

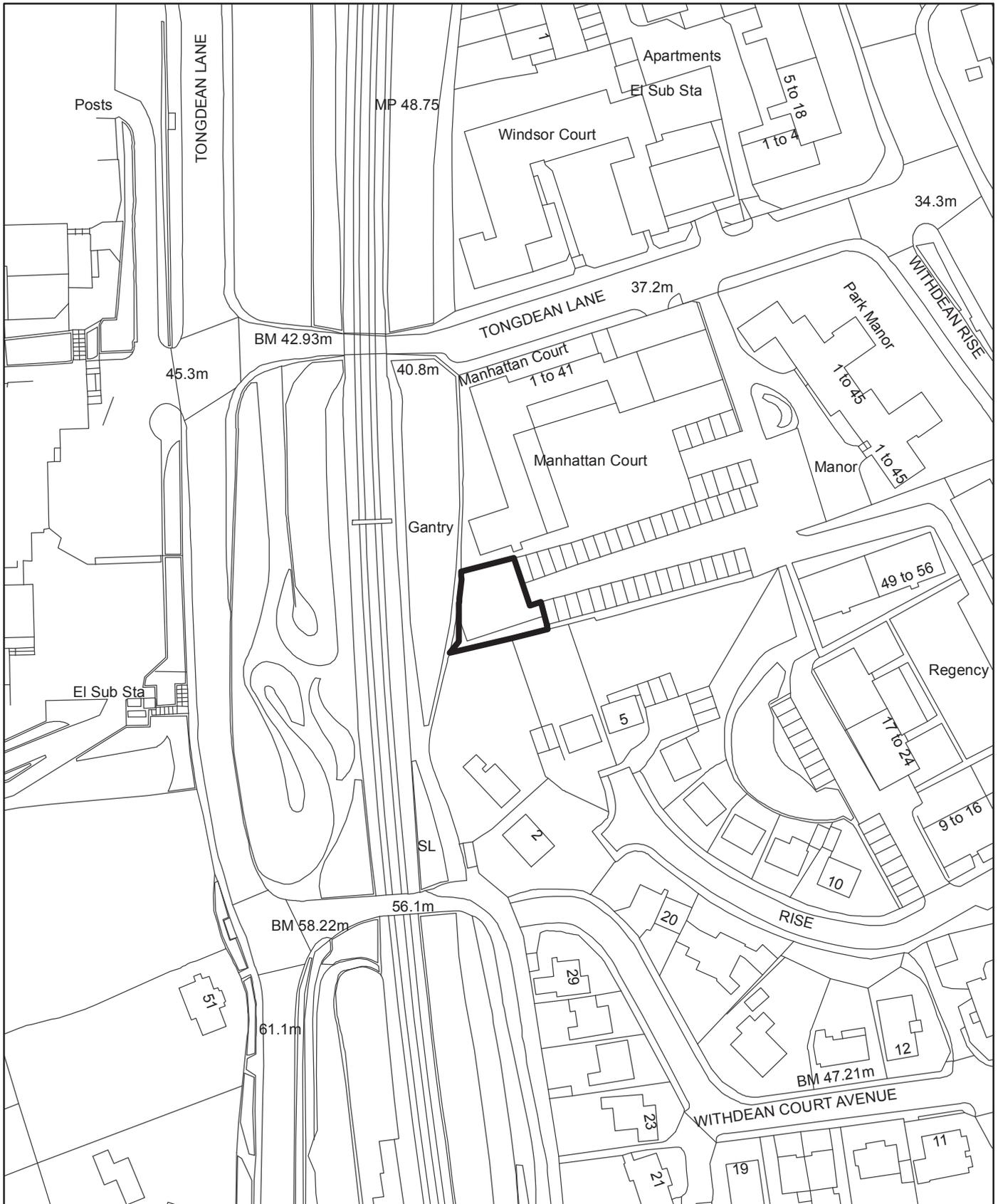
ITEM F

**Land rear of Regency Court, Withdean Rise,
Brighton**

**BH2014/03755
Full planning**

22 APRIL 2015

Land rear of Regency Court, Withdean Rise, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2014/03755	<u>Ward:</u>	WITHDEAN
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Land Rear of Regency Court Withdean Rise Brighton		
<u>Proposal:</u>	Erection of 9no single garages.		
<u>Officer:</u>	Jason Hawkes Tel 292153	<u>Valid Date:</u>	10/11/2014
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	05 January 2015
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Strutt and Parker, 31 North Street, Chichester, PO19 1LY		
<u>Applicant:</u>	Anstone Properties Ltd, c/o Strutt and Parker, 31 North Street, Chichester, PO19 1LY		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site relates to land to the rear of a block of garages located to the rear of the residential blocks of Park Manor, Regency Court and Manhattan Court. The site is at the end of the garages to the west and includes a number of trees and bushes around the circular car parking area which is fenced off along the northern boundary. To the west of the site is a railway embankment. This site is identified as part of a Greenway in the Brighton & Hove Local Plan.
- 2.2 Regency Court and Park Manor (to the east of the site) are blocks of flats with a traditional appearance and Manhattan Court has a more modern appearance, as it is a later addition. These buildings form large blocks around the garages. Manhattan Court is immediately adjacent the application site to the north and includes windows from first floor level and above which overlook the site and ground floor windows behind the northern boundary fence.
- 2.3 To the south site is the garden of houses in Withdean Rise. These houses have large gardens which slope down to the boundary with the garages. The houses are set a significantly higher ground level and are not visible from the application site.

3 RELEVANT HISTORY

- BH2012/01400:** Land Rear of Regency Court London Road. Application for Approval of Details Reserved by Conditions 5, 6 and 7 of application BH2011/02570. Split decision 26/06/2012.
- BH2011/02570:** Land Rear of Regency Court, London Road. Erection of 9no single garages. Approved 20/12/2011.

BH2010/01214: Land Rear of Regency Court London Road. Erection of 1no detached chalet bungalow with associated car parking. Refused 05/07/2010. Appeal dismissed 19/01/2011.

BH2009/00413: Three storey development above existing garage block to create a 4 storey block of 6 no. two bedroom flats with roof top garden, cycle and refuse stores and ground level parking. Refused 03/06/2009. Appeal dismissed 02/02/2010.

4 THE APPLICATION

- 4.1 Planning permission is sought for the construction of 9 additional garages. The garages are single-storey with flat roofs and follow the line of the existing garages with 5 garages on the south side and 4 garages on the north side. The applicant has stated that the garages will be offered to the residents of Regency Court and Park Manor. The scheme includes seating for residents at the end of the proposed garages.
- 4.2 This application is a resubmission of a previous approval for 9 garages on the site (ref: BH2011/02570). The previous approval has now expired. The current scheme for garages is the same as previously approved in 2011.

5 PUBLICITY & CONSULTATIONS CONSULTATIONS

External:

- 5.1 **Neighbours: Forty one (41)** representations have been received from **2, 6, 7, 9, 11, 15, 20, 23, 24, 28, 29, 30, 32, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 47, 48, 49, 50, 52, 53, 55, 58, 59, 64, 65, 67, 68, 70, 71, 73, 75 & 77** Regency Court objecting to the application for the following reasons:
- The application form is incorrect in stating that there is no parking on site. This land has been used as an overflow car parking area. This is not wasteland. The loss of the overflow car parking spaces will have an effect on parking in the area. Additional traffic could also be a hazard.
 - In the 2011 permission, the applicant stated that there was an extant permission for 16 car parking spaces on the site. This would be a better use of this land.
 - Concern is raised as to who the garages will be made available to.
 - The seating provided is inappropriate and would invite crime.
 - Concern is raised over noise disturbance caused by potential construction works.
- 5.2 **East Sussex County Council Archaeologist:** No objection. In light of the archaeological potential of this site, a condition is recommended the applicant submits a written scheme of investigation for the implementation of a programme of archaeological work for the approval of the local planning authority prior to commencement of works.
- 5.3 **Network Rail:** No response.

Internal:

- 5.4 **Sustainable Transport:** No objection. The scheme will not have a material impact on the highway that could support a reason for refusal.
- 5.5 **Arboricultural Section:** No objection from Arboricultural Section subject to conditions being attached to any consent granted regarding protection of existing trees and replacements for those that may be lost.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
- 6.2 The development plan is:
- Brighton & Hove Local Plan 2005 (saved policies post 2007);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
 - East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
 - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.
- 6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove Local Plan:

- TR1 Development and the demand for travel
- TR7 Safe development
- TR19 Parking standards
- SU2 Efficiency of development in the use of energy, water and materials
- SU13 Minimisation and re-use of construction industry waste
- QD1 Design – quality of development and design statements

- QD2 Design – key principles for neighbourhoods
- QD3 Design – efficient and effective use of sites
- QD14 Extensions and alterations
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD19 Greenways
- QD27 Protection of Amenity
- HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Guidance:

- SPGBH4 Parking Standards

Supplementary Planning Documents:

- SPD03 Construction & Demolition Waste
- SPD06 Trees & Development Sites
- SPD11 Nature Conservation & Development

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the appearance of the garages in relation to the site and surrounding area, the impact of the scheme on residential amenity, highway safety and parking, impact on trees and archaeological considerations.

Planning Policy:

- 8.2 Policy TR1 requires that developments provide for the demand for travel that they create and maximise the use of public transport, walking and cycling. Policy TR7 states that planning permission will be granted for developments that do not increase the danger to users of pavements, cycle routes and roads. Where there are no acceptable solutions to problems that arise from development proposals, planning permission will be refused.
- 8.3 Policies QD1 and QD2 sets out the design criteria for the assessment of new development. QD1 requires proposals to demonstrate a high standard of design and make a positive contribution to the visual quality of the environment. Policy QD2 requires developments to emphasise and enhance the positive qualities of the local neighbourhood by taking into account the local characteristics, of particular relevance is point a) which refers to height, scale, bulk and design of existing buildings.
- 8.4 Policy QD19 states that development within the setting of a Greenway will be required to contribute to the provision and / or enhancement of the network, proportional to the development and its potential impact on the Greenway.
- 8.5 Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

Design:

- 8.6 Planning permission is sought for the construction of nine garages. The garages are single-storey with flat roofs and are joined on to the end of the existing block of garages. Four additional garages are proposed to the northern row of garages and five additional garages are proposed to the southern row of garages. The garages are each 3m wide, 5.2m long and 2.4m high.
- 8.7 The garages are slightly stepped up the gradient towards the railway embankment. The scheme results in an additional 12m of garage to the southern row and an additional 15m to the northern row. The garages are proposed to match the appearance of the existing garages in matching brickwork, fascia detail, metal up and over doors and flat asphalt roofs.
- 8.8 The piece of land in question is tucked away at the back of the site behind the back of the garages in an inconspicuous location. The proposed garages will continue the line of the existing garages. Given this location and the design of the garages, the proposal would not look out of character in the area and are deemed appropriate in terms of their design and appearance.
- 8.9 The parking area is surrounded by trees and the site is identified in the Brighton & Hove Local Plan as being part of a Greenway. The scheme would result in the loss of some of the trees. The Council's Arboriculturist has addressed the impact of the scheme on trees below. Whilst the loss of some trees is regrettable, there will still be a large number of trees retained on site and to the west of the site on the railway embankment. A condition is also recommended requiring the planting of replacement trees outlined in a landscaping scheme. Consequently, the proposed garages and the subsequent impact on trees is considered to be acceptable and the scheme would not significantly impact on the appearance of this site, the surrounding area or the Greenway.

Impact on Amenity:

- 8.10 Due to their position, the proposal most affects the immediate block of flats (Manhattan Court) to the north. As the properties at Withdean Rise are set at a high ground level to the south of the site, these properties would not be affected by the proposal in terms of loss of amenity.
- 8.11 Manhattan Court is large of block of flats adjacent the site which includes windows that overlook the site from the upper floors as well windows at ground floor level set behind the boundary fence. The ground floor windows are over 2.5m way from the boundary fence. The boundary fence is 2m high and the garages results in an increase of 600mm above the height of the fence. Given the distance between the windows and the increase in height, it is felt that the scheme would not result in a significant impact on the amenity of the ground floor windows in terms of loss of light, outlook or an increased sense of enclosure.
- 8.12 In terms of the use of the garages, the applicant has stated that the garages will be offered to the residents of the adjacent flats for parking and storage. This is deemed an acceptable use and would not detrimentally affect the amenity of any adjacent properties. To ensure the appropriate use of the garages a condition is recommended stating that the garages hereby permitted shall be used only for

parking of private vehicles or for purposes incidental to the enjoyment of a residential dwelling or flat and for no business or industrial use whatsoever.

Impact on Trees and Landscaping:

- 8.13 The Arboricultural Section has commented that to the west of the development site is the railway line and on the embankment in this location are several trees, one of which appears to be a fine Sycamore (just behind the “Smile – You Are On CCTV” poster). This tree should be protected to BS 5837 (2005) Trees in Relation to Construction during the course of the development.
- 8.14 On the development site, to the west of proposed Garage No. 1, is a group of 5 self-seeded Elms. They have grown up with the woodland area on the railway line and therefore are of poor form. Garage No. 1 appears to be within the Root Protection Zone of this group of trees and given their poor form, the inspecting officer would question their retention in such close proximity to the proposed garage. The Arboricultural Section has not objected to the loss of these trees subject to a suitable replacement landscaping scheme. If the group of 5 self-seeded Elms is to be lost, a landscaping condition should be attached to any planning consent granted to plant 5 replacement trees either in the proposed new seating area for residents or elsewhere in the grounds. The applicant has confirmed that these trees are to be removed and agreed to a landscaping condition including replacement trees.
- 8.15 To the south of the development site, behind proposed Garages nos. 5, 6 and 7, are several over-mature Cherry Laurel shrubs of large stature. Major stems will need to be removed back to the boundary to facilitate the development. They are of little arboricultural value and the Arboricultural Section has not objected to this work. It is presumed that these will only be pruned back to the boundary and therefore Common Law regarding pruning back of overhang applies.
- 8.16 Overall, the Arboricultural Section has no objection to the proposal subject to suitable conditions being attached to any planning consent granted.

Archaeological Considerations:

- 8.17 The site is within an Archaeological Notification Area. The East Sussex County Council Archaeologist has commented that this area is defined as a former medieval and post-medieval hamlet of Withdean, the site of a 19th Century chapel and has potential for prehistoric and Roman remains.
- 8.18 In light of the archaeological potential for this site, the archaeologist recommends that the proposal is subject to a programme of archaeological works. This will enable any archaeological deposits and features, disturbed during the proposed works, to be adequately recorded. Having regard to the comments of the County Archaeologist, a condition is recommended requiring the submission of programme of archaeological works to be agreed by the planning department prior to commencement of works.

Sustainable Transport:

- 8.19 The Transport Manager has commented that this area of land is currently being used by residents of Regency Court to informally park vehicles. It is understood

that the existing residents of Regency Court and Park Manor will be given the first opportunity to lease the use of the garages. However it is not guaranteed that they will take up this opportunity, therefore it is possible that the vehicles currently parking on this parcel of land could be displaced on to the local highway. It is not believed that the displacement of car parking from this area could be considered as having a material impact on the provision for parking on the highway within the vicinity of this site.

8.20 As the existing parcel of land is being used to park vehicles at present it is considered that the proposal will not result in a material net increase in trips generated by this site.

8.21 Additionally, a previous application on this site was subjected to a planning appeal (ref: BH2009/00413). This application was for the construction of a three storey development above the existing garage block to create a 4 storey block of 6 no. two bedroom flats with roof top garden. The Inspector examined concerns relating to the loss of car parking on this site. In this instance the Inspector believed that the loss of parking within this site could not be considered as having a material concern and the appeal was not dismissed on these grounds.

8.22 Given the above information the Transport Manager does not believe that the application would have a material impact on the highway that could support a reason for refusal on highway grounds.

Sustainability:

8.23 Policy SU13 and Supplementary Planning Document 03 on Construction and Demolition Waste seek to reduce construction waste and require a Waste Minimisation Statement demonstrating how elements of sustainable waste management have been incorporated into the scheme in order to reduce the amount of waste being sent to landfill. A suitable statement has been submitted with the application.

9 CONCLUSION

9.1 The proposed development would not have a significant impact on local parking, highway safety or the amenities of the occupiers of adjacent properties and is also considered acceptable in terms of its design and appearance in relation to the existing development on site and the surrounding area. Subject to an acceptable Arboricultural Method Statement, landscaping scheme and Archaeological Programme of Works, the scheme is also deemed appropriate in terms of its impact on potential archaeological finds and trees adjacent and on the site.

10 EQUALITIES

10.1 None identified.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

11.1 Regulatory Conditions:

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- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 2) The development hereby permitted shall be carried out in accordance with the approved drawings listed below.
Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Site & Location Plans	A411/01	B	7 th November 2014
Site Plan	A411/02	A	7 th November 2014
Proposed Elevations	A411/03		7 th November 2014
Proposed Elevations	A411/04		7 th November 2014
Proposed Elevation & Section	A411/05	A	7 th November 2014
Existing Site Plan	A411/07		7 th November 2014
Existing Site Plan	A411/07		7 th November 2014
Landscape Plan	A411/20	A	7 th November 2014

- 3) The garages hereby permitted shall be used only for parking of private vehicles or for purposes incidental to the enjoyment of a residential dwelling or flat and for no business or industrial use whatsoever.
Reason: To safeguard the amenities of the occupiers of adjoining properties.
- 4) The external finishes of the garages hereby permitted shall be finished in matching materials to the existing garages.
Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and in accordance with policies QD1 and QD14 of the Brighton & Hove Local Plan.

11.2 Pre-Commencement Conditions:

- 5) No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be brought into use until the programme of archaeological work has been completed in accordance with the approved Written Scheme of Archaeological Investigation
Reason: This pre-commencement condition has been imposed because it is necessary to ensure that the archaeological and historical interest of the

site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan.

- 6) No development shall commence until an Arboricultural Method Statement regarding the protection of the large Sycamore tree and other trees on the railway embankment has been submitted and approved by the Local Planning Authority. The statement shall be in accordance with BS 5837 (2005) Trees in relation to Construction and will include protection of roots.
Reason: This pre-commencement condition is imposed because it is necessary to protect and prevent damage to the trees which are to be retained on the adjoining site, in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.
- 7) Prior to first occupation of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
- a. details of all hard surfacing;
 - b. details of all boundary treatments;
 - c. details of all proposed planting, including numbers and species of plant, and details of size and planting method of any trees.

The landscaping scheme shall include 5 trees to replace the 5 self-seeded Elms to be removed.

All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding or turfing comprised in the approved scheme of landscaping 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, unless the Local Planning Authority gives written consent to any variation.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

11.3 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:

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(Please see section 7 of the report for the full list); and

(ii) for the following reasons:-

The proposed development would not have a significant impact on local parking, highway safety or the amenities of the occupiers of adjacent properties and is also considered acceptable in terms of its design and appearance in relation to the existing development on site and the surrounding area. Subject to an acceptable Arboricultural Method Statement, landscaping scheme and Archaeological Programme of Works, the scheme is also deemed appropriate in terms of its impact on potential archaeological finds and trees adjacent and on the site.