

<b><u>No:</u></b>	<b>BH2021/04525</b>	<b><u>Ward:</u></b>	<b>Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>10 Shirley Drive Hove BN3 6UD</b>		
<b><u>Proposal:</u></b>	<b>Application to vary conditions 4 (plans), 9 (cycle parking) and 10 (refuse and recycling) of outline planning permission BH2017/02869 (allowed on appeal).</b>		
<b><u>Officer:</u></b>	Sonia Gillam, tel: 292265	<b><u>Valid Date:</u></b>	23.12.2021
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	24.03.2022
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	29.04.2022
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	CCS Holdings C/O Lewis and Co Planning 2 Port Hall Road Brighton BN1 5PD		

## 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	2017/02-P-212	F	20 January 2022
Proposed Drawing	2017/02-P-216	C	20 January 2022
Proposed Drawing	2017/02-P-218	F	23 February 2022
Proposed Drawing	2017/02-P-220	G	23 February 2022
Proposed Drawing	2017_02-P-213	E	23 February 2022
Proposed Drawing	2017_02-P-214	C	20 January 2022
Proposed Drawing	2017_02-P-215	C	20 January 2022
Proposed Drawing	2017_02-P-217	G	23 February 2022
Proposed Drawing	2017_02-P-219	H	23 February 2022
Proposed Drawing	2017_02-P-222	B	23 February 2022
Proposed Drawing	2017_02-P-223	B	23 February 2022
Other	External Materials List		1 March 2022
Proposed Drawing	Land Survey		10 June 2020
Arboricultural Report	Arboricultural Method Statement		10 June 2020
Report/Statement	CEMP		10 June 2020

Report/Statement	Drainage Report		2 December 2020
Arboricultural Report	Tree Protection Plan		10 June 2020

2. Not used
3. Not used
4. Not used
5. The development hereby permitted shall be undertaken in accordance with the details approved under application BH2020/01554 of existing and proposed ground levels (referenced as Ordnance Datum) within the site along with the finished floor levels of all buildings and structures.  
**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, CP12 of the Brighton & Hove City Plan Part One, and DM20 of the Brighton & Hove City Plan Part Two.
6. The development hereby permitted shall not be occupied until a scheme of boundary treatment has been implemented in accordance with details first submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be retained thereafter.  
**Reason:** To enhance the appearance of the development in the interest of the visual and residential 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, and DM20 of the emerging Brighton & Hove City Plan Part Two.
7. The development hereby permitted shall be undertaken, before the development is first occupied, in accordance with the details approved under application BH2020/01554 with regard to the drainage system.  
**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 and DM42 of the emerging City Plan Part Two.
8. The development hereby permitted shall be undertaken in accordance with the details approved under application BH2020/01554 with regard to tree protection measured outlined in the tree protection plan and arboriculture method statement received on the 10 June 2020.  
**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, CP13 of the Brighton & Hove City Plan Part One, DM22 of the emerging City Plan Part Two and SPD06:Trees and Development Sites.
9. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made

available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development 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 policies TR14 of the Brighton & Hove Local Plan and DM36 of the emerging Brighton & Hove City Plan Part Two, and SPD14 Parking Standards.

10. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These 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 & Hove Local Plan, Policy DM21 of the Submission City Plan Part 2, 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.

11. The hard surface hereby approved shall be made of porous materials 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.

**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 and CP11 of the Brighton & Hove City Plan Part One and DM43 of the emerging Brighton & Hove City Plan Part Two, and SPD16.

12. The development hereby permitted shall not be occupied until the new crossover and access has been constructed.

**Reason:** In the interests of highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan, CP9 of the Brighton & Hove City Plan Part One, and DM33 of the emerging City Plan Part Two.

13. The development hereby permitted shall not be occupied until the redundant vehicle crossovers on Shirley Drive and The Drove have been converted back to a footway/ grass verge by raising the existing kerb and footway.

**Reason:** In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan, CP9 of the Brighton & Hove City Plan Part One, and DM33 of the emerging City Plan Part Two.

14. No external lighting shall be installed at the development hereby permitted until its details (including levels of luminance, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation and details of maintenance) have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed, operated and maintained in accordance with the approved details.

**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, and DM20 and DM40 of the emerging City Plan Part Two.

15. None of the 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 Brighton & Hove City Plan Part One.
16. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
17. The development hereby permitted shall be undertaken in accordance with the CEMP details approved under application BH2020/01554.  
**Reason:** As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One, policies DM33 DM20, DM40 of the emerging City Plan Part Two, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.
18. Prior to first occupation of the development hereby permitted a bee brick shall be incorporated within the external wall of the development 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.
19. Prior to first occupation of the development hereby permitted 20 (twenty) swift bricks/boxes shall be incorporated within the external walls of the development 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 planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be

funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Head of Asset and Network Management. The applicant is advised to contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.

3. Reinstatement of Redundant Vehicle Crossing: The applicant is advised to contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.
4. 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.
5. The water efficiency standard required is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
6. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
7. 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**

- 2.1. The application relates to a substantial detached property located on the western side of Shirley Drive, at the junction with The Droveway. The site slopes downwards from west to east.

- 2.2. The property contains a two-storey single dwelling with rooms in the roofspace and a large lower ground floor area which includes a pool, home cinema, gym and spa. This is housed in an extension which is built hard up against the northern site boundary and takes up a large part of the rear garden. There is a garage to the rear with access from The Drove as well as a vehicular parking area to the front of the property.
- 2.3. The surrounding area is predominantly residential in character, generally characterised by large, detached properties with good sized gardens.

### 3. RELEVANT HISTORY

- 3.1. **BH2020/01325** Application for approval of details reserved by condition 3 (external material samples) of application BH2019/03817. Approved 30.07.2020
- 3.2. **BH2021/00029** Certificate of lawfulness to prove that a 'substantive start' has been made for the works approved under BH2017/02869 [Outline application with some matters reserved for the demolition of existing house and erection of 10no flats with associated parking (C3)]. Approved 04.03.2021.
- 3.3. **BH2020/01554** Application for approval of details reserved by conditions 5 (ground levels), 7 (drainage system), 8 (tree protection), 10 (refuse storage) and 17 (CEMP) of application BH2017/02869. Approved 16.12.2020.
- 3.4. **BH2020/01325** Application for approval of details reserved by condition 3 (external material samples) of application BH2019/03817. Approved 30.07.2020.
- 3.5. **BH2019/03817** Reserved Matters application pursuant to outline approval BH2017/02869 for approval of appearance and landscaping, relating to demolition of existing house and erection of 10no flats with associated parking (C3). Approved 26.03.2020.
- 3.6. **BH2017/02869** Outline application with some matters reserved for the demolition of existing house and erection of 10no flats with associated parking (C3). Refused 25.07.2018. Appeal allowed 28.03.2019.
- 3.7. **BH2006/02036** Single storey rear extension to accommodate hydrotherapy pool and alterations to basement. Approved 29.09.2006.
- 3.8. **BH2004/03602/FP** Demolition of existing two storey side extension and construction of two storey side extension and garden wall. Approved 03.05.2005.
- 3.9. **BH1997/00424/FP** Two storey extension and front dormer. Approved 17.07.1997

### 4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought under Section 73 of The Town and Country Planning Act to vary conditions 4 (plans), 9 (cycle parking) and 10 (refuse and recycling) of outline planning permission BH2017/02869 (allowed on appeal).
- 4.2. Outline Planning Permission (BH2017/02869) was secured on appeal in 2019 for the demolition of the existing house, and the erection of ten flats. The subsequent Reserved Matters application (BH2019/03817), relating to the development's appearance and landscaping, was approved by Planning Committee in 2020. It is noted that the development has commenced, however is limited to minor excavations rather than substantial building works.
- 4.3. The present application seeks minor changes to the approved outline scheme, including the following:
  - Owing to availability of materials, substitute bricks proposed to elevations;
  - Minor changes to fenestration detail and placement;
  - Minor changes to landscaping features and materials, including bin store area;
  - Cycle store details.
- 4.4. Amended plans have been received during the life of the application which annotate the external changes more clearly, and update the cycle parking facilities following comments from the highways officer.
- 4.5. Plans and some details were approved under the outline planning permission, but there is also a parallel application, to be considered by this Committee, seeking amendments to the Reserved Matters permission where they affect landscaping and appearance (ref. BH2021/04527).

## 5. REPRESENTATIONS

None

## 6. CONSULTATIONS

### External

- 6.1. **County Archaeologist:** No objection  
No significant below ground archaeological remains are likely to be affected.
  - 6.2. **Ecology:** No objection  
The proposed condition variations are unlikely to have any impacts on ecology.
  - 6.3. **Sussex Police:** No objection
- ### Internal
- 6.4. **Air Quality** No objection on grounds of air quality and emissions.
  - 6.5. **Heritage:** No objection  
Considered the application and no comments.

- 6.6. **Planning Policy:** No objection  
Considered the application and no comments.
- 6.7. **Private Sector Housing:** No objection  
Considered the application and no comments.
- 6.8. **Sustainability:** No objection  
No comments on the proposals from a sustainability perspective.
- 6.9. **Sustainable Transport:** Comment  
Further Information requested in relation to cycle parking provision.
- 6.10. **Sustainable Drainage:** No objection  
There is no material change to flood risk and drainage by this variation and the information submitted previously to discharge condition 7 remains valid for the revised plans.

## 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 JAAP (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. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity

CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP19	Housing mix

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

TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD14	Extensions and alterations
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Brighton & Hove City Plan Part 2

Policies in this Plan 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. Some policies have gained further weight following the CPP2 examination hearings and publication of the Post Hearing Action points by the Inspector (INSP09) and Main Modifications for consultation March 17<sup>th</sup> (BHCC44 Schedule of Main Modifications).

DM1	Housing Quality, Choice and Mix
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM33	Safe, Sustainable and Active Travel
DM36	Parking and Servicing
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM42	Protecting the Water Environment
DM43	Sustainable Urban Drainage

Supplementary Planning Documents:

SPD03	Construction and Demolition Waste
SPD06	Trees and Development Sites
SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPD16	Sustainable Drainage
SPD17	Urban Design Framework

## 9. CONSIDERATIONS & ASSESSMENT

- 9.1. The merits of the wider scheme have been substantially discussed as part of the preceding application (BH2017/02869). The principle of the demolition of the house and the erection of ten flats has been previously considered and found to be acceptable. The quantum, siting and scale and massing of the proposed development have not been altered.
- 9.2. The assessment of this application will therefore relate to those aspects of the current scheme that differ from the previous application, namely to vary conditions 4 (plans), 9 (cycle parking) and 10 (refuse and recycling) of the outline planning permission.

### **External Changes**

- 9.3. The proposed plans include minor changes to fenestration detail and placement, as well as changes to materials. Previously the walls were approved as a marble style tile cladding with a complementary stone cladding for the projecting bays. It was proposed that the top storey would be clad in aluminium to simulate the appearance of 'Corten' steel.
- 9.4. The elevations are now proposed to incorporate a Nordic White brick for the main building, and a traditional grey multistock brick for the projecting bays and top storey. The surrounding properties are a mix of brickwork and white render and it is considered that the more traditional materials proposed would therefore be in keeping from the existing character and appearance of the streetscene.
- 9.5. Landscaping changes to the plans include minor changes to planting, walls and fences, cycle store and refuse/ recycling area, including a retaining wall is proposed around the refuse/recycling area instead of a fence.
- 9.6. The revisions are not considered to impact on the overall quality of the development nor detrimentally impact on neighbouring amenity and are therefore considered acceptable.

### **Cycle Parking**

- 9.7. Condition 9 reads as follows:  
*The development hereby permitted shall not be occupied until secure cycle parking facilities have been provided in accordance with details first submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be retained and shall be available for use at all times thereafter.*
- 9.8. Details of cycle parking have been submitted which include spaces for 15 cycles in a shelter with a combination of Sheffield Stands and Semi Vertical Stands. This is considered acceptable for a development of this size and complies with policy.

### **Conclusion:**

- 9.9. For the reasons outlined the application is recommended for approval.

## **10. EQUALITIES**

- 10.1. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the (new-build) dwellings appears to be achievable; wheelchair access is provided by a fully accessible lift which serves each floor and there would be level access from the car parking area. A disabled parking space is proposed.
- 10.2. Policy DM1 and saved Policy HO13 states that a proportion of all new dwellings on larger sites (of more than 10 new dwellings) should be built to a wheelchair accessible standard. However as this is 9 net dwellings this does not apply.

## **11. CLIMATE CHANGE/BIODIVERSITY**

- 11.1. The application site is previously developed (brownfield) land, within a sustainable location with good access to public transport links and local facilities. Cycle parking is proposed, reducing reliance on cars. A bee brick and swift bricks should be secured by condition.

