

<b><u>No:</u></b>	<b>BH2018/02483</b>	<b><u>Ward:</u></b>	<b>Rottingdean Coastal Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Land Adjacent 6 Falmer Avenue Saltdean Brighton BN2 8FH</b>		
<b><u>Proposal:</u></b>	<b>Variation of condition 2 of application BH2014/03394 allowed on appeal (Demolition of existing house and stables and construction of 32 no dwellings comprising of 4 two bedroom flats and 28 two storey two, three and four bed dwellings incorporating open space and landscaping works, parking and creation of access road from Falmer Avenue with other associated works. Creation of new pedestrian link between Falmer Avenue and South Downs Footpath) to permit material amendments including the re-positioning of dwellings with amended footprints and alterations to road and site layout.</b>		
<b><u>Officer:</u></b>	Joanne Doyle, tel: 292198	<b><u>Valid Date:</u></b>	03.08.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	02.11.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Mr Shaun Berry Westridge Construction Ruskin House Junction Road Bodiam TN32 5UP		
<b><u>Applicant:</u></b>	Hyde Housing Association 6th Floor Telecom House 125 - 135 Preston Road Brighton BN1 6AF		

## 1. RECOMMENDATION

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

### Conditions:

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

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

Plan Type	Reference	Version	Date Received
Report/Statement	(Road Safety Audit 1/2)	-	22 January 2020
Existing Drawing	Site Topology 04	-	20 October 2014
Existing Drawing	Site Sections 06	-	20 October 2014
Location Plan	2999/001	-	8 January 2020
Proposed Drawing	2999/010	A	8 January 2020
Proposed Drawing	2999/011	A	8 January 2020
Proposed Drawing	2999/012	-	8 January 2020
Proposed Drawing	2999-013	A	8 January 2020
Proposed Drawing	2999/014	A	8 January 2020
Proposed Drawing	2999-260	C	8 January 2020
Proposed Drawing	2999-261	B	8 January 2020
Proposed Drawing	2999-262	A	8 January 2020

Proposed Drawing	2999-263	B	8 January 2020
Proposed Drawing	2999-264	A	8 January 2020
Proposed Drawing	2999-800	B	8 January 2020
Proposed Drawing	2999-801	B	8 January 2020
Proposed Drawing	2999-802	A	8 January 2020
Proposed Drawing	2999-803	B	8 January 2020
Proposed Drawing	2999-804	A	8 January 2020
Proposed Drawing	2999-805	B	8 January 2020
Proposed Drawing	2999-806	B	8 January 2020
Proposed Drawing	2999-807	B	8 January 2020
Proposed Drawing	2999-808	A	8 January 2020
Proposed Drawing	2999-809	B	8 January 2020
Proposed Drawing	2999-810	B	8 January 2020
Proposed Drawing	2999- PL50	C	8 January 2020
Proposed Drawing	2999- PL51	B	8 January 2020
Proposed Drawing	2999- PL52	B	8 January 2020
Proposed Drawing	2999- PL53	B	8 January 2020
Proposed Drawing	2999- PL54	B	8 January 2020
Proposed Drawing	2999- PL55	B	8 January 2020
Proposed Drawing	2999- PL56	B	8 January 2020
Proposed Drawing	2999- PL60	X	8 January 2020
Proposed Drawing	2999- PL61	X	8 January 2020
Proposed Drawing	201	P1	9 November 2018
Proposed Drawing	202	P1	9 November 2018
Report/Statement	(Tree Protection Measures)	-	26 November 2018
Report/Statement	(Archaeology Report)	-	26 November 2018
Proposed Drawing	PL10	D	17 January 2020
Proposed Drawing	PL57	B	17 January 2020
Proposed Drawing	211	C2	17 January 2020
Proposed Drawing	212	C2	17 January 2020
Proposed Drawing	221	C2	17 January 2020
Report/Statement	(Pod Point Twin)	-	21 June 2019
Report/Statement	(Charging Point Guide)	-	26 November 2018

2. No extension, enlargement or other alteration of the dwellinghouse(s) as provided for within Schedule 2, Part 1, Class[es A, B and C] of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

3. The vehicle parking areas shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.
  
4. Prior to the first use of the development hereby approved the hard surface hereby approved shall be installed in a porous material and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property in accordance with a  
**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One.
  
5. Throughout the development period the grassland shall be maintained as a regularly-mown sward. If protected species are encountered during the demolition or construction phase, works shall stop and written advice shall be sought from a qualified Ecologist on how to proceed. Any such written advice shall be submitted to and approved in writing by the Local Planning Authority and the development shall only proceed in accordance with the approved written advice.  
**Reason:** To safeguard protected species from the impact of the development in accordance with policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
  
6. No hedgerow, tree or shrub shall be removed from the site between 1st March and 31st August inclusive, unless a qualified Ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.  
The ecologist's written confirmation shall be submitted to the Local Planning Authority and no hedgerow, tree or shrub shall be removed until the written approval of the local planning authority has been received.  
**Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
  
7. A minimum of 2 of the affordable housing units and 2 of the total of all of the residential units hereby approved shall be built to wheelchair accessible standards.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

8. The wheelchair-accessible dwellings hereby permitted, as detailed on drawing no. 2999/014 A, shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwellings hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, Building Notice or Initial Notice to enable the building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
9. If during construction, contamination not previously identified is found to be present at the site then no further development shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for implementation, has been submitted to and approved in writing by the Local Planning Authority. The remediation measures shall be carried out as approved and in accordance with the approved programme.  
**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
10. Access to the flat roofs of the dwellings hereby approved shall be for maintenance or emergency purposes only and the flat roofs shall not be used as roof gardens, terraces, patios or similar amenity areas.  
**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
11. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
- a) samples of all brick, render and tiling (including technical specification and details of the colour of render/paintwork to be used)
  - b) samples of all cladding to be used, including details of their treatment to protect against weathering
  - c) samples of all hard surfacing materials
  - d) samples of the proposed window, door and balcony treatments
  - e) samples of all other materials to be used externally
- Development shall be carried out in accordance with the approved details.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton & Hove City Plan Part One.

12. No development above ground floor slab level shall take place until 1:20 scale section plans of the proposed window cills, parapet and balcony copings, showing a projection of at least 40mm, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

13. No development above ground floor slab level shall take place until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, and the finished floor levels of all proposed buildings, have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

14. Notwithstanding the plans hereby approved, no development above ground floor slab level shall take place until both -

- a) a stage 2 road safety audit of the proposed works to the internal access road and junction with Falmer Avenue, in accordance with GG 119 of Highways England's Design Manual for Roads & Bridges, shall be submitted to and approved in writing by the Local Planning Authority; and
- b) detailed drawings of the internal access road and junction with Falmer Avenue, to include details of materials, the junction treatment, dropped kerbs/raised crossing, tactile paving, signage/road lining, street lighting and any supporting retaining structures have been submitted to and approved in writing by the Local Planning Authority, such drawings to incorporate any actions or changes resulting from the above stage 2 road safety audit.

Both the internal site works and works to the junction with Falmer Avenue shall be implemented in accordance with the details approved prior to the first occupation of the development and retained as such thereafter.

**Reason:** To ensure safe pedestrian, cyclist and vehicular access into, out of and passing the site and road safety for all road users and to comply with policy TR7 of the Brighton & Hove Local Plan and policy CP9, CP11, CP13, CP15 and CP18 of the Brighton & Hove City Plan Part One.

15. The recommendations as set out in the Archaeological Geophysical Survey dated July 2014 shall be implemented.

**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

16. No construction of the dwellings hereby approved shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the building commencing.  
**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies SU5 of the Brighton & Hove Local Plan and CP11 of the Brighton & Hove City Plan Part One.
17. No development above ground floor slab level of any part of the development hereby permitted shall take place until a drainage strategy detailing the proposed means of foul water disposal and an implementation timetable, has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.  
**Reason:** To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy SU5 of the Brighton & Hove Local Plan.
18. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the proposed water infrastructure plans have 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 is occupied.  
**Reason:** To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy SU5 of the Brighton & Hove Local Plan.
19. The tree protection measures as set out in the Tree Protection Measures Report dated 3rd July 2018 shall be implemented.  
**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.
20. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of electric vehicle charging points have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.  
**Reason:** To encourage travel by more sustainable means and seek measures which reduce fuel use and greenhouse gas emissions and to comply with policy CP9 of the Brighton & Hove Brighton & Hove City Plan Part One and SPD14: Parking Standards.

21. None of the new build residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the City Plan Part One.
22. None of the new build residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the City Plan Part One.
23. Prior to first occupation of the development hereby permitted a scheme to enhance the nature conservation interest of the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall include;
- i) details showing the type, number, location and timescale for implementation of the bird boxes and/or bricks,
  - ii) details showing the type, number, location and timescale for implementation of the bat boxes,
  - iii) the use of species of known value to wildlife, which should be native and of local provenance, and
  - iv) the maintenance of wildlife connectivity throughout the site.
- The agreed measures shall be implemented in full prior to the first occupation of the development hereby approved.  
**Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
24. Notwithstanding the information submitted, 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.
- 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 any of the buildings 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.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

25. Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

26. Prior to first occupation of the development hereby permitted, details of external lighting to the central public open space area shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereafter retained as such.

**Reason:** Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan.

27. Prior to first occupation of the development hereby permitted, full details of secure cycle parking facilities for the occupants of, and visitors to, the development shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14.

28. Notwithstanding the information submitted, prior to first occupation of the development hereby permitted, the following plans shall have been submitted to and approved in writing by the Local Planning Authority, including:

- a. a Lighting and Street Furniture Plan
- b. a Permeable Surfaces /Pedestrian Footpath Plan.
- c. a Retaining, Boundaries and Screening Plan.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton & Hove City Plan Part One.

29. Prior to first occupation of the development hereby permitted details of the proposed boundary treatment (meaning fencing and/or soft landscaping) to



the northern boundary of the garden space of no. 8 Falmer Avenue shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.

**Reason:** To safeguard the privacy of the occupiers of the property and adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

30. Notwithstanding the submitted plans, details of photovoltaic array panels to be installed on the dwellings shall be submitted to and approved in writing by the Local Planning Authority. The photovoltaic array shall then be installed in accordance with the approved details.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One.

31. A bee brick shall be incorporated within the external wall of each dwelling hereby approved and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'.
3. The applicant is advised that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or [www.southernwater.co.uk](http://www.southernwater.co.uk)
4. The applicant is advised that an agreement with Southern Water, prior to commencement of the development, the measures to be undertaken to divert/protect the public water supply main. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or [www.southernwater.co.uk](http://www.southernwater.co.uk)

5. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
6. The water efficiency standard required under condition 23 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
7. The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' for Zone E ? or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).
8. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. The application relates to a plot of land located on the western side of Falmer Avenue, to the north of the junction with Bishopstone Drive. The application site comprises approximately 1.36 hectares. The existing house on the site has been demolished; leaving a space to access the site for the proposed roadway.
- 2.2. Boundaries of the South Downs National Park are located to the north and west of the site with a bridleway running just outside and parallel to the western site boundary. The parts of Falmer Avenue and Bishopstone Drive that adjoin the site comprise both detached bungalows and two storey dwellings.
- 2.3. The site is located in the north-west corner of the built urban area of Saltdean and provides a green buffer between the urban fringe of Saltdean and the South Downs National Park.
- 2.4. The site falls from the boundary of the South Downs National Park towards the surrounding houses in a fairly constant gradient from north-west to

south-east from approximately 76.66m (AOD) to 62.2m (AOD) and varies in gradient from east to west from approximately 64.05 (AOD) to 71.67 (AOD).

- 2.5. The application site is not covered by any designations, statutory or nonstatutory, for nature conservation interest. However a Site of Nature Conservation Importance (SNCI) is located approximately 66m to the west of the site (Whiteway Lane). The site is also identified as an Archaeological sensitive site.
- 2.6. In terms of character the site is just outside of the area defined as forming part of Saltdean Oval, in the Council's Urban Characterisation Study. The Saltdean Oval is *"a very low density suburban residential area in a shallow valley between the Downs and sea, developed between the 1920s and 1950s. Mainly detached bungalows and two storey houses in wide streets with grass verges that follow the contours, radiating out from the central green space. Unified scale and street pattern but mixed architectural styles with some community and commercial uses"*.
- 2.7. Permission was granted for the demolition of existing house and stables and construction of 32 no. dwellings comprising of 4 two bedroom flats and 28 two storey two, three and four bed dwellings as part of a subsequent appeal following the refusal of the scheme under application BH2014/03394. The application proposed the creation of 32 residential units comprising 2 bedroom flats x 4 (all affordable, including 2 wheelchair accessible), 2 bedroom dwelling x 8 (all affordable), 3 bedroom dwelling x 10 (1 affordable) and 4 bedroom dwelling x 10 and with open space, landscaping and associated access road and parking and a new pedestrian link between Falmer Avenue and South Downs footpath.
- 2.8. The original permission (BH2014/03394) expires on 21.02.2020 and information has been submitted in an attempt to discharge all the pre-commencement conditions of the original consent.
- 2.9. The application seeks permission to vary condition 2 of application BH2014/03394 allowed on appeal to permit material amendments including the re-positioning of dwellings with amended footprints and alterations to road and site layout.
- 2.10. During the course of the application the scheme has been amended in response to consultee and neighbour comments. These changes comprise the following; amendment to road layout including the central green space, greater detailing and tree configuration in line with the approved scheme.
- 2.11. The Design and Access Statement sets out the reasons for the proposed amendments to the original consent. The design as consented does not fully comply with the requirements of M4(3)(2b) (wheelchair user dwellings) or in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings). The levels of the site did not allow for the development to be built or for the safe use of the road layout.

### **3. RELEVANT HISTORY**

- 3.1. **BH2018/02533-** Application for Approval of Details reserved by conditions 14, 16 and 20 of application BH2014/03394. Under consideration.
- 3.2. **BH2018/02133-** Application for Approval of Details reserved by conditions 12, 13 and 21 of application BH2014/03394. Under consideration.
- 3.3. **BH2018/02133-** Application for Approval of Details reserved by conditions 12, 13 and 21 of application BH2014/03394. Under consideration.
- 3.4. **BH2014/03394-** Demolition of exiting house and stables and construction of 32 no. dwellings comprising of 4 two bedroom flats and 28 two storey two, three and four bed dwellings incorporating open space and landscaping works, parking and creation of access road from Falmer Avenue with other associated works. Creation of new pedestrian link between Falmer Avenue and South Downs Footpath. Refused on 29.01.2016.
- 3.5. This application was subject to a subsequent appeal APP/Q1445/W/16/3147426. This appeal was allowed on 21 February 2017. This application was subject to an appeal for costs APP/Q1445/W/16/3147426. This appeal was refused on 21 February 2017.
- 3.6. Pre-Application Consultation- A proposal for the construction of 46 dwellings was the subject of public exhibition undertaken by the applicant on the 15th July 2014.

### **4. REPRESENTATIONS**

- 4.1. Seventy One (71) letters of representations have been received objecting to the proposal for the following reasons:
  - Discrepancy in plans
  - Trees missing from plans
  - Variations exacerbate the problems
  - The development should never have been given planning
  - Overdevelopment
  - Loss of privacy and screening from trees
  - Loss of views and disabled access
  - Traffic and parking issues
  - Traffic problems from proposed cul-de-sac
  - Safety and noise and pollution issues from proposed cul-de-sac
  - Loss/reduced central community/amenity space
  - Loss of Shared space/ Home Zone principles
  - Limited garages and parking spaces
  - Refuse issues
  - Overlooking, overshadowing and privacy
  - Raised slab levels issues including flood risk mitigation and impact on the South Downs National Park
  - Increased height of plots 18 - 28

- Variation is materially and substantially different in concept and design
- Stepped access
- Unsafe roads and gradients
- Reduced distances not acceptable
- Misrepresentation in Design and Access statement regarding loss of view
- Too many houses for the area
- Build on National Park Land a sin
- Detract from the appearance of the National Park and users Drainage and Foul Water Discharge issues
- The approved scheme did not work and the new scheme will continue these issues
- The new proposals are major issues
- Health and safety issues
- An Air Quality Assessment should accompany the application
- Reinstatement of trees may limit daylight

4.2. **Councillor Mears** objects to the proposal, a copy of the letter is attached.

## 5. CONSULTATIONS

### External:

5.1. **Sussex Police:** No objection

The principles of Secured by Design should be adhered to.

5.2. **UK Power Network:** No objection

5.3. **County Archaeologist:** No objection

It is not considered that the proposals are likely to have a significant archaeological impact and have no further comments to make in this case.

5.4. **South Downs National Park Authority:** No comment

5.5. **Natural England:** No objection

The material amendments of the scheme do not appear to affect the impact of the scheme on the South Downs National Park.

5.6. **Southern Water:** No objection

5.7. **County Landscape Architect:** No objection

### Internal:

5.8. **Sustainability:** No comment

5.9. **Policy:** No comment

5.10. **Sustainable Drainage:** Comment

In light of the redesigned highway levels, in principle, the proposals to manage surface water within the proposed development are acceptable.

However, we require some further information to satisfy us that flood risk would not increase because of the proposed development.

- 5.11. **Brighton and Hove Archaeological Society:** No objection
- 5.12. **City Regeneration:** No objection  
All comments made under original application BH2014/03394 apply.
- 5.13. **Air Quality:** No objection  
Air quality is good. Informative recommended.
- 5.14. **Arboriculture:** No objection  
The sum total of landscaping will have minimal adverse impact on the previously approved plans.
- 5.15. **Transport:**  
No objection subject to recommended conditions- 22.01.2020
- 5.16. Previous formal consultation comments (second reply) dated 9 October 2019 highlighted continued design problems with the onsite layout which had not been addressed and concluded that approval could not be recommended. These aspects have all been addressed.
- 5.17. The Road Safety Audit with RSA Response dated 9 January 2020 is acceptable for the purposes of conditional granting of planning consent subject to approval of the technical design which can confirm the RSA Actions.
- 5.18. The technical design, which may need some minor alterations and therefore cannot be approved in detail by planning consent, has been conditioned.
- Comment - 09.10.2019
- 5.19. Previous formal consultation comments dated 28 March 2019 based upon Site Layout Plan 2999/PL50-RevA highlighted design problems with the onsite layout and concluded we were unable to recommend approval.
- 5.20. The key issues at that time were:
- Footway width and footway gradients;
  - Lack of evidence that the plan layout allowed for emergency and refuse vehicles;
  - Pedestrian access to share cycle and car parking spaces;
  - Substandard kerb upstand / lack of protection for pedestrians;
  - Lack of independent Road Safety Audit process.
- 5.21. The revised Site Layout Plan 2999/PL50-RevB was submitted at the end of June which removes a section of footway on the main pedestrian desire line adjacent to the entrance which further reduces pedestrian accessibility to the site.
- 5.22. Following this, the key fundamental issues to be addressed were:

- The proposed entrance works and internal street layout are not supported by a Stage 1 Road Safety Audit.
  - The footway widths around the loop appear to have been widened but the southern footway has been omitted from the access road between the entrance and pedestrian crossing.
  - Kerb upstands around the loop appear to be 0mm which does not provide a kerb upstand to protect pedestrians from vehicles or demark the footway for disabled street users.'
- 5.23. None of the three fundamental issues raised in our mid-July summary comments / advice on the revised design have been adequately addressed by the Applicant.
- 5.24. None of the three fundamental issues raised in our mid-July summary comments / advice on the revised design have been adequately addressed by the Applicant.
- Objection- 28.03.2019
- 5.25. The submitted site layout drawing 2999/PL50 rev A shows several other changes to the consented site layout not mentioned in the Design and Access Statement. These include reductions in footway width on both sides of the carriageway, changes to the on-street parking bay dimensions, and design changes that have made cycle parking spaces less accessible. We do not consider these changes to be acceptable. The proposals should be amended to more closely reflect the consented scheme as a minimum.
- 5.26. TR7 and NPPF para 109 identify road safety as a basis of approval on transport grounds. We have significant safety concerns and note that no independent Road Safety Audit has been submitted to assuage these.

## **6. MATERIAL CONSIDERATIONS**

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - The East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour Joint Action Area Plan (adopted October 2019)
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One:

SS1	Presumption in Favour of Sustainable Development
SA4	Urban Fringe
SA5	The Setting of the South Downs National Park
CP1	Housing Delivery
CP2	Sustainable economic development
CP5	Culture and Tourism
CP7	Infrastructure and Developer Contributions
CP8	Sustainable Buildings
CP9	Sustainable Transport
CP10	Biodiversity
CP11	Flood Risk
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing Density
CP15	Heritage
CP16	Open Space
CP18	Healthy city
CP19	Housing Mix
CP20	Affordable Housing

#### Brighton & Hove Local Plan:

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise Nuisance
SU11	Polluted land and buildings
QD5	Design - street frontages
QD14	Extensions and alterations
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD25	External lighting
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE12	Scheduled ancient monuments and other important archaeological site

#### Supplementary Planning Documents:

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



## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The considerations in the determination of this application relate to the proposals the subject of the variation of condition 2. These include the impact of the proposed amendments on the appearance and character of the development, the surrounding area and landscape, including the South Downs National Park, the standard of accommodation, the amenities of neighbouring occupiers, as well as matters relating to Transport and site gradients.
- 8.2. It is not possible to re-assess the principle of the development to provide 32 no. dwellings comprising of 4 two bedroom flats and 28 two storey two, three and four bed dwellings and associated access road and parking and a new pedestrian link between Falmer Avenue and South Downs footpath which was established under application BH2014/03394 which was subsequently allowed on appeal.
- 8.3. The applicant seeks the following amendments to the approved scheme:
- Gradients/ Road and Site Layout/ Highways:
- 8.4. The proposed alterations retain the same quantum of development therefore all off site and transport related aspects are unchanged.
- 8.5. Sustainable Transport raised a number of initial concerns with regards the proposal, including gradient levels and a number of changes which needed amending to more closely reflect the consented scheme. The key issues which were highlighted included; footway width and footway gradients, lack of evidence that the plan layout allowed for emergency and refuse vehicles, pedestrian access to share cycle and car parking spaces, substandard kerb upstand/lack of protection for pedestrians and lack of an independent Road Safety Audit process.
- 8.6. At the initial stage the Highway Authority considered that the application should be refused on Highway Safety grounds. The scheme as presented did not comply with local policy TR7 and would be contrary to NPPF Paragraphs 108-110 and would meet the test for refusal on transport grounds set in NPPF para 109.
- 8.7. In response to initial concerns the applicants have made amendments to the site layout. The key issues detailed above have all been addressed and the Road Safety Audit Brief has been accepted subject to the approval of technical design which has been conditioned (condition15).
- 8.8. The proposed alterations to the road and site layout are considered acceptable in terms of the access geometry and design and does not result in highway safety issues, as identified above.

Footprint and Repositioning of Dwellings:

- 8.9. The increased footprint/repositioning of the dwellings would be acceptable in terms of the plot size and the distances between the dwellings and neighbouring properties. Some of the dwellings have been repositioned within their plot, with the main increase in footprints limited to making the footprints deeper when compared to the consented scheme. There are minimal changes to the flats (plot 1-4) and the dwellings plots 5-13 and 17 in terms of position and footprint, with plots 14- 16 mainly increasing in depth by approximately 0.5-1m and plots 27- 32 mainly increasing in depth by approximately 1.8-2m.
- 8.10. The separation distances between the proposed houses and existing houses under application BH2014/03394 ranged from around 26m to 20m at the closest point. The separation distances between the proposed houses and existing houses under the current application measures approximately 19m at the closest point, which is considered typical of surroundings dwellings and typical of a built up area.
- 8.11. The proposed landscaping identified between the rear gardens of the proposed properties and the existing properties, including tree planting, would remain in situ and would mitigate privacy concerns and filter views between the properties.

Finished Floor Levels (FFL):

- 8.12. The height of the buildings adjacent the properties of Bishopstone Drive to the south and Falmer Avenue to the east of the development would not change in height in comparison to the approved scheme.
- 8.13. The height of the buildings of plots 7-12 and 14 have a lower finished floor level than the approved scheme. The decrease in land levels would vary between 0.6m and 0.2m (approximate). The proposed finished floor levels are accepted.
- 8.14. The proposed finished floor levels adjacent the southern boundary (rear gardens of properties of Bishopstone Drive) and the eastern boundary (rear gardens of properties of Falmer Avenue) would when compared to existing spot levels increase in level. The gradient increase would (at the higher level of the slope, including the garden level) be marginal. The ground levels through the entire site, which dips and falls, would not result in a material harm to the wider landscape. The ground level in comparison to the existing levels would not result in amenity harm.

Internal Layout and External Alterations:

- 8.15. External alterations to the appearance of the dwellings have been kept to a minimum, with some additional window openings and detailing. The overall design of the dwellings and schedule of materials is in line with the consented scheme, with the flat roofs, shaping and rendered facades retained.

Flats 1 and 2 ground floor (2 bed 3 person)

- 8.16. The consented<sup>2</sup> overall footprint has increased from 75sqm to 78.3sqm. It is noted that the consented scheme does detail a wheelchair charging room within both ground floor flats; there is sufficient space to provide this within the current layout. The standard of accommodation is considered acceptable.

Flats 3 and 4 first floor (2 bed 4 person)

- 8.17. The consented overall footprint has increased from 68sqm to 72.6sqm, while retaining the consented layout. The standard of accommodation is considered acceptable.
- 8.18. The window configuration remains the same as consented.
- 8.19. The rear stores to the building are accepted.

House Type 1 - plots 5 - 13 and plot 18 (4 bed 6 person dwelling)

- 8.20. The consented overall footprint has increased from 127sqm to 127.7sqm, while retaining the consented layout. The standard of accommodation is considered acceptable.
- 8.21. Given the distance and orientation of the buildings the proposed addition of window openings to the side elevations of House Type 1 (plots 5 - 13 and plot 18) would not result in harm to neighbouring amenity.
- 8.22. The revisions to the window openings on the side elevations of the properties of House Type 1 (plots 5 - 13 and plot 18) would provide an additional window opening to bedroom 3 and bedroom 4 at first floor level. These new openings would not provide views directly into windows of the adjoining dwellings either side.

House Type 2- plots 14 - 17 (3 bed 5 person dwelling)

- 8.23. The consented overall footprint has increased from 100sqm to 100.5sqm, while retaining the consented layout. The standard of accommodation is considered acceptable.
- 8.24. The window configuration remains the same as consented.

House Type 3- plots 19- 26 (2 bed 4 person semi-detached dwellings)

- 8.25. The consented overall footprint has increased from 73.6sqm to 80sqm, while retaining the consented layout. The standard of accommodation is considered acceptable.
- 8.26. The window configuration remains the same as consented.

House Type 4- plots 27- 32 (3 bed 5 person semi-detached dwellings)

- 8.27. The consented overall footprint has increased from 88.8sqm to 95.8sqm, while retaining the consented layout. The standard of accommodation is considered acceptable.
- 8.28. The window configuration remains the same as consented.

- 8.29. The semi-detached dwellings have a re-positioned footprint comparable to the consented scheme. This is accepted.

Detailing:

- 8.30. There are some alterations/detailing annotated on the plans (landscape detail, plot detail) which are minor in nature and considered acceptable.

Other Matters:

- 8.31. Following amendments received during the course of the application 3no trees have been removed from the entrance road to the site, adjacent the boundary of no. 8 Falmer Avenue to the south. The proposed trees on site were identified as important features to mitigate privacy concerns and therefore a condition is recommended requiring sufficient boundary treatment to safeguard the privacy of the property.
- 8.32. The consented scheme detailed pv panels on the roof of the dwellings. These have been omitted from the current scheme and given their sustainability benefits a condition is recommended requiring the details/addition of pv panels.

**S.106 Legal Agreement**

- 8.33. There are provisions in the S.106 Legal Agreement, so that the Agreement will relate to and bind any new permission resulting from a S.73 application.

**9. EQUALITIES**

- 9.1. All the dwellings comply with Building Regulations requirement M4 (2) and two units comply with M4 (3) (2b).