ecologist Consultation Response
	Post-Planning Application Submission Documents
CD16	Email from Parker Dann to the City Council dated 15th April 2014 confirming that layout should be a matter for which approval is being sought as part of the outline application
CD17	Brighton and Hove City Council's Planning Committee report on the Masterplan Application
CD18	Brighton and Hove City Council's Planning Committee Addendum document
CD19	Brighton and Hove City Council Decision Notice dated 1st July 2014
CD19A	Minutes of Planning Committees consideration of the application
	B&HCC Planning Policy and Supporting Documents
CD20	Policies QD1, QD3, QD16, EM19 and HE3 of the Brighton and Hove Local Plan (2005)
CD21	Policies SA4, CP9, CP14, ad CP21 of the Submission City Plan Part One (February 2013)
CD22	City Plan Part One Schedule of Changes to the Policies Map (February 2013)



CD23	Proposed Modifications to the City Plan (October 2014)
CD24	Brighton and Hove City Council Statement of Consultation on the Proposed Modifications (February 2015)
CD25	Initial Conclusions Letter from Inspector Laura Graham BSC MA MRTPI on Brighton & Hove City Council –City Plan: Part 1 dated 13th December 2013.
CD25A	Lewes District Council Local Plan Saved Policies
	<b>National Planning Policy</b>
CD26	NPPF
CD27	NPPG Extracts: Para 021 Ref ID: 2a-021-20150326 – Methodology : Assessing Housing Need
	<b>Design</b>
CD28	Chapter 12, Building a New University: The first Phase from The ideas of a new university, An experiment in Sussex Edited by David Daiches 1965. Andre Deutsch
	<b>Landscape &amp; Visual</b>
CD29	Stanmer Park Historic Landscape Survey & Restoration Management Plan (2003), Full Report
	<b>Arboricultural</b>
CD30	British Standard 5837:2012 (BS5837:2012) ‘Trees in relation to design, demolition and construction – Recommendations’. See Mr Booth’s Appendix 1 for Table 1
CD31	University of Sussex Conservation Plan (January 2006)
CD32	Listed Building Heritage Partnership Agreement relating to land at the University of Sussex (27 April 2015)
CD33	Brighton and Hove City Council: Brighton & Hove Characterisation Study (January 2009)
CD34	Historic England List Descriptions
CD35	Brighton & Hove City Council: Stanmer Conservation Area Appraisal (Adopted 2010)
CD36	Stanmer Park – Historic Landscape Survey & Restoration Management Plan – Summary (October 2003)
CD37	Lewes District Council: Falmer Conservation Area Appraisal (November 2003)
CD38	Conservation Principles
CD39	Historic Environment Good Practice Advice in Planning, Note 3, The Setting of Heritage Assets (Historic England April 2015)
CD40	ASE Addendum Setting Assessment April 2014 (Duplicate of CD8)
CD40A	East Northamptonshire v. Secretary of State for Communities and Local Government [2015] (known as the ‘Barnwell Manor’ case)
CD40B	The Forge Field Society & Ors, R (On the Application Of) v Sevenoaks District Council [2014]
CD40C	Heritage Visualisation Points 1,2 & 3
CD40D	Exeter Judgement
CD40E	Rochdale 2 Judgement
	<b>Housing</b>
CD41	Smith, DP (2008) The Politics of Studentification and ‘(Un)balanced’ Urban Populations: Lessons for Gentrification and Sustainable Communities?, Urban Studies, 45(12), pp.2541-2564. See CL/3/A Appendix 3
CD42	Brighton & Hove City Council (2013) Student Housing Technical Background Paper. See CL/3/A Appendix 11
CD43	Brighton & Hove City Council Student Housing Strategy 2009-2014
CD43A	Brighton & Hove City Council Student Housing Strategy 2009-2014
CD44	National HMO Lobby (2008) Balanced Communities & Studentification Problems and Solutions
CD45	Brighton & Hove City Council Housing Strategy 2015

CD45A	Planning Brief: Falmer Released Land (2012)
CD45B	UoS Housing guide 2015/16. See BHCC/5/C
CD45C	Councils Annex 3 Housing Implementation Strategy Revised June 2013
CD45D	Brighton & Hove City Plan Examination 2013 Councils Statement in Response to Matter 4B
CD45E	Councils Assessment of Affordable Housing Need 2012
CD45F	Councils Economic Strategy 2008-2016
CD46	Correspondence re Masterplan brief
CD47	Draft Statement of Common Ground
CD47A	Signed Statement of Common Ground
CD48	Section 106 Obligation agreed but not signed (BHCC)
CD48A	Section 106 Agreement agreed but not signed (Lewes DC For Information Only)
CD48B	Signed S106 Agreement (BHCC)
CD48C	Signed S106 Agreement (Lewes DC For Information Only)

### Brighton and Hove City Council's Documents

BHCC/1	Brighton and Hove City Council's Rule 6 Statement
BHCC/2	Opening Submissions
BHCC/3/A	Laurie Handcock's Proof of Evidence and Appendices
BHCC/3/B	Laurie Handcock's Summary Proof of Evidence
BHCC/3/C	E-mail from HE
BHCC/4/A	John Booth's Proof of Evidence and Appendices
BHCC/4/B	John Booth's Rebuttal Proof of Evidence
BHCC/5/A	Kevin Goodwin's Proof of Evidence and Appendices
BHCC/5/B	Kevin Goodwin's Summary Proof of Evidence
BHCC/5/C	At home with us: University of Sussex Housing Guide 2015/2016 (See CD45B)
BHCC/6	Note and Documents relating to Making of TPO covering the appeal site
BHCC/7	Position Statement on behalf of Brighton and Hove City Council
BHCC/8	Proposed Conditions
BHCC/9A	Notice advertising layout 'unfixed' application
BHCC/9B	Advertisement content for layout 'unfixed' application
BHCC/10	Note on how CIL Regulations met by Section 106 Agreement
BHCC/10A	Policies referred to in CIL Regulation Note

### Caroline Lynch's Documents

CL/1	Caroline Lynch's Rule 6 Statement
CL/2	Opening Submissions
CL/3/A	Caroline Lynch's Proof of Evidence and Appendices
CL/3/B	Caroline Lynch's Rebuttal Proof of Evidence
CL/4	Closing Submissions
CL/5	Suggested Accompanied Site Visit Locations

### University of Sussex's Documents

APP/1	University of Sussex's Rule 6 Statement
APP/2	Opening Submissions
APP/3/A	John Duffy's Proof of Evidence
APP/3/B	John Duffy's Summary Proof of Evidence
APP/3/C	Appendices to John Duffy's Proof of Evidence
APP/3/D	John Duffy's Rebuttal Proof of Evidence and Appendices
APP/4/A	Roger FitzGerald's Proof of Evidence
APP/4/B	Roger FitzGerald's Summary Proof of Evidence
APP/4/C	Appendices to Roger FitzGerald's Proof of Evidence
APP/4/D	Roger FitzGerald's Rebuttal Proof of Evidence
APP/4/E	Letter and Presentations re Masterplan Brief
APP/5/A	Richard Hannay's Proof of Evidence
APP/5/B	Richard Hannay's Summary Proof of Evidence
APP/5/C	Appendices to Richard Hannay's Proof of Evidence
APP/5/D	Richard Hannay's Rebuttal Proof of Evidence
APP/5/E	Letter from BHCC withdrawing TPO on the Site
APP/6/A	Richard Laming's Proof of Evidence
APP/6/B	Richard Laming's Summary Proof of Evidence
APP/6/C	Appendices to Richard Laming's Proof of Evidence
APP/6/D	Richard Laming's Rebuttal Proof of Evidence
APP/7/A	Dr Chris Miele's Proof of Evidence
APP/7/B	Dr Chris Miele's Summary Proof of Evidence
APP/7/C	Appendices to Dr Chris Miele's Proof of Evidence
APP/7/D	Dr Chris Miele's Rebuttal Proof of Evidence
APP/7/E	Dr Miele's Errata Sheet
APP/8/A	Simon Stephens' Proof of Evidence
APP/8/B	Simon Stephens' Summary Proof of Evidence
APP/8/C	Appendices to Simon Stephens' Proof of Evidence
APP/8/D	Simon Stephens' Rebuttal Proof of Evidence
APP/8/E	Objection to TPO covering the site
APP/9/A	Christian Wojtulewski's Proof of Evidence
APP/9/B	Christian Wojtulewski's Summary Proof of Evidence
APP/9/C	Appendices to Christian Wojtulewski's Proof of Evidence
APP/9/D	Christian Wojtulewski's Rebuttal Proof of Evidence
APP/10	Note re Regulatory Compliance of the Environmental Statement
APP/11	Note on Mitigation Measures
APP/11/A	Addendum to Note on Mitigation Measures
APP/12	Closing Submissions

### **Inquiry Documents**

ID/1	Pre-Inquiry Note
ID/2	Guidance for Document Preparation and Numbering

### **Interested Persons Documents**

IP/1	Letter submitted by Mr Rainier on behalf of Brighton and Hove Albion Football Club
IP/2	Letter submitted by Mr Fanshawe
IP/3	Plan showing HMOs Submitted by Mr Taylor
IP/4	Submission by Mr Scott