

<b><u>No:</u></b>	<b>BH2022/02299</b>	<b><u>Ward:</u></b>	<b>Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Tennis Courts Hove Park Old Shoreham Road Hove BN3 7BF</b>		
<b><u>Proposal:</u></b>	<b>Erection of single-storey timber pavilion adjoining existing tennis courts incorporating covered terrace, cycle storage, associated landscaping and fencing.</b>		
<b><u>Officer:</u></b>	Jack Summers, tel: 296744	<b><u>Valid Date:</u></b>	08.08.2022
<b><u>Con Area:</u></b>	N/a	<b><u>Expiry Date:</u></b>	03.10.2022
<b><u>Listed Building Grade:</u></b>	N/a	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Harp & Bright Ltd 64 Byron Street Hove BN3 5BB		
<b><u>Applicant:</u></b>	Hove Park Tennis Alliance Hove Park Tennis Courts Old Shoreham Road Hove BN3 7BF		

## 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 **REFUSE** planning permission for the following reasons:

1. The proposed development will result in the loss of a Council-owned White Mulberry tree due to it creating an unacceptable accumulation of development around said tree (detrimentally impacting on its root system) and requiring significant pruning. Loss of this tree would represent harm to the visual amenities of the area and local biodiversity, contrary to policies CP10 and CP13 of the Brighton & Hove City Plan Part One, and DM22 and DM37 of the Brighton & Hove City Plan Part Two.

### 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. This decision is based on the drawings received listed below:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	1040/1.001	-	18 July 2022
Proposed Drawing	1040/2.001	-	29 September 2022
Proposed Drawing	1040/2.002	-	12 September 2022

## 2. SITE LOCATION

- 2.1. The application site is a triangular area of land within the locally listed Hove Park, wedged between the west boundary of the tennis courts and the public footpath just south of The Pavilion Tea House. The site is designated Open Space and a Nature Improvement Area.

### **3. STATEMENT OF SIGNIFICANCE**

- 3.1. Formerly part of the Stanford Estate and used for market gardening and agricultural land, the land forming Hove Park was purchased by Hove Borough Council for use as a public park on 30th October 1899. The southern part of the park was officially opened on 24 May 1906 with further sports facilities and a drinking fountain added by 1908. Works to the northern half of the park continued over the next decade. The designs had to respect The Droveaway, which formed an ancient droving route across the area.
- 3.2. The sports facilities are focussed to the south of the park, with grassed areas and mature trees to the north. Along Old Shoreham Road, there is a terracotta structure housing a plaque to commemorate the opening of the park. In the southwest corner is the 'Goldstone'. It likely formed an outlier to a stone circle in the area, and was known as a 'Druidical stone'. It was re-erected in its current location having been buried for many years. The pavilion dates from 1925, originally containing a café, dressing rooms and toilets. Wooden fencing surrounding the site was removed in 1937 in order to make the park more accessible. The miniature railway opened in 1951 (formerly at Withdean Olympic Stadium).

### **4. RELEVANT HISTORY**

- 4.1. **BH2021/04182** Installation of court lighting to tennis courts 1 - 5. Approved
- 4.2. **BH2017/03861** Alterations to multi use games area incorporating replacement of existing fencing with new fencing and creation of storage area. Approved

### **5. RELEVANT HISTORY AT OTHER SITES**

- 5.1. **BH2017/02805 - The Pavilion Tea House** Erection of single storey cafe to replace existing cafe (A3), including w.c. facilities and external covered seating. Approved

### **6. APPLICATION DESCRIPTION**

- 6.1. Planning permission is sought for the erection of a single-storey building providing seating and refreshment areas, WCs and ancillary storage, with associated landscaping. The building would be associated with the use of the adjacent tennis courts, providing facilities for court-users. It would be separated

from the public footway behind 3.0m high fencing. Secure cycle parking facilities would also be sited adjacent to the building.

## **7. REPRESENTATIONS**

7.1. **One (1)** representation has been received, objecting to the proposal on the following grounds:

- Loss of a hedge and habitat

7.2. **Twelve (12)** representations have been received, supporting the proposal on the following grounds:

- Improved community facilities including storage, WCs and cycle parking

## **8. CONSULTATIONS**

### **8.1. Arboriculture**

This application is in close proximity to a mature White Mulberry, flanked on two sides by previous sports development. The stem is within 2.5 metres of the proposed structure, with the canopy overhanging a significant portion of the proposed structure. The tree will require facilitation pruning to enable even one storey. Using BS 5837: Trees in relation to design, demolition and construction - Recommendations; the exclusion / ground protection zone works out at six metres, this is calculated by multiplying the circumference of the stem by 12, incursion into this area will have a significant impact to tree vitality, anticipated root severance from the foundations. The application has advised the use of screw piles, however, they can add complexity regarding the number, depth & diameter required for the proposal, the access proposal for the piling rig & the delivery of construction materials (we would not condone facilitation pruning to adjacent trees), site storage; the area also has a high density of trees adjacent to the pedestrian pathway to the west. The majority of the proposal is within the root protection area (RPA) of T1 - Mulberry, how is the applicant proposing to connect to utilities without the requirement to trench within this exclusion zone? Any excavation or non-permeable surfacing within this area must be avoided.

8.2. The applicant has not provided an arboricultural impact assessment or information on proposed tree protection measures, as such BHCC Arboriculture wish to see this development proposal refused due to the anticipated detrimental impact upon a high amenity parks tree, both during the construction phase and expected post development pressure to prune/remove due to shading, leaf drop and the increased perceived risk of a tree in such close proximity.

### **8.3. City Parks**

The proposal annexes off a section of the park for semi-private use and continuing the fence line around the building to match the existing high courts fences reinforces the space as 'not for the public.'

8.4. The location chosen puts pressure on a nearby tree and it also reduces the sight lines through the space and could create a less comfortable environment for

pedestrians. Leaving a gap of 1.5 metres or more from the path would reduce this visual impact.

8.5. Heritage  
No Comment

**8.6. Sports Facilities**

The BHCC Sports Facilities Team support the provision of better ancillary facilities to ensure the long term financial sustainability and management of sports facilities by community groups.

8.7. However, this scheme unfortunately does not appear to be aligned with longer term plans City Parks colleagues hold in relation to the integration of the various parks buildings and there also seems to have been a lack of engagement with other potential user groups such as the Football group that are adjacent.

8.8. Sports Facilities regrettably are therefore not able to support the current proposal although in principle feel the delivery of a clubhouse could help with the long term sustainability of some of the sports clubs/facilities in Hove Park if it was delivered in a more co-ordinated way.

8.9. Transport  
Comments regarding initial submission

No Objection. Access to the tennis courts remains unaffected. The proposed pavilion will be step-free, facilitating access for all. The proposed development is within proximity to Hove Station and a number of frequent bus services enabling access to/from the site via sustainable transport modes. Furthermore, the proposed development includes cycle storage for six bicycles; however, there appears to be an existing tree trunk in front of the bicycle parking potentially obstructing access. Details of cycle parking demonstrating unobstructed access should be secured by condition. \*

*\*Since the receipt of these initial comments, the proposed cycle parking has been relocated away from the tree. It is considered that this issue has been addressed in principle.*

**9. MATERIAL CONSIDERATIONS**

9.1. 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.

9.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove City Plan Part Two (adopted October 2022);
- 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 (JAAP) 2019.

## 10. RELEVANT POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One (CPP1)

SS1 Presumption in Favour of Sustainable Development  
 SA6 Sustainable Neighbourhoods  
 CP8 Sustainable Buildings  
 CP9 Sustainable Transport  
 CP10 Biodiversity  
 CP11 Flood Risk  
 CP12 Urban Design  
 CP13 Public Streets and Spaces  
 CP15 Heritage  
 CP16 Open Space  
 CP17 Sports Provision

#### Brighton & Hove City Plan Part Two (CPP2)

DM9 Community Facilities  
 DM18 High quality design and places  
 DM20 Protection of Amenity  
 DM22 Landscape Design and Trees  
 DM28 Locally Listed Heritage Assets  
 DM33 Safe, Sustainable and Active Travel  
 DM35 Travel Plans and Transport Assessments  
 DM37 Green Infrastructure and Nature Conservation  
 DM40 Protection of the Environment and Health - Pollution and Nuisance  
 DM43 Sustainable Drainage

### East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan (WMP)

WMP3 Implementing the Waste Hierarchy

## 11. CONSIDERATIONS & ASSESSMENT

- 11.1. The main considerations in the determination of this application relate to the principle of development; the design and appearance of the proposed development; and the potential impacts on the amenities of local residents and park visitors; on highway safety; on biodiversity; and on the significance of heritage assets in the vicinity.

### Principle of Development

- 11.2. The application site lies within Hove Park which is designated Open Space and proposes improved Sports Provision; therefore, policies CP16 and CP17 of the CPP1 are relevant.
- 11.3. Policy CP16 states:  
*'Planning permission resulting in the loss of open space...will only be granted where:*
- The proposed development is ancillary to the use of the open space and will result in only a small loss of open space, provides improvements to and better use of the remaining space and optimises public access; or...'*
- 11.4. It is considered that the development would improve the provision of tennis facilities in Hove Park by providing storage, cycle parking and refreshment facilities. It is considered that loss of some of the Open Space is justified in this instance.
- 11.5. Policy CP17 states:  
*To facilitate the council's aspiration to increase participation in sports and physical activity, the council will safeguard, expand, enhance and promote access to Brighton & Hove's sports services, facilities and spaces through the following:*
- Require the retention, seek the enhancement and more effective use of existing indoor and outdoor sports facilities and spaces in accordance with the Sports Facilities Plan and the Open Space, Sport and Recreation Study and subsequent approved revisions, audits and strategies...*
- Require new development to contribute to the provision and improvement of the quality, quantity and accessibility of sports services, facilities and spaces to meet the needs it generates...*
- New sports services, facilities and spaces (including extensions to existing provision) will be encouraged especially those that meet identified needs. All new provision should meet quality standards, optimise their accessibility and affordability to all users, including the local community and visitors. Proposals should seek to improve the variety of provision in the city and increase participation in sport and physical activity, especially from sectors of the community currently under represented.*
- 11.6. As outlined above, the proposed development would result in an improvement to the tennis offer at Hove Park by creating storage areas, WCs, a refreshment area and cycle parking.
- 11.7. In principle, the erection of a clubhouse replacing an area of open space is acceptable, however, there are concerns that the proposed development would serve only users of the tennis courts and a better approach would be to have a single building that could serve multiple groups, in particular users of the football pitches that adjoin the tennis courts. To permit a building for each group would not be a particularly efficient use of space. However, whilst a concern and in

some respects a missed opportunity, it is not considered that this issue would constitute a reason for refusal of planning permission.

#### Design and Appearance

- 11.8. The proposed outbuilding is considered to be acceptable in terms of general form and scale; it includes a modern sloped roof design and lightweight materials such as timber and large areas of glazing.
- 11.9. There are concerns about the additional fencing that would run along the western edge of the site, cutting the new building off from the public realm and reducing accessibility to it. This could also detract from the open character of the land and create a less inviting atmosphere, as identified by the City Parks team. It was suggested to the applicant during consideration of the application to remove the fencing, however, they have not chosen to pursue this option, citing security concerns. Whilst the location of this fencing is not considered to enhance the area, it is not considered so harmful as to warrant a reason for refusal of planning permission.

#### Impact on Heritage Assets

- 11.10. Hove Park is a non-designated heritage asset; the southern half of the park has been in use for sports-related activities since as early as 1908 and remains in such use to this date. Given the developed setting of the proposed development (i.e., adjacent to tennis courts and nearby to several other buildings) and its use to support sports functions, it is considered that it would have a neutral impact on the significance of Hove Park itself.
- 11.11. The proposed development is a sufficient distance from the Engineerium Conservation Area (and the listed building within it) that it should have no impact on the historic significance of these designated heritage assets.

#### Impact on Amenities

- 11.12. It is not considered likely that the proposed development would have any significant impact on the amenities of any person. It is sited in the middle of a public park, distant from any private properties, and is not of a scale or use that is considered likely to result in any significant noise output; there are no concerns in this regard.

#### Impact on the Public Highway

- 11.13. The proposed development is adjacent to the public highway and as abovementioned, would serve to create a sense of enclosure between the proposed fencing and building flank, and the existing trees and hedges on the west side of the footpath. As well as reducing pedestrian desire-lines, this would fail to maintain, improve and/or provide accessible routes that are easy, convenient and safe to use, and so would be contrary to policy DM33 of the Brighton & Hove City Plan Part Two.
- 11.14. The proposed development includes cycle parking provision, and this is welcomed in principle.

#### Biodiversity & Arboriculture

11.15. Policy CP10 of the CPP1 states:

*The council will develop programmes and strategies which aim to conserve, restore and enhance biodiversity and promote improved access to it through the following:*

*Ensure that all development proposals:*

- a) Provide adequate up-to-date information about the biodiversity which may be affected;*
- b) Conserve existing biodiversity, protecting it from the negative indirect effects of development, including noise and light pollution;*
- c) Provide net gains for biodiversity wherever possible, taking account of the wider ecological context of the development and of local Biosphere objectives; and*
- d) Contribute positively to ecosystem services, by minimising any negative impacts and seeking to improve the delivery of ecosystem services by a development.*

11.16. Policy DM22 of the CPP2 states:

*Development proposals will be required to retain, improve and wherever possible provide, appropriate landscape elements/landscaping, trees and planting as part of the development taking into account the need for:*

*...*

- c) accurate identification of all existing trees, shrubs, hedgerows and landscape features;*
- d) the retention of existing trees and hedgerows with details provided of appropriate protection during construction.*

*...*

*Works to a protected tree will be permitted only where they do not damage the amenity value and health of the tree and/or are the minimum consistent with good arboricultural practice.*

*The felling of a protected tree will only be permitted where it is severely diseased or dangerous, or, it is necessary to accommodate development of national importance which cannot be located elsewhere; and, a replacement tree is provided of a type, size and location to the satisfaction of the council.*

11.17. Policy DM37 of the CPP2 states:

*Development should avoid adverse impacts and seek to conserve and enhance biodiversity and geodiversity features ensuring:*

- accordance with the mitigation hierarchy requirements of the NPPF\*;*
- an additional measurable net gain in biodiversity is achieved;*
- that recognised protected and notable species and habitats are protected and supported;*
- that appropriate and long-term management of new or existing habitats is secured and opportunities to connect habitats are secured to ensure a network of nature recovery;*

*\*Paragraph 180 of the NPPF states:*

*When determining planning applications, local planning authorities should apply the following principles:*

- a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused...*

- 11.18. It is noted that the development is built upon a mainly grassed area with the only significant biodiversity being a hedgerow and a mature White Mulberry. Although biodiversity improvements such as a green roof and wildflower planting have been included in the proposed development, it is considered that loss of the existing biodiversity, in particular the potential loss of the tree due to the impact of the development upon it, would represent a significant and avoidable loss. It is therefore considered that the policy requirement to retain trees on site has not been met; there is ample space elsewhere in the park for a development of this scale where it would not impact on any trees, and the City Parks team has suggested an alternative location. The development is sited too close to the mature White Mulberry tree and is considered unacceptably likely to result in the loss of this tree, even when considering the construction method using ground screws instead of more substantial footings. In addition to the likely root damage, the structure itself would intrude into the relatively low-lying canopy of this tree and require significant facilitation pruning, which would further reduce the health of this tree. Given that this potential impact is avoidable by relocating the development, it is not justified, and the development is contrary to policies CP10 of the CPP1, and DM22 and DM37 of the CPP2.

### **Conclusion**

- 11.19. The proposed development is considered acceptable in terms of appearance and the impacts it may have on the amenities of local residents. The public benefits of the scheme providing an improved tennis offer at Hove Park are acknowledged. However, the proposed building would be sited unsuitably close to a mature White Mulberry tree and it likely to cause the loss of this tree due to root damage and facilitation pruning.
- 11.20. For the foregoing reasons the proposal is considered to be in conflict with policies CP10 and CP13 of the Brighton and Hove City Plan Part One, and DM22, DM33 and DM37 of the City Plan Part Two.

## **12. EQUALITIES**

- 12.1. An accessible WC is included on the proposed floor plan, and this is supported in principle. Details of access onto the terrace and whether or not this is step-free have not been provided but could be sought by condition in the event planning permission was granted; therefore, this is not considered to be reason to object in this instance.

## **13. CLIMATE CHANGE/BIODIVERSITY**

- 13.1. The proposed development includes biodiversity improvements such as a wildflower area and a green roof, and bee bricks could be secured by condition. However; the development would result in the loss of a hedgerow, and there are significant concerns regarding the proximity of the development with a mature White Mulberry. It is considered likely that the proposed development will a) cause damage to the remaining root system of this tree, and b) by reason of its physical structure itself will require extensive pruning of the tree canopy. Both these factors lead to the conclusion that the development will likely lead to the loss of this tree which will have a significant detrimental impact on local biodiversity. In terms of climate change, trees act as carbon sponges and loss of even a single tree will have a detrimental impact in this regard.