

<b><u>No:</u></b>	<b>BH2021/04379</b>	<b><u>Ward:</u></b>	<b>Goldsmid Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Sussex County Cricket Ground Eaton Road Hove BN3 3AN</b>		
<b><u>Proposal:</u></b>	<b>Application to vary condition 43 (details of privacy screens to the balconies serving flats 2, 9, 10, 16, 22 and 27) of planning permission BH2020/03745.</b>		
<b><u>Officer:</u></b>	Emily Stanbridge, 293311	tel: <b><u>Valid Date:</u></b>	10.12.2021
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	11.03.2022
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	ECE Planning Limited Worthing BN12 4AP	Brooklyn Chambers	11 Goring Road
<b><u>Applicant:</u></b>	Roffey Homes C/o ECE Planning Ltd Worthing BN12 4AP	Brooklyn Chambers	11 Goring Road

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	6616-PL-Z0-03	P2	19 February 2020
Proposed Drawing	6616-PL-Z0-04	P2	19 February 2020
Proposed Drawing	6616-PL-Z0-05	P2	19 February 2020
Proposed Drawing	6616-PL-Z0-06	P2	19 February 2020
Proposed Drawing	6616-PL-Z3-03	P2	19 February 2020
Proposed Drawing	6616-PL-Z3-01	P2	19 February 2020
Proposed Drawing	6616-PL-Z3-02	P2	19 February 2020
Block Plan	6616-PL-Z0-02	P2	19 February 2020
Proposed Drawing	PL-Z4-02	P1	1 October 2019
Proposed Drawing	PL-Z4-03	P1	1 October 2019
Proposed Drawing	1369-HED-XX-XX-DR-L-1004	P01	1 October 2019
Proposed Drawing	1369-HED-SW-P1/P2-DR-L-1002	P01	1 October 2019

Proposed Drawing	1369-HED-XX-XX-DR-L-1001	P01	1 October 2019
Proposed Drawing	1369-HED-XX-XX-DR-L-1003	P01	1 October 2019
Proposed Drawing	1369-HED-XX-XX-DR-L-1005	P01	1 October 2019
Proposed Drawing	6350		1 October 2019
Proposed Drawing	1369-HED-XX-XX-DR-L-1006	P01	1 October 2019
Proposed Drawing	1369-HED-XX-XX-L-DR-2001	P01	1 October 2019
Proposed Drawing	1369-HED-XX-XX-L-DR-2002	P01	1 October 2019
Proposed Drawing	6351	P01	1 October 2019
Proposed Drawing	LLD1590-ARB-DWG-001	03	1 October 2019
Proposed Drawing	LLD1590-ARB-DWG-002	03	1 October 2019
Proposed Drawing	LLD1590-ARB-DWG-003	03	1 October 2019
Proposed Drawing	PL-Z1-02		1 October 2019
Proposed Drawing	PL-Z1-03	P4	21 November 2019
Proposed Drawing	PL-Z1-04	P4	21 November 2019
Proposed Drawing	PL-Z1-05	P4	28 February 2020
Proposed Drawing	PL-Z1-06	P4	28 February 2020
Proposed Drawing	PL-Z1-07	P4	28 February 2020
Proposed Drawing	PL-Z1-08	P2	1 October 2019
Proposed Drawing	PL-Z1-09	P2	1 October 2019
Proposed Drawing	PL-Z1-10	P3	28 February 2020
Proposed Drawing	PL-Z1-11	P3	28 February 2020
Proposed Drawing	PL-Z1-12	P3	28 February 2020
Proposed Drawing	PL-Z1-13	P2	28 February 2020
Proposed Drawing	PL-Z1-14	P1	1 October 2019
Proposed Drawing	PL-Z1-15	P2	28 February 2020
Proposed Drawing	PL-Z1-16	P1	1 October 2019
Proposed Drawing	PL-Z1-17	P2	2 March 2020
Proposed Drawing	PL-Z1-18	P1	1 October 2019
Proposed Drawing	PL-Z1-19	P1	1 October 2019
Proposed Drawing	PL-Z1-20	P1	1 October 2019
Proposed Drawing	PL-Z1-21	P2	1 October 2019
Proposed Drawing	PL-Z1-22	P1	1 October 2019
Proposed Drawing	PL-Z1-23	P3	28 February 2020
Proposed Drawing	PL-Z1-24	P1	1 October 2019
Proposed Drawing	PL-Z1-25	P1	1 October 2019
Proposed Drawing	PL-Z1-26	P1	1 October 2019
Proposed Drawing	PL-Z1-27	P1	1 October 2019
Proposed Drawing	PL-Z2-02	P1	1 October 2019
Proposed Drawing	PL-Z2-03	P1	1 October 2019
Proposed Drawing	PL-Z2-04	P1	1 October 2019

Proposed Drawing	PL-Z2-05	P1	1 October 2019
Proposed Drawing	PL-Z2-06	P1	1 October 2019
Proposed Drawing	PL-Z2-07	P1	1 October 2019
Proposed Drawing	PL-Z2-08	P1	1 October 2019
Proposed Drawing	PL-Z2-09	P1	1 October 2019
Proposed Drawing	PL-Z2-10	P1	1 October 2019
Proposed Drawing	PL-Z2-11	P1	1 October 2019
Proposed Drawing	PL-Z2-12	P1	1 October 2019
Proposed Drawing	PL-Z2-13	P1	1 October 2019
Proposed Drawing	PL-Z2-14	P1	1 October 2019
Proposed Drawing	PL-Z2-15	P1	1 October 2019
Proposed Drawing	LLD1590-ARB-DWG-004	01	1 October 2019
Proposed Drawing	LLD1590-ARB-DWG-005	01	1 October 2019
Location Plan	PL-Z0-01	P2	18 December 2020
Proposed Drawing	PL-Z1-04	P4	18 December 2020
Other		Cover Letter	18 December 2020

2. Not used.
3. The development hereby permitted must be begun not later than the expiration of five years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
4.
  - a) Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:
    - (i) layout;
    - (ii) scale;
    - (iii) appearance; and
    - (iv) landscaping.
  - b) The reserved matters shall be carried out as approved.
  - c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.  
**Reason:** To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.
5. The works shall be carried out in strict accordance with the contaminated land details approved under application BH2020/02795.  
**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.

6. No works pursuant to this permission in respect of Phase 2 (other than demolition works and enabling works, and works to trees) shall commence on the respective phases, until there has been submitted to and approved in writing by the Local Planning Authority:
- a) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A1:2013; And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,
  - b) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme (a remediation method statement) shall include nomination of a competent person to oversee the implementation of the works.  
AND
  - c) The phase 2 part of the scheme shall not be occupied or brought into use until a written verification report by a competent person required and approved under the provisions of condition (1)c that any remediation scheme has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:
    - i. built drawings of the implemented scheme;
    - ii. photographs of the remediation works in progress;
    - iii. certificates demonstrating that imported and/or material left in situ is free from contamination.
- 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.
7. If during construction on any part of the development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. 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.
8. The works shall be carried out in strict accordance with the ground level details approved under application BH2020/002795.
- 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 and Hove City Plan Part One.
9. The Phase 2 development hereby permitted shall not commence (other than demolition works and works to trees) 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, proposed siting and finished floor levels of all buildings and structures have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in strict accordance with the approved 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 and Hove City Plan Part One.

10. Five per cent of the dwellings hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
11. The works shall be carried out in accordance with the refuse and recycling storage facilities approved under application BH2021/03666. 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 recycling and to comply with policy QD27 of the Brighton and Hove local Plan.
12. Notwithstanding the approved plans, prior to occupation of Phase 2, a scheme for the refuse and recycling storage facilities shall be submitted to and approved in writing by the Local Planning Authority and implemented and made available for use in accordance with the approved details. 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 recycling and to comply with policy QD27 of the Brighton and Hove local Plan.
13. None of the residential units hereby approved shall be occupied until each unit as built has achieved an energy efficiency standard of a minimum of 19% CO<sub>2</sub> 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 Brighton and Hove City Plan Part One.

14. None of the residential units hereby approved shall be occupied until each new build 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 and to comply with policy CP8 of the Brighton and Hove City Plan Part One.
15. Prior to their installation, details of the photovoltaic panels on the roof of Phase 1 shall be submitted to and approved in writing by the Local Planning Authority. The photovoltaic panels shall be installed in accordance with the agreed details and made available for use prior to occupation of Phase 1. The photovoltaic panels shall be maintained thereafter.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water, materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton and Hove City Plan Part One.
16. Within 6 months of first occupation of the non-residential development in the Phase 1 development hereby permitted a BREEAM Building Research Establishment has issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of Excellent and such certificate has been submitted to, and approved in writing by, the Local Planning Authority.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One
17. Within 6 months of first occupation of Phase 2 development hereby permitted a BREEAM Building Research Establishment has issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of Excellent and such certificate has been submitted to, and approved in writing by, the Local Planning Authority.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.
18. Details of any external lighting of the site within Phase 1 shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development hereby permitted. This information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed prior to first occupation of Phase 1 and maintained and operated in accordance with the approved details thereafter.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and comply with policy QD27 of the Brighton and Hove Local Plan.
19. Details of any external lighting of the site within Phase 2 shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development hereby permitted. This information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type,

mounting height, aiming angles and luminaire profiles). The lighting shall be installed prior to first occupation/use of Phase 2 and maintained and operated in accordance with the approved details thereafter.

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

20. The works shall be carried out in accordance with the material samples approved under application BH2021/01856. The development shall be carried out in strict accordance with the approved details.

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

21. No development above ground floor slab level of any part of the development hereby permitted on Phase 2 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, mortar, grouting, render and tiling (including 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) details of the proposed window and door treatments
- e) details of all other materials to be used externally

The development shall be carried out in strict accordance with the approved details.

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

22. The works shall be carried out in accordance with the example bay study approved under application BH2021/01856.

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

23. The works shall be carried out in strict accordance with the drainage details approved under application BH2020/02795.

**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

24. The development hereby permitted on Phase 2 shall not be commenced (other than demolition works and works to trees) until a detailed design and associated management and maintenance plan of surface water drainage for Phase 2 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.

**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

25. The works shall be carried out in accordance with the timetable for delivery of the public realm upgrade works in Phase 2 approved under application BH2021/03666. The scheme shall be implemented in accordance with the agreed timetable.  
**Reason:** To ensure the satisfactory appearance of the development and to mitigate the Heritage harm identified in Phase 1 and to comply with policies HE6 of the Brighton and Hove Local Plan and policies CP12 and CP15 of the Brighton and Hove City Plan Part One.
26. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any external façade except for those as shown on drawings and details of these shall be submitted to the Local Planning Authority for approval by the Local Planning Authority in writing for each respective phase of the development. The agreed measures shall be implemented.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policy CP12 of the Brighton & Hove City Plan Part One.
27. With the exception of the space shown as A3/A4 at ground floor level, the commercial premises hereby permitted in Phase 1 shall be used as flexible B1/D1 space only and for no other purpose (including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and reenacting that Order with or without modification). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission obtained from the Local Planning Authority.  
**Reason:** The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the supply of office floorspace in the city given the identified shortage and also to safeguard the amenities of the area and to comply with policies CP3 and QD27 of Brighton & Hove City Plan Part One.
28. The use of the offices/D1 space within Phase 1 hereby permitted shall not be carried out except between the hours of 06:30 and 23:00 on Mondays to Sundays, including Bank or Public Holidays.  
**Reason:** To safeguard the amenities of the locality and the future occupiers of the development and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
29. No customers in the public house shall remain on the premises outside the hours of 09.00 to 00.30 on Mondays to Sundays, including Bank or Public Holidays.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.
30. The terrace attached to the public house shall not be in use between the hours of 22.30 and 09.30 on Mondays to Sundays, including Bank or Public Holidays.



The doors onto the external terrace must be closed and locked during those hours when the terrace is not in use.

**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.

31. No music speakers are to be installed on the external terrace or amplified music played on the external terrace.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.
32. Music or other audio equipment after 10.30pm, measured on the terrace of the flat above against the glazing line, should be no more than an average of 50db over 30 minutes. During the day, music from speakers as recorded on the terrace of the flat above against the glazing line should be no more than an average of 55db over 30 minutes.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.
33. All separating walls and floors between the residential units and commercial floorspace, plant rooms, recycling and refuse stores and vehicle and cycle parking areas shall be designed to achieve a sound insulation value of 5dB greater than that required by Approved Document E of the building regulations performance standard for airborne sound insulation for purpose built dwelling-houses and flats. Written details of the scheme, including calculations/specification of how this standard will be achieved, shall be submitted to and agreed by the Local Planning Authority prior to occupation.  
**Reason:** To safeguard the amenities of the future occupiers and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
34. The works shall be carried out in accordance with the treatment of all plant and machinery approved under application BH2021/01856. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.  
**Reason:** To safeguard the amenities of the future occupiers of the development and adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
35. No development above ground floor slab level of Phase 2 of the development hereby permitted shall take place until a scheme for the suitable treatment of all plant and machinery in Phase 2 against the transmission of sound and/or vibration has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such  
**Reason:** To safeguard the amenities of the future occupiers of the development and adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
36. The works shall be carried out in accordance with the landscaping and external cycle store details approved under application BH2021/03666. The approved

landscaping scheme shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

37. Notwithstanding the plans submitted, within 6 months of the commencement of development of Phase 2 hereby permitted, a scheme for landscaping and external cycle store details shall be submitted to and approved in writing by the Local Planning Authority for the Phase 2 development. The approved landscaping scheme shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:
- (i) hard and soft surfacing and external structures (including steps, seating area, cycle stores to include type, position, design, dimensions, materials, durability and maintenance strategy and any sustainable drainage system used;
  - (ii) a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, underground modular systems, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
  - (iii) specifications for operations associated with plant establishment and maintenance that are compliant with best practise; 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.. Where it is intended to create semi-natural habitats, all species used in the planting proposals shall be locally native species of local provenance unless otherwise agreed in writing with the local planning authority.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

38. The works shall be carried out in accordance with the details of the perimeter gates and fencing approved under application BH2021/03666. The boundary treatments shall be implemented and installed in accordance with the approved details prior to the occupation of Phase 1 of the development.

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

39. Prior to the occupation of Phase 2, details of the perimeter gates and fencing and any other boundary treatments (including Tate Gates) at scale 1:20, including their height, design, materials and durability, including lockable gates and designed to inhibit climbing and graffiti where it adjoining a highway, shall be submitted to and approved in writing by the Local Planning Authority. The

boundary treatments shall be implemented and installed in accordance with the approved details prior to the occupation of Phase 2 of the development.

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

40. The works shall be carried out in strict accordance with the Site Waste Management details approved under application BH2020/02457.  
**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan.
41. No development, including demolition and excavation, shall commence until a Site Waste Management Plan for Phase 2, confirming how demolition and construction waste will be recovered and reused on site or at other sites has been submitted to and approved in writing by the Local Planning Authority. The development in Phase 2 shall be carried out in accordance with the approved plan.  
**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan.
42. Access to the flat roofs in Phases 1 and 2 other than those expressively approved as roof terraces/amenity space, shall be for maintenance or emergency purposes only and the flat roof shall not be used as an amenity area.  
**Reason:** To protect neighbouring amenity and to comply with policy QD27 of the Brighton and Hove Local Plan
43. Notwithstanding the approved plans, prior to first occupation of the residential development hereby approved, balustrading of 1.3m in height with obscure glazing shall be installed to the western balustrade of the balcony to unit 9.  
**Reason:** To protect the privacy of neighbouring occupiers in accordance with policy QD27 of the Brighton and Hove Local Plan.
44. The Phase 1 development hereby permitted shall not be occupied until a scheme for the fitting of odour control equipment to the building has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of Phase 1 and shall thereafter be retained as such.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policy QD27 of the Brighton and Hove Local Plan.
45. The Phase 2 development hereby permitted shall not be first occupied until a scheme for the fitting of odour control equipment to the building has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of Phase 2 and shall thereafter be retained as such.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policy QD27 of the Brighton & Hove Local Plan.

46. The Phase 2 development hereby permitted shall not be first occupied until a scheme for the fitting of odour control equipment to the building has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of Phase 2 and shall thereafter be retained as such.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policy QD27 of the Brighton & Hove Local Plan.
47. The works shall be carried out in strict accordance with the sustainability measures approved under application BH2020/02873. The agreed energy centre/plant rooms and connectons and metering shall be implemented before first occupation of each phase.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.
48. The works shall be carried out in strict accordance with the access road details approved under application BH2020/02872. The works shall be implemented prior to the first occupation of the development and retained as such thereafter.  
**Reason:** In the interests of highway safety and for the benefit of the public and to comply with policies CP9 of the Brighton & Hove City Plan Part One and TR7 of the Brighton & Hove Local Plan.
49. Within 6 months of the commencement of Phase 2, a Noise and Site Management Plan in respect of Phase 2 shall be submitted to and approved in writing by the Local Planning Authority, which shall include:
- restrictions on plant and equipment operation
  - restrictions on events and the use of amplified music or public address systems (within the buildings and the open space)
  - restrictions on the fire alarm and the life safety plant testing
  - the opening times of the café/restaurant
  - details of the management and monitoring of the open space when open and closed, and
  - How people will be managed and removed from the open space at closing times.
  - The aim of the plan should be to provide security and avoid noise nuisance within and around the site and should provide that during opening hours of the open space, security staff will patrol the public open space and take steps to minimise noise nuisance and anti-social behaviour. The approved Plan shall be implemented, maintained and the site operated in accordance with the agreed details.
- Reason:** To protect neighbouring amenity and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.
50. Notwithstanding the approved plans, the windows in the western elevation at first and second floor level serving commercial space 03 and commercial space 05 shall be obscure glazed and non-opening, unless the parts of the window(s) which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One.

51. The works shall be carried out in strict accordance with the Demolition Environmental Management Plan approved under application BH2020/02457.  
**Reason:** In the interests of amenity and road safety and to comply with policies QD27, SU10, SR18, SU9 and TR7 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12, CP13 and CP15 of the City Plan Part One
52. The works shall be carried out in strict accordance with the Construction Environmental Management Plan approved under application BH2020/02797.  
**Reason:** In the interests of amenity and road safety and to comply with policies QD27, SU10, SR18, SU9 and TR7 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12, CP13 and CP15 of the City Plan Part One.
53. 53. Notwithstanding the submitted details, prior to the commencement of Phase 2 a Demolition Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved plan, which shall include:
- i) The control of noise and dust during the development process;
  - ii) Traffic management and signage during demolition;
  - iii) Provision for all site operatives, visitors and construction vehicles loading, parking and turning within the site during the demolition period;
  - iv) Arrangements during the demolition period to minimise the deposit of mud and other debris on to the adjacent highway;
  - v) The safe means of access of demolition traffic to the site;
  - vi) Routing agreement for demolition traffic; and
  - vii) The hours in which deliveries and demolition works would take place.
- Reason:** In the interests of amenity and road safety and to comply with policies QD27, SU10, SR18, SU9 and TR7 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12, CP13 and CP15 of the City Plan Part One
54. Notwithstanding the submitted details, prior to the commencement of Phase 2 a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved plan, which shall include:
- i) The control of noise and dust during the development process;
  - ii) Traffic management and signage during construction;
  - iii) Provision for all site operatives, visitors and construction vehicles loading, parking and turning within the site during the construction period;
  - iv) Arrangements during the construction period to minimise the deposit of mud and other debris on to the adjacent highway;
  - v) The safe means of access of construction traffic to the site;
  - vi) Routing agreement for construction traffic; and
  - vii) The hours in which deliveries and construction works would take place.
- Reason:** In the interests of amenity and road safety and to comply with policies QD27, SU10, SR18, SU9 and TR7 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12, CP13 and CP15 of the City Plan Part One.

55. At least 12 car parking spaces shall be fitted with Electric Vehicle Charging points from the outset and these shall be retained for the lifetime of the development. In addition, the remaining car parking spaces should have the infrastructure arrangements provided to enable points to be installed retrospectively.  
**Reason:** In the interest of promoting sustainable modes of transport, to comply with policies TR7, TR12, TR14 and TR18 of the Brighton & Hove Local Plan and CP9 of the Brighton and Hove City Plan Part One.
56. The works shall be carried out in strict accordance with the provision and layout of the disabled car parking spaces approved under application BH2021/03666. The spaces shall be implemented on site in accordance with the approved details prior to occupation of the development and shall be retained for the lifetime of the development.  
**Reason:** To ensure the availability and appropriate layout of the disabled car parking spaces and to minimise any impact on the operation of the local highway network and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the Brighton and Hove City Plan Part One.
57. The works shall be carried out in accordance with the scheme of management of the vehicle parking in respect of Phase 1 approved under application BH2021/00149.  
**Reason:** To ensure the development maintains a sustainable transport strategy and to comply with policies TR7, TR12, TR14 and TR18 of the Brighton and Hove Local Plan and CP9 of the Brighton and Hove City Plan Part One.
58. No development above ground floor slab level of Phase 2 shall commence on site until a scheme of management of the vehicle parking in respect of Phase 2 has been submitted to and approved in writing by the Local Planning Authority. The scheme must include the following measures:
- Details of how each car parking space will be allocated;
  - Details of how each car parking space will be managed to ensure there is maximum flexibility of the use of spaces within the parking layout;
  - Details of measures to ensure that there is no overspill parking onto the local highway.
- The above works must be implemented prior to the occupation of the building and hereafter be maintained as such.  
**Reason:** To ensure the development maintains a sustainable transport strategy and to comply with policies TR7, TR12, TR14 and TR18 of the Brighton and Hove Local Plan and CP9 of the Brighton and Hove City Plan Part One.
59. The works shall be carried out in accordance with the cycle parking facilities approved under application BH2021/03666. The approved facilities shall be fully implemented and made available for use prior to the first occupation of Phase 1 and shall thereafter be retained for use at all times.  
**Reason:** To ensure that satisfactory facilities and safe access to 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.

60. Notwithstanding the plans hereby permitted, prior to first occupation of Phase 2 the development details of secure and safe cycle parking facilities and access for the occupants of, and visitors to, the development shall have been 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 Phase 2 and shall thereafter be retained for use at all times.  
**Reason:** To ensure that satisfactory facilities and safe access to 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.
61. Prior to the occupation of Phase 1, a Travel Plan, to encourage sustainable modes of transport, shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be in accordance with appropriate best practice guidance. The Travel Plan shall be implemented fully in accordance with the details approved pursuant to this condition prior to occupation of the development and shall thereafter continue to be implemented in full in accordance with the details approved pursuant to this condition for the life of the Travel Plan and any replacement to it.  
**Reason:** To encourage sustainable modes of transport and reduce reliance on the car amongst all occupants, residents and visitors and to comply with policy CP9 of the Brighton and Hove City Plan Part One
62. Prior to the occupation of Phase 2, a Travel Plan, to encourage sustainable modes of transport, shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be in accordance with appropriate best practice guidance. The Travel Plan shall be implemented fully in accordance with the details approved pursuant to this condition prior to occupation of the development and shall thereafter continue to be implemented in full in accordance with the details approved pursuant to this condition for the life of the Travel Plan and any replacement to it.  
**Reason:** To encourage sustainable modes of transport and reduce reliance on the car amongst all occupants, residents and visitors and to comply with policy CP9 of the Brighton and Hove City Plan Part One
63. The works shall be carried out in accordance with the Delivery and Servicing Management Plan approved under application BH2021/00149. The agreed plan shall be implemented before first occupation of Phase 1.  
**Reason:** In order to ensure that the safe operation of the development and the protection of the amenities of nearby residents, in accordance with policies SU10, QD27 and TR7 of the Brighton and Hove Local Plan.
64. The B1(a) office element of Phase 1 shall not be occupied until the changing room/shower and locker facilities have been provided for employees at the development  
**Reason:** To encourage sustainable modes of transport and reduce reliance on the car amongst all occupants, residents and visitors and to comply with policy CP9 of the Brighton and Hove City Plan Part One
65. Not used.

66. Notwithstanding the approved plans, the vehicle parking areas in the basement of Phase 1 shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the residential development/commercial floorspace in Phases 1 hereby approved. No parking, waiting or loading shall take place in the external areas of the street except for the purposes of delivering and servicing the development.  
**Reason:** To ensure that adequate parking provision is retained, to ensure the safety of people accessing the site and to comply with policy CP9 of the City Plan Part One and retained policy TR7 of the Brighton & Hove Local Plan.
67. No part of Phase 2 the development shall be first occupied until such time as a Delivery and Servicing Management Plan has been submitted and approved in writing by the Local Planning Authority. This shall set out the arrangements for the loading and unloading of deliveries, in terms of location and frequency, provision of management measures to ensure all loading and unloading can take place safely on-site and all vehicles can manoeuvre such that they arrive / depart in a forward gear, and shall set out arrangements for the collection of refuse. The Phase 2 Delivery and Servicing Management Plan shall consider the Phase 1 Delivery and Servicing Management Plan. Once occupied the use shall be carried out only in accordance with the approved Plan.  
**Reason:** In order to ensure that the safe operation of the development and the protection of the amenities of nearby residents, in accordance with policies SU10, QD27 and TR7 of the Brighton & Hove Local Plan.
68. All ecological measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment, Lizard Landscape Design and Ecology dated 11/09/19 as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.  
**Reason:** To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, and to provide a net gain for biodiversity as required by paragraphs 170 and 175 of the National Planning Policy Framework, Section 40 of the Natural Environment and Rural Communities Act Policy CP10 of Brighton & Hove City Council's City Plan Part One.
69. The works shall be carried out in accordance with details of the bird/bee/bat boxes or bricks approved under application BH2021/01856. The scheme shall then be carried out in strict accordance with the approved details and thereafter retained.  
**Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policies QD18 of the Brighton and Hove Local Plan and CP10 of the Brighton and Hove City Plan Part One.
70. No development above ground floor slab level on Phase 2 hereby permitted shall take place until details showing the type, number, location and timescale for implementation of the compensatory bird/bee/bat boxes or bricks have been submitted to and approved in writing by the Local Planning Authority. The



scheme shall then be carried out in strict accordance with the approved details and thereafter retained.

**Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policies QD18 of the Brighton and Hove Local Plan and CP10 of the Brighton and Hove City Plan Part One.

71. The works shall be carried out in accordance with the Drainage Strategy approved under application BH2021/00171.

**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.

72. The works shall be carried out in strict accordance with the tree protection measures approved under application BH2020/02457.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development in compliance with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

73. The stands in Phase 3 and 4 of the development shall not exceed the following heights in each of the following positions within the site:

- a) The terrace in Phase 3 shall not exceed 5.5 metres in height
- b) The terrace in Phase 4 shall not exceed 6 metres in height

**Reason:** To ensure the development integrates effectively with its surroundings and to comply with policy CP12 of the Brighton and Hove City Plan Part One and QD27 of the Brighton and Hove Local Plan.

74. Prior to the commencement of the development of Phases 3 and 4 (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details. Specific issues to be dealt with in the TPP and AMS include:

- Details of all tree protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required) for the duration of the development within Phase 1 and Phase 2.
- Location and installation of services/ utilities/ drainage.
- Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- Details of construction or demolition within the RPA or that may impact on the retained trees.
- A full specification for the installation of boundary treatment works.
- A full specification for the construction parking areas including details of the nodig specification and extent of the areas of the parking areas to be constructed using a no-dig specification where possible. Details shall include relevant sections through them. Methodology and detailed assessment of root pruning should also be submitted, if required.

- A specification and plan for protective fencing to safeguard trees during both demolition and construction

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development in compliance with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

75. No development to Phase 3 and Phase 4 (including demolition and excavation), shall commence until a Site Waste Management Plan for each respective Phase, confirming how demolition and construction waste will be recovered and reused on site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Plan.

**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan.

76.

- (1) No works pursuant to this permission in respect of Phases 3 and 4 shall commence until there has been submitted to and approved in writing by the Local Planning Authority:

- a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A1:2013; And if notified in writing by the Local Planning Authority that the results of the site investigation are such that site remediation is required then,
- a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

- (2) The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the Local Planning Authority a written verification report by a competent person approved under the provisions of condition (1)c that any remediation scheme required and approved under the provisions of condition (1)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:

- built drawings of the implemented scheme;
- photographs of the remediation works in progress;
- certificates demonstrating that imported and/or material left in situ is free from contamination.

77. The development hereby permitted on Phase 3 and Phase 4 shall not be commenced (other than demolition works and works to trees) until a detailed design and associated management and maintenance plan of surface water

drainage for the relevant Phase using sustainable drainage methods as per the recommendations of the Sustainable Drainage and Flood Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented and maintained in accordance with the approved detailed design and management and maintenance plan.

**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies SU4 of the Brighton & Hove Local Plan and CP11 of the Brighton & Hove City Plan Part One.

78. Prior to the occupation of Phase 3 and Phase 4, a Noise and Site Management Plan for each respective Phase shall be submitted to and approved in writing by the Local Planning Authority, which shall include:

- restrictions on plant and equipment operation
- restrictions on events and the use of amplified music or public address systems (within the buildings and the open space)
- restrictions on the fire alarm and the life safety plant testing
- the opening times of the café/restaurant
- details of the management and monitoring of the open space when open and closed, and
- How people will be managed and removed from the open space at closing times.
- The aim of the plan should be to provide security and avoid noise nuisance within and around the site and should provide that during opening hours of the open space, security staff will patrol the public open space and take steps to minimise noise nuisance and anti-social behaviour. The approved Plan shall be implemented, maintained and the site operated in accordance with the agreed details.

**Reason:** To protect neighbouring amenity and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.

79. Prior to the commencement of Phase 3 and 4, a scheme in respect of the following matters will be submitted in respect to Phase 3 and 4:

- details for the secure cycle parking facilities for Phases 3 and 4 visitors have been submitted to and approved in writing by the Local Planning Authority
- details of electric vehicle charging points have been submitted to and approved in writing by the Local Planning Authority
- the provision and layout of the disabled car parking spaces shall be agreed in writing with the Local Planning Authority
- management plan for the surface car parking spaces (updated following implementation of Phases 1 and 2 and to take into account phases 3 and 4.

These facilities shall be fully implemented and made available for use prior to the use of the stands 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 ensure adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

80. Phases 3 and 4 of the development shall not be occupied until a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries servicing and refuse collection will take place and the frequency of those vehicle movements has been submitted to and approved in writing by the Local Planning Authority. All deliveries servicing and refuse collection shall thereafter be carried out in accordance with the approved plan.

**Reason:** In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policies SU10, QD27 and TR7 of the Brighton & Hove Local Plan.

81. No development beyond Phase 2 shall take place until general arrangement plan(s) to a scale of 1:200 showing the following works to the adopted highway has been submitted to and approved in writing by the Local Planning Authority.

The works will include:

- Creation of a new vehicle crossover to the south west of the site from Eaton Road. Works will include the installation of new textured concrete edging, tactile paving and repairs/reinstatement of existing flagged paving
- Repairs and reinstatement of the existing flagged paving on the existing footway that runs between the entrance to the ground and the Ashdown building and Wilbury Lodge
- Repairs to the tarmac paving adjacent to the side of the Ashdown building and reinstatement with matching flag paving
- Refurbish and upgrade the existing access off Eaton Road to include new tactile paving, textured concrete edging and new block paving. The works will also include new brick wall planters and planting along the side of the new apartment block
- Where applicable indicating proposals for:
  - Existing levels of the finished highway tying into building threshold levels
  - Alterations to waiting restrictions or other Traffic Regulation Orders to enable the works
  - Signing, street furniture, street trees and pits
  - Structures on or adjacent to the highway
  - Extent of any stopping up, diversion or dedication of new highway (including all public rights of way shown on the definitive map and statement)

No development shall take place over the route of any public right of way prior to the confirmation of a Town & Country Planning Act 1990 path diversion/stopping up order. Prior to first use of Phase 4 of the proposals these works shall be completed to the satisfaction of the Highway Authority and approved in writing by the Local Planning Authority.

**Reason:** In the interests of public safety and to ensure that all road works associated with the proposed development are: planned; approved in good time (including any statutory processes); undertaken to a standard approved by the Local Planning Authority and are completed before occupation.

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. SITE LOCATION**

- 2.1. The site is located on the northern side of Eaton Road, Hove and is currently under redevelopment. It includes the Sussex County Cricket Ground, the former Cricketers Public House (now demolished), No.1 Eaton Road (now demolished), and a chalet-type commercial building to the south of the site. The site covers an area of approximately 3.8 hectares and although generally flat, there is a clear and notable difference in ground levels in various locations, as evidenced by the levels of adjacent properties and roads.
- 2.2. The main access for pedestrians and vehicles is to the east side of the former Cricketers Public House, part of the approach being shared with access to 'Ashdown' an L-shaped flatted block. A secondary access, referred to as 'Gate 2', is located to the north-east of the site, adjacent to the access to Cromwell Court and north of the detached dwelling at No.66 Palmeira Avenue. It is understood this also services business uses located in the north-eastern section of the site.
- 2.3. Works to redevelop the site began on 1 December 2020.

## **3. RELEVANT HISTORY**

- 3.1. Planning permission was granted in August 2020 for the redevelopment of the site, as follows:
- 3.2. BH2019/02948 Hybrid Planning Application comprising: (Phase 1) Full Planning application for the demolition of existing public house, single dwellinghouse & single storey commercial building and the construction of a 9-storey (over basement) mixed use building comprising re-provision of public house/restaurant (A3/A4), 37no. residential apartments (C3) and approximately 1,200sqm flexible commercial space (B1/ D1) together with ground & basement parking; (Phase 2) Full Planning application for demolition of Club offices and partial demolition of southwest stand and the construction of new build extension and adaptation of southwest stand to include club shop, reception area; bar and café, hospitality area together with enhancements to the public realm; (Phase 3) Outline Planning application for provision of two stands of permanent seating to replace informal seating areas, together with improvements to spectator hospitality facilities including works to existing single storey buildings; (Phase 4) Outline Planning application for demolition of existing hospitality area and construction of new stand to replace displaced seating. Approved 24 August 2020.
- 3.3. Since that date, various conditions and non-material amendments have been approved, as well as the following variation of condition.

- 3.4. BH2020/03745: Application for variation of condition 29 of application BH2019/02948 (see original description) to amend the wording of condition 29 to the following 'No customer in the public house shall remain on the premises outside the hours of 09:00 - 00:30 on Mondays to Sundays, including Bank or Public Holidays'. Approved March 2021.

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

- 4.1. This application seeks to vary condition 43 of application BH2020/03745 which, as approved, stated:  
*“Notwithstanding the approved plans, prior to first occupation of the residential development hereby approved full details of privacy screens to the balconies serving flats 2, 9, 10, 16, 22 and 27 shall be submitted to and approved in writing by the Local Planning Authority. The approved screening shall prevent overlooking westwards and shall be carried out in full as approved prior to first occupation of the development and thereafter permanently retained as such. Reason: To protect the privacy of neighbouring occupiers in accordance with policy QD27 of the Brighton and Hove Local Plan.”*

#### **5. CONSULTATIONS**

None

#### **6. REPRESENTATIONS**

- 6.1. **Twelve (12)** representations have been received objecting to the proposals on the following grounds:
- Loss of privacy/overlooking;
  - Trees on the boundary don't provide sufficient screening for the majority of the year.

#### **7. MATERIAL CONSIDERATIONS**

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

- Shoreham Harbour Joint Area Action Plan (adopted October 2019).

7.3. 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.

## 8. **RELEVANT POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part 2 (Proposed submission October 2020)

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the key CPP2 policies considered in determining this application is set out below where applicable.

DM1 Housing Quality, Choice and Mix  
 DM10 Public Houses  
 DM11 New Business Floorspace  
 DM18 High quality design and places  
 DM19 Maximising Development Potential  
 DM20 Protection of Amenity  
 DM22 Landscape Design and Trees  
 DM26 Conservation Areas  
 DM33 Safe, Sustainable and Active Travel  
 DM36 Parking and Servicing  
 DM37 Green Infrastructure and Nature Conservation  
 DM40 Protection of the Environment and Health - Pollution and Nuisance  
 DM43 Sustainable Urban Drainage  
 DM44 Energy Efficiency and Renewables

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
 CP1 Housing delivery  
 CP2 Sustainable economic development  
 CP3 Employment land  
 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  
 CP17 Sports provision

CP18 Healthy city  
CP19 Housing mix  
CP20 Affordable housing

Brighton and Hove Local Plan (retained policies March 2016):

TR4 Travel plans  
TR7 Safe Development  
TR12 Helping the independent movement of children  
TR14 Cycle access and parking  
TR18 Parking for people with a mobility related disability  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD5 Design - street frontages  
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  
HO8 Retaining Housing  
HO13 Accessible housing and lifetime homes  
HO19 New community facilities  
HO20 Retention of community facilities  
EM4 New business and industrial uses on unidentified sites  
SR12 Large Use Class A3 (food and drink) venues and Use Class A4 pubs and clubs)  
HE3 Development affecting the setting of a listed building  
HE6 Development within or affective the setting of conservation areas  
HE10 Buildings of local interest  
SU3 Water resources and their quality  
SU5 Surface water and foul sewerage disposal infrastructure

Supplementary Planning Guidance:

SPGBH15 Tall Buildings

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD06 Trees & Development Sites  
SPD11 Nature Conservation & Development  
SPD14 Parking Standards  
SPD17 Urban Design Framework

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The original approved scheme (BH2019/02948) was granted on the 21st February 2020. This application was subsequently varied under application BH2020/03745 which was approved on the 23rd of March 2021. The current application seeks to vary this latest application.



- 9.2. The Local Planning Authority considered the previous schemes to be acceptable in all regards and secured various details and measures by planning conditions and via a S106 agreement.
- 9.3. The considerations to be taken into account in this application solely relate to the variation of condition 43 of application BH2020/03745 which relates to privacy screens to particular balconies on the western side of the development.

**Condition 43**

- 9.4. The condition as currently attached states:  
*“Notwithstanding the approved plans, prior to first occupation of the residential development hereby approved full details of privacy screens to the balconies serving flats 2, 9, 10, 16, 22 and 27 shall be submitted to and approved in writing by the Local Planning Authority. The approved screening shall prevent overlooking westwards and shall be carried out in full as approved prior to first occupation of the development and thereafter permanently retained as such.  
Reason: To protect the privacy of neighbouring occupiers in accordance with policy QD27 of the Brighton and Hove Local Plan.”*
- 9.5. The approved plans of the original permission (BH2019/02948) provided balconies to apartments 2 9, 10, 16, 22 and 27 (as listed within condition 43) with balustrading of 1.1m in height with clear glazing.
- 9.6. However, the above condition was attached in order to provide additional screening of views, to protect the amenities of neighbours within Saffron Gate and Wilbury Lodge to the west of the application site.
- 9.7. The current application seeks to remove the requirement to provide privacy screens to each of the units listed above, noting that the height of the balustrades, as shown on the approved plans, is acceptable and further privacy screening is not needed to prevent views into neighbouring dwellings.
- 9.8. This application is supported by plans showing the separation distances between the balconies to units 2, 9, 10, 16, 22 and 27 and the nearest neighbouring property to the west. The plans demonstrate that the minimum distance between the proposed balconies and Saffron Gate would be in excess of 26m, other than for Apartment 9, for which the distance would be 24.7m.
- 9.9. On the eastern side of the development, a number of balconies are proposed of a similar size and position to those the subject of this application. Under the original application, officers and committee members considered that the separation distance between the scheme and the properties to the east was sufficient to not result in a loss of privacy owing to the space between which provides the entrance to the cricket ground.
- 9.10. The separation distance between the eastern elevation of phase 1 of this development and Ashdown (located to the east) is measured to be 24m. As this distance has previously been considered acceptable in maintaining privacy for neighbouring residents, it is considered that the distance between the balconies on the western elevation and Saffron Gate is sufficient and does not warrant the

need for additional screening. In addition it should be noted that the balconies to the fourth and fifth floor would be positioned above the ridge height of Saffron Gate.

- 9.11. Further it should be noted that between the application site and Saffron Gate is a line of trees that provides screening between the two sites. Whilst it is acknowledged that the level of screening between properties will vary depending on the season, it is considered that this, combined with the distance between the properties will ensure acceptable levels of privacy are maintained.
- 9.12. Notwithstanding the above, the proposed balcony to unit 9 would be situated at a closer distance to Wilbury Lodge which fronts Eaton Road. The resultant distance between this proposed balcony and the corner of Wilbury Lodge would measure 19.4m. In this instance, the proposals include provisions to increase the height of the western balustrade to this external amenity space to 1.3m and provide opaque glazing. These measures are considered acceptable in ensuring the privacy of occupiers within this neighbouring residential block. These measures will be secured by condition. Given the position of the balcony in relation to Wilbury Lodge, any views would not be directly opposite.
- 9.13. It should also be noted that the balconies within the units listed within condition 43 serve the primary living areas of these units within phase 1 and therefore any significant increase in the height of the balustrades or measures to include opaque glazing will reduce the light and outlook from within these units thereby reducing their standard of accommodation.
- 9.14. It is for these reasons that the variation of condition 43 to require only additional privacy measures to unit 9 is considered acceptable.

**106 Agreement:**

- 9.15. 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.

**10. EQUALITIES**  
None identified