



A Garden Fit for A King: Reawakening Brighton Royal Estate
Phase 2 Planning Statement

September 2023

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1. Introduction

1.1 Introduction

This Planning Statement has been prepared on behalf of Royal Pavilion and Museums Trust (RPMT) to accompany an application for Planning Approval and Listed Building Consent for Phase 2 of the wider project; 'A Garden Fit for A King: Reawakening Brighton Royal Estate.'

The report should be read alongside the suite of documents submitted by agent Allen Scott Landscape Architecture.

2. Project Context and Location

2.1 Location and Project Background

The Royal Pavilion Garden (the Garden) is located in the center of the City of Brighton and Hove. The Garden comprises an area of 3.3ha and was originally designed for King George IV by John Nash and laid out between 1816 and 1825 during the construction of the Pavilion, although Nash's plan overlaid part of the earlier scheme by Samuel Lapidge.

The Garden is a Grade II Registered Historic Park and Garden, and surrounds the iconic Grade I listed Royal Pavilion. In 1981/82, in conjunction with a complete refurbishment/restoration of the Royal Pavilion, the decision was taken to re-create Nash's layout for the grounds.

The primary significances of the Garden are its history as a Regency style private royal garden, and setting for the exuberant Royal Pavilion, together with its 165 year legacy as an important public park and open space in the heart of Brighton.

The Garden is the only example of an essentially fully-restored, picturesque, Nash-designed Regency garden.

2.2 Vision

The Royal Pavilion Estate comprises a historic royal palace and Regency Garden, a museum & art gallery and three performing arts spaces. Key facets of the project vision can be found within the Development Stage Design Report submitted with the planning application.

In summary the overall vision and aims for this three phased project are to:

- Reconnect the historic buildings and landscape and re-establish their identity as a single magnificent Estate.
- Conserve the Royal Pavilion Estate's Grade I & II listed buildings and historic landscape for the future.
- Help more people learn, enjoy and care about the Estate and its history. Present unique opportunities in a matchless environment to engage with and participate in all forms of art and culture.
- Enable closer working between the Royal Pavilion & Museums Trust and Brighton Dome & Brighton Festival to make them more efficient, sustainable and resilient.

- Drive the Estate's capacity and central importance to delivery against Brighton's Economic, Visitor Economy, Cultural, Heritage and Environmental strategies.

Above all, this project will make it possible to offer world class, varied and enriching experiences across the estate to more people and at all times of year.

2.3 Project Scope

The scope of the project - 'A Garden Fit for A King: Reawakening Brighton Royal Estate Phase 2' includes:

- Restoration, conservation and enhancement of the entrances to the garden.
- Restoration / reinstatement of historic walls, iron railings, gates and existing perimeter buildings.
- Restoration of the 19C historic lamp posts and installation of matching new lighting.
- Restoration of the iconic Nash views in the western lawn compartment and the east/northeast lawn compartments through enhancements to planting, lawns, groundworks and removal of modern trees and hedging that impedes views.
- Restoration of the entire path network with improved drainage and widening where necessary.
- Design of a new utilities area (bin store)
- Design of a new outdoor learning space with adjacent storage and handwash facility
- Design of a new Changing Places toilet.
- Restoration/development work to enable relocation of the gardeners' utility sheds.
- Design and simplification of internal fencing to garden beds.
- Enhanced drainage and improvements to the existing irrigation system.

2.4 Planning Policy

The planning application for this proposal is co-ordinated and submitted by Allen Scott Landscape Architecture and contains many detailed reports and drawings describing the design development and rationale behind the scheme.



As part of the overall application there are included relatively minor elements of refurbishment work to existing buildings, notably the existing public toilet facilities on site. In addition are elements of restoration and minor improvements to facilities, all as noted above.

In ascertaining what planning policies apply we have been mindful of the relatively small scale of these proposed building works set within the wider significant context of the Registered Historic Park and Garden and the historical importance of the overall setting.

We have therefore focused below on the currently applicable policies from Brighton and Hove City Council's Local Plan and reviewed Part 1 and Part 2 of the City Plan, alongside any relevant Supplementary Planning Documents (SPDs), extant Supplementary Planning Guidance (SPGs) and current Planning Advisory Notes (PANs).

By way of structuring this discussion we have included relevant text from selected policies and concluded at the end of each how they might apply and if so, how the proposals address the requirements.

3. Relevant Policies: City Plan Part 1

“SA2 Central Brighton

To reinforce central Brighton’s role as the city’s vibrant, thriving regional centre for shopping, leisure, tourism, cultural, office and commercial uses:

1. The Council will strengthen the distinctiveness and legibility of the ‘cultural quarter’¹⁰⁰ and ensure its long term success and viability through ongoing improvements to the attractiveness of the physical environment and public realm; ensuring that historic buildings are maintained and enhanced and by requiring new development to support and maintain the vibrant mix of cultural activities, business, retail, leisure and tourism uses.

Supporting Text

3.131 Within central Brighton, there is a concentration of nationally and internationally significant cultural businesses and buildings including the Royal Pavilion, the Brighton Museum and Art Gallery, the Brighton Dome, the Theatre Royal, the new Jubilee Library and the Komedia. At the heart of the area is the iconic and internationally famous Royal Pavilion without which little of the cultural and historic development of the city centre would have occurred. The wider area is described as the city’s cultural quarter.

Cultural and creative industries and the retail, tourism and hospitality sectors continue to innovate, strengthen and grow within this area and it is important to ensure that the cultural role of the area is promoted and supported¹⁰².

Table 1.....sets out how this policy will help to deliver against the principles and local targets under the One Planet approach, which is a strategic approach to enabling the city to live within environmental limits.

¹⁰⁰ ‘Cultural Quarter’: - the area centred on Church Street, Jubilee Square, the Royal Pavilion Estate and the Theatres

¹⁰² Creative Industries Workspace Study 2008”

Response

As the aims of the proposals are to increase the variety and quality across the estate, year round, and also include the restoration and conservation of the historical buildings and gardens, the scheme is clearly aligned with the aims of SA2

and should in this context only be seen as beneficial to the wider cultural quarter of Brighton and Hove.

“SA3 Valley Gardens

The city council will work with public and private sector partners and the local community to enhance and regenerate the Valley Gardens area in an integrated manner that reinforces its strategic significance, emphasises its historic and cultural character, reduces the adverse impact of vehicular traffic, improves local air quality and creates a continuous green boulevard that reconnects the open space to the surrounding urban realm.

Context

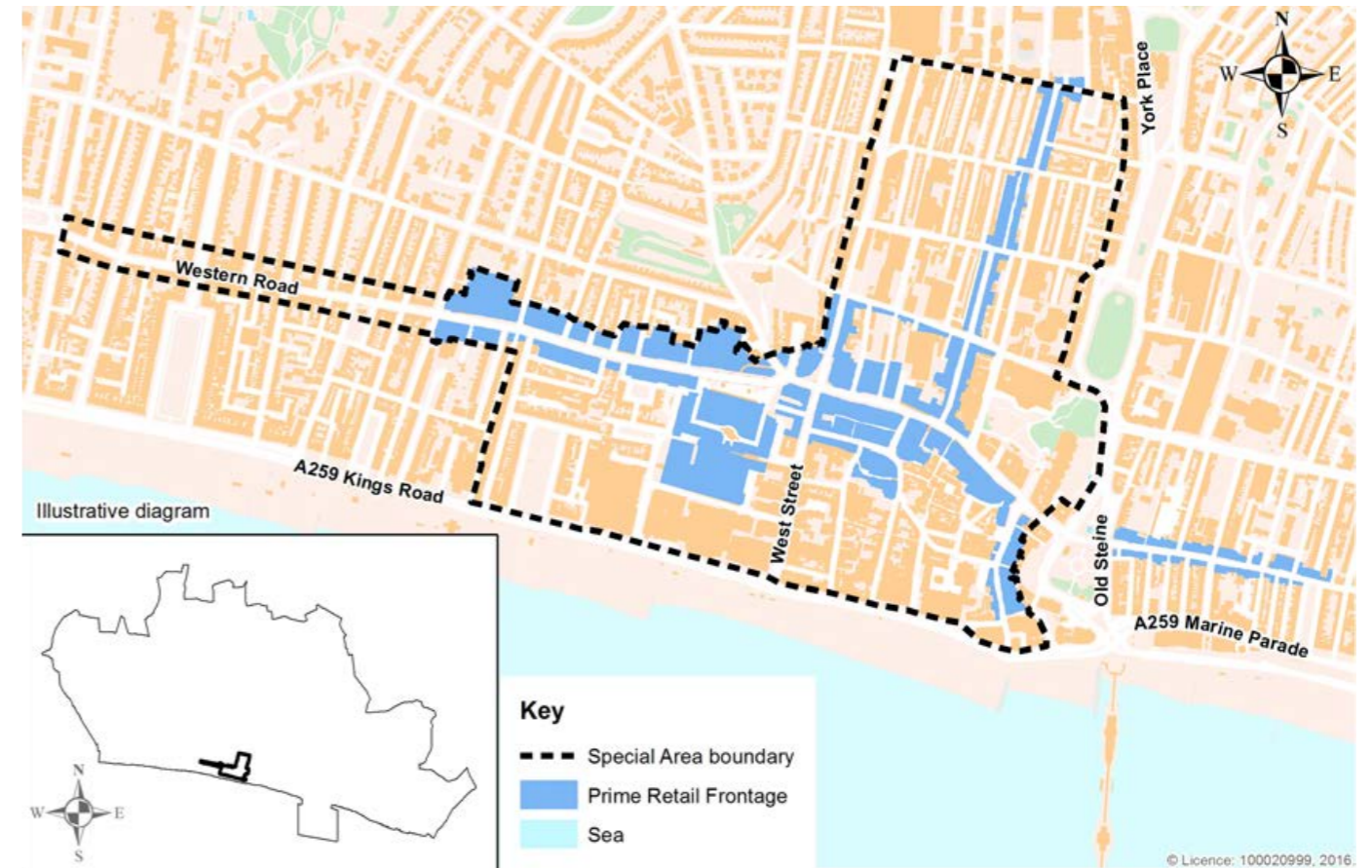
3.144 For the purposes of this policy, the Valley Gardens comprise the open spaces and surrounding roads that run in a linear manner from Old Steine in the south to the Level in the north, **excluding the Pavilion Gardens**. This area is of unique strategic and topographic significance to Brighton & Hove in the way in which a number of major issues co-exist and, in some cases, conflict.

These include: the area’s role as an arrival/departure point for visitors; its function as a major traffic route (the A23 sustainable transport corridor); its cultural and heritage significance; its provision of public open space; its inclusion within the academic corridor; its wide mix of land uses; and its role as a venue for major events.

However, the area is currently failing to fulfil its potential.”

Response

As is noted with the supporting text to SA3, this policy specifically excludes the Pavilion Gardens and so this policy does not apply.



Illustrative plan from SA2 indicating Central Brighton Area

“CP5 Culture and Tourism

The council will work with partners to maintain and enhance the cultural offer of the city to benefit residents and visitors. It will support the role of the arts, creative industries and sustainable tourism sector in creating a modern and exciting visitor destination with a range of high quality facilities, spaces, events and experiences.

1. New visitor attractions, arts and festival events will be expected, where appropriate to comply with the requirements of national planning policy¹⁷¹ and:
 - be of a high environmental standard in terms of design, management and access;
 - complement and build on the city's distinct tourism offer;
 - contribute to a sense of place;
 - reduce seasonality;
 - promote diversity;
 - widen local access;
 - support the regeneration of the city and benefit the city's economy; and
 - be accessible by public transport.

The council will support the retention, upgrading and enhancement of existing visitor facilities to meet changing consumer demands and high environmental standards in terms of design, management and access;

.....4.51 The tourism industry has been successful in responding to changing markets, tastes and style and the city has seen nearly a decade of steady investment in its tourism product. If Brighton & Hove is to remain competitive as a tourist destination, it needs to develop unique visitor attractions and experiences. A well-planned, sustainable and prosperous tourism industry is a catalyst for improving the environment of the city and the wellbeing of its people.

The Tourism Strategy highlights specific products where there is real potential for growth and therefore increasing the economic value of the visitor economy; these are health & activity; culture & heritage, events & attractions, business

conferences; film & television and architecture & the built environment; study & education tourism. The Council will support improvements to existing facilities and seek the highest standard from new tourism proposals and ensure they accord with the council's long-term vision for the city's tourism industry as set out in the Tourism Strategy¹⁷⁶ and its four guiding principles¹⁷⁷ and any subsequent tourism strategy.

.....4.53 As well as enjoying the seafront, leisure visitors come to the city to shop, eat out, and enjoy culture, the built heritage, entertainment and nightlife. The city has tapped into the growing short break and cultural tourism markets, still mainly at weekends, but this extends beyond the summer into the spring and autumn.

It is also important to recognise the importance of the city's natural environment, particularly the South Downs National Park as a tourism asset and other areas of the city attractive to visitors. The Tourism Strategy identifies six tourism places across the city with a specific character and role when visitors come to the city¹⁷⁸ and this has been addressed in the City Plan Part 1 through DA1- 5 and SA1- SA5.

With only three miles between the sea and the South Downs at the widest point there is the potential for the city to become one of the UK's leading destinations for eco-tourism, reflecting the growing maturity of the city as a tourist destination and the need to create a stronger visitor experience between the city and the South Downs. Table 1 on page 26 sets out how this policy will help to deliver against the local targets under the One Planet principles, which is a strategic approach to enabling the city to live within environmental limits.

..... 4.54 Developing and promoting culture is a key way of attracting valuable off-peak visitors but also supports regeneration and sustainable communities. Recent investment by agencies such as the Arts Council and through Lottery funding for venues such as the Brighton Dome, Brighton Museum and Art Gallery have helped to establish a critical mass of cultural development around the Royal Pavilion and Dome (see SA2 Central Brighton). However the arts and cultural sector can also be found across the city including public art, open studios, retail galleries and exhibitions, the universities and further education institutions, street theatre and free arts events and festivals.

.... 4.57 The role of iconic buildings such as the Royal Pavilion to the attractiveness of the city as a visitor destination is recognised and the importance of culture to the city's environment, image and prosperity is reflected in many of the City Plan policies. These include CP12, CP13 and CP15 relating to high quality design and improving the public realm and heritage, seafront regeneration proposals (see SA1 The Seafront), regenerating the Valley Gardens (see SA3 Valley Gardens), maintaining and enhancing the role of central Brighton including supporting the Cultural Quarter (see SA2 Central Brighton) and through the major development opportunities identified at Brighton Marina, Gas Works and Black Rock (DA2) and the Brighton Centre and Churchill Square redevelopment (DA1).

176 The Refreshed Tourism Strategy 2008 has set out a vision that by 2018, Brighton & Hove will be a destination where the needs of the visitor, the tourism industry, the community and the environment are in complete balance and consequently will make a significant contribution to improving the quality of life for local people.

177 The Tourism Strategy 2008 sets out four guiding principles to take the vision forward: investment in infrastructure & physical environment; sustainable & responsible tourism; improving quality & raising standards and partnership & consultation.

178 They are gateways to the city (in particular railway and coach stations but also the Lewes Road, London Road); the Seafront; Neighbourhoods (Kempton, central Hove and Brunswick); The Downs & Villages (South Downs and Stanmer, Rottingdean); Central Brighton Retail areas (The Lanes & North Laine); Parks & Open Spaces (Preston Park, The Level, Pavilion Gardens)“

Response

As noted above relating to SA2 (also referred to within CP5) the proposals will support the retention, upgrading and enhancement of existing visitor facilities.

Refurbishment works to the existing toilet block will include increasing it's energy efficiency and thermal performance albeit there are site constraints that reduce the effectiveness and appropriateness of renewable technologies such as PV arrays and ASHPs. Hence partial alignment with One Planet principle 10: Zero Carbon Energy, should be expected rather than incorporation of effective renewable energy sources.

Otherwise, the proposals fully align and support the policy aims of CP5 and so are compliant with requirements.

“CP13 Public Streets and Spaces

The quality, legibility and accessibility of the city's public urban realm will be improved in a comprehensive manner, in conjunction with other partners, through new development schemes, transport schemes and regeneration schemes. Such improvements will be required to produce attractive and adaptable streets and public spaces that enrich people's quality of life and provide for the needs of all users by:

1. Positively contributing to the network of public streets and spaces in the city;
2. Enhancing the local distinctiveness of the city's neighbourhoods;
3. Conserving or enhancing the setting of the city's built heritage;
4. Reducing the adverse impact of vehicular traffic and car parking;
5. Utilising high quality, robust and sustainable materials for all elements of the street scene;
6. Incorporating street trees and biodiversity wherever possible;
7. Encouraging active living and healthier lifestyles;
8. Helping to create safe and inclusive public spaces;
9. Incorporating an appropriate and integral public art element; and
10. Reducing the clutter of street furniture and signage.

In appropriate cases new developments will be expected to make a contribution to achieving these requirements (see CP7).

Supporting Text

4.154 Brighton and Hove's streets and public urban spaces do not always do the city justice. The pedestrian and cycle links between the areas that people want to get to are not as good as they could be, streets can be cluttered, materials are inconsistent and there may be too few places to rest. An opportunity exists to create a simpler but high quality urban realm that is pedestrian and cycle-friendly

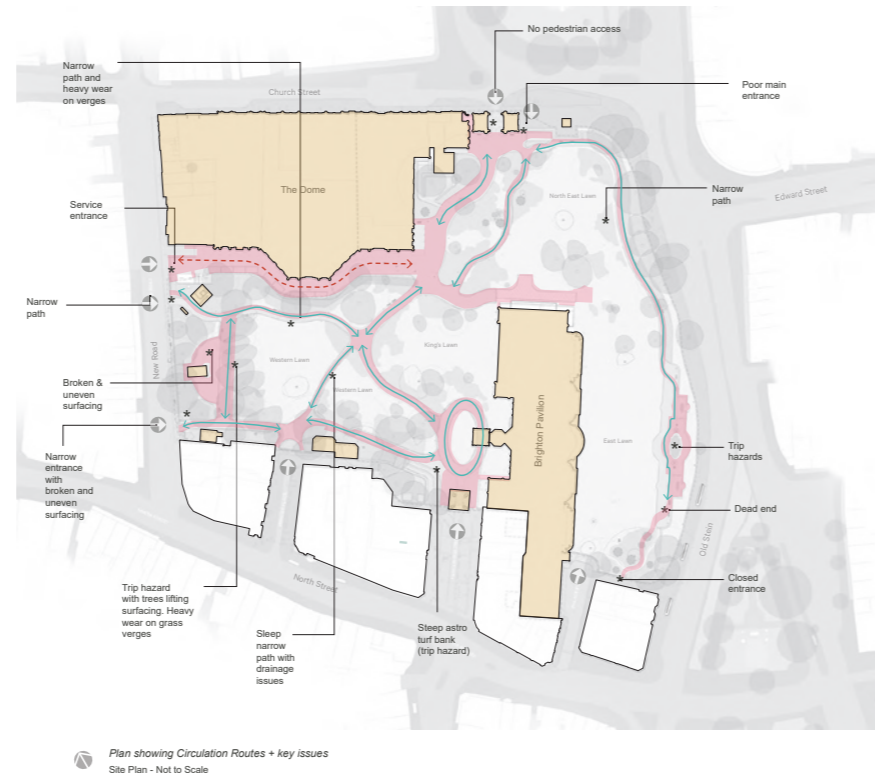
but accommodates the needs of all people. This may be in conjunction with improvements to sustainable transport (see policy CP9).

The purpose of this policy is to ensure that new development contributes towards the implementation of public urban realm improvements proposed by the Public Space Public Life Study (2007), where appropriate, and that all public realm works (whether publicly or privately funded) are designed to achieve consistent aims and standards and use locally sourced materials where possible. The council's Streetscape Design Guidelines (2010) set out the appropriate street furniture etc for use in the city."

Response

The proposals are aimed at improving the public realm and user experience of the gardens, siting at the heart of the cultural quarter within the City. They follow the principles captured and recommended by the Public Space Public Life Study (2007) produced by Gehl Architects, particularly those recommended for Local Scale.

However, fencing is being strengthened and New Road seating replaced in order to address pervading anti-social behaviour, thereby adding to the overall attractiveness and sense of security of the area.



Following a review of the Access Audit and existing Gardens infrastructure and in close liaison with the BHM Gardens Team and Interpretation consultant the plan (left) identifies the location of new / replacement furniture.



"CP15 Heritage

The council will work with partners to promote the city's heritage and to ensure that the historic environment plays an integral part in the wider social, cultural, economic and environmental future of the city through the following aims:

- The city's historic environment will be conserved and enhanced in accordance with its identified significance, giving the greatest weight to designated heritage assets and their settings and prioritising positive action for those assets at risk through, neglect, decay, vacancy or other threats. The council will further ensure that the city's built heritage guides local distinctiveness for new development in historic areas and heritage settings;
- Where proposals are promoted for their contribution to mitigating climate change, the public benefit of this will be weighed against any harm which may be caused to the significance of the heritage asset or its setting; and
- The Conservation Strategy²¹⁷ will be taken forward and reviewed as a framework for future conservation area management proposals; to provide criteria for future conservation area designations and other local designations, controls and priorities; and to set out the council's approach to dealing with heritage at risk.

Supporting Text

4.169 The city's rich architectural heritage encompasses the internationally renowned Royal Pavilion and nearly 3,400 other listed buildings as well as 15 scheduled monuments, six registered parks or gardens of special historic interest, 34 conservation areas, numerous locally listed heritage assets and over 80 Archaeological Notification Areas²¹⁸. The council will promote better understanding of the extent and significance of all the city's heritage assets and their settings in order to ensure a well informed and proportionate approach to their conservation.

Undesignated heritage assets will be identified by means of a comprehensive review of the current Local List, through early discussions with applicants and, in the case of archaeological sites such as downland features, through partnership working with the County Archaeologist.

4.170 A requirement to conserve the identified special character of conservation areas, and the settings of other heritage assets, will be reflected in Planning Briefs and area-based Supplementary Planning Documents where appropriate and will inform the Urban Design Framework proposed under Policy CP12.

New development in conservation areas, and within the setting of heritage assets, should take the opportunity to enhance the significance of those areas or settings wherever possible. Some of the city's conservation areas are very cohesive and would often be best enhanced through careful infill buildings that authentically reflect historic precedents. Other areas are more diverse in appearance and are very capable of accepting bold and innovative contemporary designs as long as, for example, rhythm and proportion respect the prevailing historic context.

4.171 The council will continue to maintain a register of those listed buildings considered to be 'at risk' or 'vulnerable' through neglect, decay, vacancy or other threats and will actively seek to bring such buildings back into appropriate use and/or a good state of repair.

Conservation areas and other assets 'at risk' will also be monitored and action identified that would remove or mitigate the threats to their special interest. Such action may include the introduction of Article 4 Directions to control permitted development rights where such rights are undermining the aims for the historic environment.

4.172 Keeping heritage assets in use is inherently sustainable as it avoids the consumption of building materials and energy and the generation of waste from the construction of replacement buildings.

Where proposals that are promoted for their contribution to climate change objectives have a potentially negative effect on a heritage asset, the council will wherever possible help the applicant to identify feasible solutions that deliver similar climate change objectives but with less or no harm to the heritage asset and its setting.

This policy will also help to deliver against the local targets under the One Planet principles, which is a strategic approach to enabling the city to live within environmental limits (see Table 1 on page 26).

4.173 The council's Conservation Strategy (2003) seeks to actively manage change within the historic environment and to ensure that available resources are put to the best possible use. It will be reviewed and revised in respect of any changes in legislation and governmental policy advice and, subject to public consultation, to reflect future local priorities. A Historic Character Assessment report for Brighton & Hove (2007), carried out as part of the Sussex Extensive Urban Survey, provides an assessment of the city's historic core and will inform relevant conservation area character statements and management plans.

4.174 CP5 Culture and Tourism recognises the relationship of the wealth and importance of the city's historic environment with tourism and cultural industries in the city. This policy also has important links to CP13 Public Streets and Spaces.

217 *The Strategy for the Conservation of Brighton & Hove's Historic Built Environment (2003) (and subsequent revisions)*
 218 *These are sites that have been compiled by the County Archaeologist as part of the Sites and Monuments Record. These areas are judged to have county and city wide importance and are known to have archaeological remains or features. Some might on further detailed investigation merit designation as a Scheduled Monument."*

Response

The proposals are within an Archaeological Notification area DE13606 and as such require reference to the Historic Environment Record (HER.)

The proposals also respond positively to the adopted 2018 Garden Conservation Management Plan (CMP) produced by Chris Blanford Associates. This in turn referenced the Sussex Extensive Urban Study Brighton & Hove Historic Character Assessment Report Assessment Report (EUS) 2007 which compiled using data drawn from the East Sussex County Council Historic Environment Record (HER.)

As noted within the submitted Heritage Statement & Impact Assessment for this application, and referred within the SRHEL 2022 Addendum to the 2018 CMP, Policy 13, further archaeological investigations would be expected to be conditioned in the form of a watching brief for new works involving tree stump removal, ground works for drainage



Plan showing Features of Significance
 Site Plan - Not to Scale

FEATURES OF SIGNIFICANCE

The 2022 Conservation Plan Addendum identifies the following features of significance

- | |
|--|
| Exceptional Significance |
| 1. Royal Pavilion (listed Grade I) |
| 2. The c.1815 Nash layout and Aiton planting scheme including beds and routes |
| 3. Regency planting scheme (restoration and appropriate mature trees) |
| 4. C18 and C19 trees, and the Elm collection |
| 5. Landscape Character Areas as designed |
| 6. The Dome Concert Hall (formerly the stables) |
| 7. Views of and from the wider landscape of Brighton as conceived by Nash particularly to the east and south-east. |
| 8. North Gate (listed Grade II*) |
| 9. Corn Exchange (formerly the Riding House) (listed Grade I) |
| Considerable Significance |
| 10. 1920s alterations including MacLaren pools and associated garden on East Lawn |
| 11. Indian Memorial Gate, attached walls and piers (1921) |
| 12. (Listed Grade II) |
| 13. Roadside balustrade (1920s) |
| 14. C19 iron railings |
| 15. Museum & Art Gallery (formerly part of stables) (listed Grade II*) |
| 16. Ice House (c.1820) |
| Some Significance |
| 17. North gate House, attached walls piers and railings (listed Grade II*) |
| 18. Cast iron lamp standards (c.1835) (listed Grade II) |
| Little significance or neutral |
| 19. Café by New Road (1950) |
| 20. Education building |
| Intrusive or Damaging |
| 21. Public conveniences |
| 22. Energy centre |
| 23. Bin store for The Dome |
| 24. Maintenance sheds |
| 25. Max Miller statue |
| 26. Street furniture, bins, modern lighting, modern style fencing etc. |
| 27. Prince's Plain entrance path |
| 28. Planting which does not follow or evoke the Nash scheme including trees and hedge which damage layout and views by 1830. |
| 29. Visibility of Grasscreepe below north front |
| 30. Skating rink |
| 31. Bow top fencing |
| 32. Tarmac and slab surfacing of routes |
| 33. Unkept immediate setting along boundaries and at gateways |

and any new structures.

Hence, the proposals are fully in alignment with policy requirements of CP15.

"CP16 Open Space

The council will work collaboratively to safeguard, improve, expand and promote access to Brighton & Hove's open spaces (public and private) and the diverse range of experiences offered by these spaces. This will be achieved through the following:

Retaining and enhancing open space

1. The council will require the retention of and seek better, more effective and appropriate use of all existing open space, as shown on the policies map, having regard to the Open Space, Sports and Recreation Study and the Open Space Update Study.

Planning permission resulting in the **loss of open space**, including the beach, will only be granted where....."

Response

As no loss of open space is being proposed, and as no mention of the Pavilion Gardens is made within the Open Space Update Study, we understand that CP16 does not apply to these proposals.

The policy continues to describe the expected open space requirements of new developments but again, as these proposals are not for new developments, then CP16 does not apply.

4. Relevant Policies: City Plan Part 2

“DM12 Regional, Town, District and Local Shopping Centres

Commercial, business and service uses (use class E), learning and non-residential institutions (use class F1) and local community uses (use class F2) will be supported within the city’s defined Regional, Town, District and Local Centres (as set out in CPP1 policy CP4 and as shown on the Policies Map).”

Response

This policy is aimed at preserving the shopping centre of central Brighton in terms of land use, character and size of proposed retail units. As the scheme does not contain any proposals for retail provision this policy should not apply.

“DM26 Conservation Areas

Development proposals within conservation areas, including alterations, change of use, demolition and new buildings, will be permitted where they preserve or enhance the distinctive character and appearance of that conservation area, taking full account of the appraisal set out in the relevant character statement. Particular regard will be had to:

1. The urban grain and/or historic development pattern of the area, including plot sizes, topography, open space and landscape.
2. The typical building forms and building lines of the area, including scale, rhythm and proportion.
3. The cohesiveness or diversity of an area.
4. The retention of buildings, structures and architectural features that contribute positively to the identified character and appearance of the area.
5. The preservation or enhancement of key views.
6. The primary importance of street elevations (or other publicly visible elevations) and the roofscape.
7. The importance of hard boundary treatments and the distinction between public and private realm.

8. The retention of trees and gardens where these are integral to the significance of the area.
9. The use of building materials and finishes that respect the area.
10. The retention of historic street furniture.

Supporting Text

2.196 Opportunities for enhancement of a conservation area, including beneficial change, may be set out in a character statement or management plan for the area. The council will have regard to management plans when instigating proactive programmes of action to secure the repair and redecoration of buildings, through enforcement where necessary.

2.199 The council will support the removal or improvement of buildings that have been identified in a character statement as harming a conservation area.

2.200 Contemporary and innovative design approaches in conservation areas will be supported where they meet the policy. Such approaches may be most appropriate in those conservation areas that are diverse in character and appearance. In all cases applications should demonstrate that they have been subject to careful design and heritage analysis. Where appropriate, having regard to the scale of the development and the extent and importance of the heritage asset(s), a Heritage Impact Assessment will be required with an application. This should have regard to the Historic England guidance on ‘Statements of Heritage Significance’.

2.202 Matters of detailed design will be carefully considered to avoid the gradual erosion of historic character. The retention of architectural features and materials that positively contribute to conservation areas is vital.

The planning authority will seek the restoration or reinstatement of such features when considering planning applications, subject to clear evidence. “

Response

These proposals focus on improving and enhancing the context and setting of the Registered Historic Park and Garden, including the conservation and restoration of elements within it. In this respect they align fully with the requirements of DM12.

Furthermore, all interventions have been carefully assessed within the Heritage Impact Assessment contained within the Heritage Statement. As such the proposals also meet the submission requirements of DM12.



Figure 6 Location Map of Proposals for New Works Assessed in HIA Table 4.2. For detail see overall site drawing No. 725-100 and detailed areas dwg Nos. 725-101-104 and RIBA 3 Proposals Report Ref: 725-501 (Allen Scott Landscape Architecture, Development Stage Design Report, August 2023) for project scope and vision, significances, conservation policies, capital works objectives, appraisal of potential sites for new elements with strategy and design concepts, description of new elements.

Key to proposals mapped above

1. Reinststate missing boundary fence & gates to standard to secure site at night (red dotted line)	2. 1921 Pools East Lawn: Refurbish; reinststate historic surroundings
3. Widen path at perimeter of East & NE Lawns	4. New vehicle entrance to East Lawn off Palace Place
5. Resurface environs of North Front & gate, NE lawn	6. New Learning Area in bed near North Gateway
7. New terraces and walls to Indian Memorial Gate	8. Replacement gates & new perimeter railings to Indian Memorial Gate
9. Refurbish gardeners’ maintenance compound	10. Redesign/reduction of BDBF Refuse Store
11. Public WCs, existing, reprovision incl. Changing Places & kiosk	-

“DM31 Archaeological Interest

Development proposals affecting heritage assets with archaeological interest will be permitted where it can be demonstrated that development will not be harmful to the archaeological interest of the heritage assets or their settings, having regard to their significance. This will include: direct impacts on designated sites (e.g. developments requiring Scheduled Monument Consent); indirect impacts on the settings of designated sites; and impacts on sites that have the potential to include heritage assets with archaeological interest, (having consulted the Historic Environment Record).

In all such cases the applicant will be expected to consult with the Historic Environment Record (HER) in order to provide for one of three outcomes:

1. No significant impact considered likely and no further consultation with the HER considered necessary;
2. A Historic Environment Consultation Report
3. A desk-based assessment.

The results of any report or assessment should be included within a Heritage Statement, which must accompany the planning application.

Where the council has reason to believe, either from the archaeological assessment or from other evidence sources, that significant archaeological remains may exist, a suitable field evaluation and/or survey (e.g. for standing buildings and structures) will be required pre-determination.

In some cases permission may be granted subject to a requirement that no development shall take place until the developer has secured the implementation of a programme of archaeological work (including field work, post excavation analysis, reporting and archiving), in accordance with a Written Scheme of Investigation approved by the council.

Preservation in situ of archaeological sites or remains is the preferred option. Wherever practical, opportunities should be taken for the enhancement and interpretation of remains left in situ.

Where the assessment shows that preservation in situ is not

justified, developers will be required to:

1. Record any heritage assets to be lost (wholly or in part) in a manner proportionate to their significance and to make this record publicly accessible; and
2. Make provision for the conservation and storage of artefacts.

Planning conditions may be imposed, or a planning obligation sought, in order to secure these requirements.

Supporting Text

2.229 Archaeological remains are finite and irreplaceable resources which are particularly vulnerable to the effects of new development. Archaeological interest is defined in the NPPF. Where either substantial harm or less than substantial harm is identified the council will expect the applicant to fully meet the requirements set out in the NPPF.

2.230 Designated sites of archaeological interest are Scheduled Monuments. The NPPF identifies two categories of non-designated sites of archaeological interest: those that are demonstrably of equivalent significance to Scheduled Monuments and so considered subject to the same policies as those for designated heritage assets; and other non-designated sites.

2.231 The known areas of archaeological interest within Brighton & Hove are included within the Historic Environment Record (HER) as Archaeological Notification Areas (ANAs). The identification of ANAs is a dynamic process that changes over time as new evidence comes to light and it is therefore important to check the HER for the latest areas. Some heritage assets within ANAs, or even outside, might on further detailed investigation merit designation as a Scheduled Monument.

2.232 Archaeology does not relate to below ground remains only. Buildings and other standing structures may also have archaeological interest as they hold evidence of past human activity and are a primary source of evidence about the substance and evolution of places and the people and cultures that made them. Archaeological recording of standing buildings will therefore be required where necessary in order to properly understand significance.

2.233 In applying this policy the council will expect that field evaluation includes trial trenching, topographical surveying and geophysical surveying.

2.234 Where important archaeological features or remains are uncovered during an approved programme of archaeological works, it is essential that these are subject to recording, storage and interpretation. There is currently no museum or archive space available within Brighton & Hove for the storage of archives arising from archaeological investigations.

Therefore where an application is subject to a programme of archaeological works the developer will be expected to make a financial contribution towards the costs of the storage facility, as set out in the council’s Infrastructure Delivery Plan, and to ensure that the archive is prepared to accepted standards and made available for deposition.

2.235 Where structures or land uses exist on Scheduled Monuments or other important archaeological sites that are damaging or potentially damaging to their archaeological interest, the council will seek their removal where practicable. Where appropriate, the council will also consider making Article 4 Directions to control developments that are considered to be harmful.”

Response

As noted above in the response to CP15, the Heritage Statement produced by SR Historical Environment Ltd, (SRHEL) sets out the significant elements of the historic environment in the Royal Pavilion Garden, as presented in their 2022 Addendum to the 2018 Garden Conservation Management Plan (CMP) produced by Chris Blanford Associates.

The CMP has been referred to as guidance and briefing information throughout the design development of this planning application. The SRHEL addendum includes within it a set of proposed Garden Policies of which Policy 13; Archaeology, notes the recommendations of the MOLA Desk-Based Report (2022) that all above and below ground archaeology should be “safeguarded, conserved, enhanced and managed” appropriately to reflect relevant historic

landscape conservation policies.

It is therefore anticipated that an archaeological watching brief will be required under condition to supervise new works involving excavation and earth moving in areas of high potential, e.g. tree stump removal, drainage ground works and new structures.

“DM32 The Royal Pavilion Estate

1. **Proposals that seek to re-establish the Royal Pavilion estate as a single historic estate will be encouraged and supported. Such proposals should be informed by the adopted Conservation Plan⁶⁰. It is expected that a successful scheme should achieve the following:**

2. **With regard to the Royal Pavilion itself proposals will be supported where they seek to contribute to at least one of the following objectives:**

- a) Improve the visitor welcome;
- b) Increase accessibility;
- c) Restore additional areas of the building and open them up for public access; and/or
- d) Improve catering facilities for functions and events.

3. **Proposals for temporary uses or events within the gardens will be assessed against the policy on Registered Parks and Gardens with particular regard to all of the following:**

- a) The role of the gardens as a setting for the listed buildings;
- b) The protection of key views;
- c) Potential impacts on historic fabric and any protective measures;
- d) Potential impacts on planting and biodiversity; and
- e) The importance of the formal and quieter character of the east lawn.

Supporting Text

2.236 The Royal Pavilion estate is a unique collection of multiple heritage assets and cultural facilities clustered around the intimate historic gardens, which are intrinsically linked by their history as a 'Royal estate'. The estate forms the heart of the city centre's 'cultural quarter'. However these links have been eroded and undermined by past changes and fragmented management and through poor presentation. This has resulted in an unsatisfactory visitor experience and a lack of understanding of, and respect for, the heritage significance of the estate. At its worst this results in anti-social behaviour and damage to historic fabric.

2.237 In order to reunify the Royal Pavilion estate it will be essential to re-awaken the potential of the gardens as the means to mediate and connect the complex relationships between the historic buildings, so restoring the character of a 'Royal estate'. Whilst the gardens were positively restored in the late 20th century, opportunity should be taken to enhance that scheme with, for example, protective fencing, better paths and lighting levels, improved irrigation and waste disposal and better facilities for the gardening staff. The gardens and buildings should not be cluttered by unnecessary or inappropriate additions. Permanent statues, commemorative objects or public art will generally be considered inappropriate in the gardens unless a convincing case can be made based upon strong historic associations of national interest and that no other, more appropriate site is available.

2.238 Operational and commercial pressures of the cultural venues must be balanced with conservation of the heritage assets. Where it has been demonstrated that no suitable alternative site exists, temporary cultural events and uses within the gardens must give careful consideration to potential impacts on the fabric and significance of the heritage assets and their settings. The garden's historic interest is in part its use as a promenading garden and place for reflection. Impacts on public views and access will also form a key part of considerations. The more formal east lawn is particularly sensitive to such events; large structures should be avoided there, particularly during the summer months. The cumulative impact of uses or events, including recurrent events, will be subject to additional scrutiny in assessing potential harm. This will include the impact of vehicular movements into and through the gardens. The William IV Gate (North Gate) has been identified as especially vulnerable to vehicular traffic impacts.

2.239 The first phase of works to re-establish a single historic estate is already underway, focusing on the Corn Exchange and Studio Theatre. This will modernise the performance spaces and ticket office and provide a new artist creation space, as well as a new café that will connect both visually and physically with the gardens. The adopted Conservation Plan should inform future phases and ensure that all phases are considered as part of a wider, integrated scheme.

2.240 Future proposals should also demonstrate co-ordination with public realm works and public facilities on the approaches to the Royal Pavilion estate. This should include works to rejuvenate the Valley Gardens and improvements to the operation and appearance of the public toilets at Princes Place and the adjacent commercial refuse storage area, as well as enhancing the approach from Palace Place."

Response

The aims of these proposals are noted above and entirely align with the aims and aspirations of DM32. In particular all facets of para. 2.237 are addressed within the proposals and proposals are included that address para. 2.240.

5. Relevant Policies: PANs, SPGs, SPDs

Planning Advice Notes (PANs) offer technical help on certain areas and apply to certain types of development. Of those listed on BHCC's website none would seem to apply to this scheme as it does not involve new development in the form of new buildings.

Supplementary Planning Guidance notes (SPGs) are no longer issued and are replaced by Supplementary Planning Documents (SPDs). Of the SPGs still available on BHCC's website, none would seem applicable to this scheme.

Supplementary Planning Documents are a third tier of reference material containing important considerations that inform and support planning policy.

A Supplementary Planning Document (SPD) is one of the material considerations that can be taken into account when determining a planning application. It forms a part of the Local Development Framework (LDF) and is intended to elaborate upon policies in the Development Plan Documents (DPD).

For this scheme potential references include SPDs:

03 Construction and Demolition Waste

06 Trees and Development Sites

09 Architectural Features

11 Biodiversity and Nature Conservation

16 Sustainable Drainage

17 Urban Design Framework (UDF)

"SPD 03 Construction and Demolition Waste

SECTION III – THE PLANNING APPLICATION

The Planning Application- The achievement of sustainable development is a major objective of the planning system. The reduction, reuse and recycling of construction and demolition waste arising therefore is essential towards achieving sustainable development.

It is intended that all County Council and County Matter

applications and all developments in Brighton & Hove over 5 units (housing) or 500sq m built development area (for offices/industrial/business/retail) should submit a Site Waste Management Plan (SWMP) to the relevant planning authority (see below) in conjunction with the planning application.

18.2 Smaller developments should have due regard to the principles contained within this SPD and produce as best practice a Waste Minimisation Statement as supporting information to a planning application which should demonstrate how the elements of sustainable waste management have been incorporated into the scheme.

Waste Minimisation Statement

21.1 Table 1 below outlines a series of waste issues and options that should be used help inform the production of a waste minimisation statement for smaller sized developments not meeting the thresholds specified in paragraph 18.1 above.

The following bullet points indicate what else could be included in the waste minimisation statement. It is not intended to be an exhaustive list.

Table 1: Waste Issues and Options to Include in a Waste Minimisation Statement	
Waste Issue	Options
Existing tarmac path	1) Use in situ; or 2) Dig up and re-use material on site; or 3) Dig up and dispose of material to recycling contractor; or 4) Dig up and dispose of to landfill site.
Excavation of footings	1) Re-use soil on site; or 2) Dispose of soil to recycling contractor; or 3) Dispose of soil to landfill site.
Building materials	1) Use second-hand materials; or 2) Use recycled materials (including recycled aggregates); or 3) Use renewable materials; or 4) Use local raw or new materials; or 5) Use non-local raw or new materials.
Landscaping materials	1) Use bark mulch for planting areas and peat free planting composts from local recycling centres 2) Use non-local recycled mulch
Storage	1) Bundle or tie waste if not held in a receptacle so it does not get blown away. 2) Wastes such as liquid solvent wastes especially require a container /receptacle to ensure they do not leak or escape

- have you considered the option of adapting and rehabilitating existing buildings as opposed to new build
- have you analysed the potential for on-site re-use and recycling of demolition and construction waste?
- have you sought to minimise the amount of waste generated during construction and decommissioning of the development?
- have you sought to minimise the quantities of new materials being used? For example, reducing the amount of waste generated by minimising the requirement for over-ordering through good site management (tidiness and security)
- have you considered reusing materials from the demolition of existing buildings on the site? Buildings can be designed to be adaptable so that fixtures and fittings can be re-used when a change of use occurs or when tenants change.
- have you considered using recycled materials?
- have you selected demolition waste for foundations, access roads and paths?
- have you made provision for storing and recycling waste materials?
- have you provided easy access to waste storage areas?
- how have you sought to minimise construction waste?
- have you designed to sizes that correspond to standard dimensions for sheet materials and modules of components?
- have you ensured that materials will not be transported greater distances to the site than is absolutely necessary?
- have you instructed contractors to obtain materials such as timber and stone from local sources wherever possible?
- have you instructed contractors to use local suppliers wherever practicable?"

Response

The development content of the proposals together with the overall site area of the Royal Pavilion Gardens mean that the scheme would classify as a Smaller development and as such a Waste Minimisation Statement would be expected to be required under condition of any approvals.

"SPD 06 Trees and Development Sites

SECTION I – BACKGROUND

1. Introduction

Brighton and Hove is fortunate in having a legacy of mature trees and small woodlands throughout the city, a product of planting by our Victorian predecessors. These trees make a valuable contribution to the quality of life for all our residents, such as enhancing wellbeing, having the potential to de-stress, and being much loved. Elms make up a large part of the city's tree population – it is estimated that 80% of the street trees are Elm. In recent years though, these trees have been under extreme pressure from Dutch Elm Disease and it is only through a successful programme of disease control that there is still a healthy population within the city.

This success is reflected in the fact that Brighton & Hove City Council holds the National collection of Elms and related cultivars. This collection is also of international importance as it is one of the last remaining population of English Elms of any size in the world and is unique in supporting the many diverse habitats that are found in our city.

2. Legal and Planning Framework

There is an extensive variety of legislation and policy guidance at national, regional and local level that relates to trees and development.

Brighton & Hove City Council will be guided by the advice in these and other relevant documents, and by any subsequent amendments, in the determination of planning applications.

Trees on potential development sites may be protected by specific tree preservation orders (TPOs), or conditions on any planning consents. They may also be protected by growing within a Conservation Area or by the Forestry Act 1967 (as amended). To find out whether trees are protected, the Arboricultural Service should be contacted.

3. Statutory Controls

Brighton & Hove City Council, as the Local Planning Authority, has a duty to ensure that in the determination of planning permission for any development, adequate provision is made for the preservation or planting of trees. This may be done by the imposition of conditions on the grant of planning permission or, if it appears expedient in the interests of amenity, by making tree preservation orders.

The council may refuse planning permission for a development that affects protected trees.

4. Design Stage

Developers are encouraged to produce layouts and master plans for discussion, prior to the submission of details at the application stages. Such plans should be prepared with professionally qualified Arboricultural and landscape design input

5. Application Stage

Information Required; Tree Preservation Orders: A Guide to the Law and Good Practice (2000) states:

‘...applicants should ensure that applications are properly presented, containing all the information needed for a decision, and they should provide additional information promptly when reasonably requested’.

It is therefore essential that all relevant information pertaining to the assessment of trees and landscaping on a site be submitted with the planning application.

6. On Site

Trees on development sites are extremely vulnerable and must be protected. Despite their size and potential longevity, trees are very easily damaged. Particular care should be taken of root systems, as any damage may not be immediately apparent.

7. Landscape Schemes

The council expects details of landscaping to be submitted as part of full applications or reserved matters.

Planning conditions and/or legal agreements will normally be used to ensure that landscaping and tree planting schemes are implemented and maintained to provide maximum long-term environmental benefits.

The screening of unsightly views and interception of vehicle emissions/pollutants are some of the benefits the Council will be looking for in any landscape scheme.”

Response

With the site being a Grade II Registered Historic Park and Garden and with it sitting within the Valley Gardens Conservation Area, no pruning or felling works would be permitted without prior permission.

All such works, alongside proposed tree preservation measures, are described within the submitted Arboricultural Impact Assessment and Method Statement. Thus the proposals follow the recommendations of the SPD.

“SPD 09 Architectural Features

1. Introduction

1.1 This Supplementary Planning Document (SPD) is intended to provide detailed policy guidance on the repair, restoration and enhancement of historic buildings. For the purposes of this SPD historic buildings are defined as encompassing:

- statutorily listed buildings;
- historic buildings that make a positive contribution to the character or appearance of conservation areas;
- historic buildings that make a positive contribution to the special historic interest of registered parks and gardens; and
- locally listed buildings.

1.2 The legal status of these different categories of building varies under the Planning Acts and the need for planning consents for any works should always be established before proceeding. Conservation area policies in this SPD will also apply to locally listed buildings and buildings within registered parks and gardens (where consent is required).

1.3 Historic buildings are a finite resource. They enhance the familiar and cherished local scene and contribute to the sense of local distinctiveness which is so important to the character and appearance of a historic city like Brighton & Hove.

They are also part of our cultural heritage and attract visitors to the city, thereby making an important contribution to the local economy.

1.4 Furthermore, the careful repair and re-use of historic buildings makes a significant contribution to sustainable development. All buildings have an ‘embodied energy’ in their fabric – the energy that was expended in supplying or manufacturing the materials and in constructing the buildings. Historic buildings of traditional construction tend to have a significantly lower embodied energy than later buildings as they were generally built with more local and natural materials and using local labour.

Demolition or part demolition of, or removal of features from, a historic building therefore not only means that the original embodied energy is lost (wasted) but that a much greater amount of embodied energy is needed to replace it. Such demolition or removal also needlessly contributes to the total waste materials that the construction and demolition industry produces every year.

1.5 This SPD applies specifically to the typical Regency, Victorian and Edwardian buildings that make up the majority of the city’s historic built environment and which are in residential or small-scale commercial use.

It focuses on those original external architectural features of buildings that give them their historic character and which cumulatively contribute to the attractiveness of the street scene.

In the case of more unusual buildings within Brighton & Hove, such as timber framed buildings, public or institutional buildings or 20th century modernist buildings, advice should always be sought from the council’s Conservation team before any works are undertaken.

2. General Conservation Principles

2.1 This section of the SPD sets out the common principles that apply to works of repair and restoration, works of reinstatement and works of enhancement.

These principles apply to all forms of work and should be read in conjunction with the detailed advice on particular features in the sections that follow.

All decisions on proposed works to a historic building should be based upon a clear understanding of the significance of the building, and its setting, as a heritage asset.

Repair and Restoration:

2.2 All historic buildings benefit from regular maintenance. Modest amounts of inspection, maintenance and minor repair carried out on a regular basis can safe-guard the condition, appearance and value of an historic building, while failure to identify problems early enough can lead to significant faults and damage. Prolonging the lifespan of historic buildings also helps to avoid the manufacture of new materials and is therefore a sustainable approach.

2.3 The main purpose of repairs should be to control the process of decay without damaging or altering those features that give a building its architectural or historic importance and without unnecessarily removing or disturbing historic fabric. Repairs should therefore be kept to the minimum necessary to achieve a long-term solution.

2.4 Significant repair or restoration works should be based on a clear understanding of the historic construction and subsequent development of a building and its contribution to its wider context. Any detailed specification of repairs should also be informed by a survey of the building’s structural condition and weather-tightness. To repair or replace decayed fabric without first carrying out such an investigation may lead to a repetition of the problems in the future. On completion of this investigation a meeting with the council’s Conservation team is encouraged in the case of statutorily listed buildings, to discuss appropriate methods of repair before the specification is finalised and any application submitted for consent.

2.5 In carrying out repairs, the aim should be to match the existing materials and methods of construction, in order to both preserve the appearance of the building and ensure that the repairs are durable. Exceptions should only be considered where the existing fabric has failed because of inherent defects of design rather than from neglect or because it has reached the end of its natural life. New methods and techniques should only be used where they have proved themselves over a long period and where traditional alternatives cannot be identified.

2.6 Those parts of a building that can be repaired in situ should not be needlessly removed. Localised repair better preserves the patina of age that contributes to historic character. Complete replacement of architectural features should be strictly limited to situations where the problem has gone beyond the stage where in situ repair is practicable.

2.7 Where replacement is the only solution this should be carried out on a strictly 'like-for-like' basis. Works that are strictly 'like-for-like' repairs do not require planning permission and may not require listed building consent where they are small-scale and localised. However, to be judged and accepted as 'like-for-like', the replacement work must exactly match the design, detailing, material and finish of the existing in every respect. It is the subtle detailing of original architectural features that contributes to the special character of historic buildings, so even a minor difference in the replacement work can change that character. Where large areas of original material are proposed for replacement then listed building consent will always be required.

2.8 In the case of listed buildings, as well as a specification of works, a sample area of the proposed replacement work may be requested for inspection on site by the Conservation team, together with a photographic record of the existing feature(s). The Conservation team can then confirm whether any formal consent will be required. This would apply in particular to works such as re-rendering, re-pointing, brick cleaning, mathematical tile and flint repairs where a satisfactory outcome depends very much upon the methods used and the quality of workmanship and where any damage may be irreversible. The sample area of work should be carried out in a discreet location and be approved before works continue. In the case of other works, for example to windows or cast ironwork, it may be necessary to provide a sample of the joinery (e.g. glazing bar profile) or casting for approval before proceeding.

2.9 Wherever possible, sources of reclaimed or recycled materials should be investigated to see whether a suitable match can be found, so limiting the demand for manufacture of new materials.

Reinstatement:

2.10 Some elements of a historic building which are important to its design and appearance may have been lost or removed, either as a result of decay and neglect or as part of past insensitive alterations. A programme of repair and restoration works may offer the opportunity for reinstatement of these features or, in some cases, reinstatement may be a requirement of a planning permission or listed building consent. Such reinstatement works should only be carried out where sufficient evidence exists for accurate replication and no loss of historic fabric occurs. Speculative reinstatement work is inappropriate.

Where the building is part of a uniform group or terrace it will often be possible to reinstate architectural features based upon surviving examples on neighbouring properties.

2.11 Reinstatement work will not be acceptable where it would require the removal of later alterations of interest that are now part of the significance and historic development of a building. Later alterations which contribute to a building's cumulative historic interest should not be reversed simply to return a building to its original form. Exceptions to this may be permitted where the works would clearly restore uniformity to a group of historic buildings. Where justification exists, photographs and/or measured drawings of all features that are to be removed should be submitted as part of any application for planning permission or listed building consent. Such works should be discussed with the Conservation team before making an application.

Section I – Boundaries and Paths

1. Introduction

1.1 Boundary walls and railings are important to any setting. Whether in the city centre, outskirts or Downland villages, they create the in-between spaces that are fundamental to the character of our historic areas. They provide a sense of enclosure and scale to the street and define public and private spaces. Through the use of common materials and forms they also define and link the grounds and gardens of properties, provide cohesion to an area and compliment the architecture of the buildings they enclose.

1.2 The path and steps leading to the entrance and the surrounding garden give an important first impression of a building. Path materials will generally reflect the original status of the building and will sometimes continue through to the entrance lobby. However, this is one of the building elements most subject to change over time and otherwise uniform terraces will often now have a variety of types of entrance paving or tiling.

1.3 Together, boundaries paths and front gardens form an overall design and altering one element can affect the others; therefore the whole scheme should be considered when any changes are planned. This section should be read in conjunction with the General Conservation Principles in section A of the SPD.

2. Walls

Significance and Characteristics

2.1 The height, materials and decorative elements of boundary walls vary greatly across historic Brighton & Hove. The high flint walls of the villages and urban twittens provide enclosure and seclusion, whereas in formal urban streets lower brick or rendered walls, sometimes with railings, define boundaries whilst allowing views into the front areas.

2.2 Decorative elements such as terracotta pier caps, coping stones, tile creasing and rendered mouldings unite specific areas, streets or groups of buildings and added features such as built in post boxes, cast iron boot scrapers and historic street name plates add to the distinctiveness of our historic streets.

Policy – Listed Buildings

Consent will not be granted for the demolition or partial demolition of original boundary walls. They must be repaired sympathetically in matching traditional materials and any decorative or historic features must be retained or replicated.

The reversal of past inappropriate alterations and the reinstatement of original features will be encouraged where evidence of the original details is available.

Where an original wall has been lost and there is insufficient evidence of its design and details to enable accurate restoration, a simple new wall of appropriate scale and materials will be acceptable. Where there is no evidence of the original existence of a boundary wall, consent is unlikely to be granted for a new wall.

Policy – Conservation Areas

Permission will not be granted for the demolition or partial demolition of a boundary wall. Alterations to boundary walls will only be acceptable where original patterns, materials and details appropriate to the property are proposed.

The reversal of past inappropriate alterations and the reinstatement of original features will be encouraged where historic evidence of the original features exists. In areas of varied boundary treatment where no original evidence exists, a proposal for a new wall of appropriate height, alignment and materials is likely to be acceptable.

3. Railings and Gates

Significance and Characteristics

3.1 Cast iron railings and gates are important features in many of the city's historic areas. A large variety of patterns exist as styles changed with the architecture. In typical Regency streets the railings are simple uprights set into a stone plinth, connected by a top rail with finials (spears) on top. There is a considerable variety of finial designs and the Queen posts at the corners have different, larger finial patterns. In some later Victorian streets the ironwork was cast as more elaborate panels that were then fitted together on top of low walls. In many cases the original gates are missing. Many were removed, along with non-essential railings, in the 1940s for the war effort and others have broken away. Where they remain their patterns reflect the railing designs.

Policy – Listed Buildings

Where original railings and gates survive they must be retained. New ones must match them in design, height, spacing and dimensions and must be in cast iron.

Policy – Conservation Areas

Where original railings and gates survive they must be retained. New ones must match them in design, height, spacing and dimensions.

Where no evidence of the original railing pattern exists and there is no consistency of style in the street, a sympathetic contemporary alternative may be acceptable provided that it is of appropriate scale."

Response

SPD 09 covers many aspects of addressing architectural detail on historic buildings. Large sections of the SPD do not apply to the planning submission as the scheme does not include significant alterations to existing buildings.

However, aspects that are relevant are noted above and concern the reinstatement, repair and restoration of architectural elements, such as boundary walls and railings and gates.

Proposed works to these elements have been developed by specialist Conservation Architects and Conservation Technologists. They are described in detail within the submitted drawings and within the Pavilion Gardens Condition Survey Report submitted as part of the application for Listed Building Consent.

This notes appropriate methodology for addressing repairs and restoration of fencing, walls and gates whereas the Development Stage Design Report refers to proposals for the elements of boundary walls and fencing that are to be replaced. Design proposals for these are based on the existing fence designs.

As such the submitted proposals fully align with the recommendations of SPD 09.

“SPD 11 Biodiversity and Nature Conservation

The SPD describes the biodiversity resource of the city, summarises key legislation and planning policies, provides examples for integrating biodiversity into development, and includes a step-by-step guide of the planning process in relation to the consideration of biodiversity.

The Annexes provide further details and information on Protected and Priority habitats and species, legislation, survey seasons, hazard prevention, habitat creation, and includes the ‘Biodiversity Checklist’ which will be a validation requirement for certain types of planning applications.

1.1 Local context

Brighton and Hove is a vibrant biodiverse living landscape, rich in biodiversity from peregrines on tower blocks to rare leeks on the vegetated shingle beaches. The city is formed of the interconnected and interweaving urban areas, including the city’s parks and greenspaces, coastal, marine and chalk downland habitats, allowing wildlife to move, migrate and thrive.

Even seemingly sterile urban environments can provide a haven for wildlife, with buildings providing important nesting and roosting habitats for birds and bats, and street trees, churchyards and urban gardens supporting species such as hedgehogs, butterflies and fungi.

.....1.3 Purpose, role and status of the SPD.

The aim of this SPD is to set out guidance and best practice advice to ensure that development complies with the relevant legislation, the NPPF, and the requirements of local planning policy - principally the City Plan Parts 1 and 2 relating to the conservation and enhancement of biodiversity.

This includes local requirements relating to biodiversity net gains, as well as the requirements relating to achieving mandatory measurable biodiversity net gain arising from the Environment Act 2021.1

The purpose of this SPD is to provide guidance to:

- ensure development is delivered in accordance with the mitigation hierarchy;
- ensure biodiversity is adequately protected and enhanced throughout the development process;
- support the provision of appropriate biodiversity net gains;
- describe how proposals can be designed with biodiversity embedded;
- describe how measures which improve biodiversity can support the achievement of multiple policy objectives;
- ensure proposals accord with relevant legislation, including the Environment Act 2021, national policy, government advice, and the British Standard BS42020:2013 Biodiversity – Code of practice for planning and development;
- explain terminology associated with biodiversity conservation;
- assist applicants to gain planning permission efficiently and effectively, informing them of the information required to support their planning applications.

Although not part of the development plan, SPDs can be accorded significant weight as a material consideration in the determination of planning applications. This SPD supersedes the Nature Conservation and Development SPD (2010).

1 At the time of writing, Regulations and secondary legislation setting out the implementation of the requirements of the Environment Act are anticipated for late 2022.

..... 4. Planning Policy and Strategies

The following sections outline and summarise current national and local planning policy in relation to conserving and enhancing biodiversity.

4.1 National policy and guidance

The National Planning Policy Framework (NPPF) promotes sustainable, well-designed development. Within this aim, it seeks to conserve and enhance the natural environment and ensure that biodiversity and appropriate landscaping are fully integrated into new developments to create accessible green spaces for wildlife and people, to contribute to a high quality natural and built environment, and to contribute to a better quality of life. Table 2 summarises the key paragraphs.

Table 2: NPPF requirements:

Paragraph 153	Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures.
Paragraph 174	Planning policies should contribute to and enhance the natural and local environment by, amongst other things: <ul style="list-style-type: none"> • protecting and enhancing sites of biodiversity value in a manner commensurate with their statutory status or identified quality in the development plan; • minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
Paragraph 175	To protect and enhance biodiversity and geodiversity, plans should: <ul style="list-style-type: none"> • identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping-stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and promote the conservation, restoration and enhancement of Priority habitats, ecological networks and the protection and recovery of Priority species; and • identify and pursue opportunities for securing measurable net gains for biodiversity.
Paragraph 180	Sets out the mitigation hierarchy for decision making: <ul style="list-style-type: none"> • in making planning decisions, a hierarchical approach should be followed, so that significant harm should be avoided, but if it can't be avoided must be adequately mitigated, or as a last resort compensated for.
Paragraph 180	Includes advice on irreplaceable habitats, such that development resulting in their loss or deterioration should be refused unless there are exceptional circumstances and where a suitable compensation strategy has been produced.

Additional guidance on biodiversity and planning is provided on the Government’s Planning Practice Guidance webpages, including links to Natural England’s standing advice on protected sites and species.

Government Circular 06/2005 Biodiversity and geological conservation:

This provides further guidance on the law relating to planning and nature conservation. It clarifies the need for information submitted in support of planning applications to be sufficient to provide LPAs with certainty of likely impacts including whether mitigation measures can be secured, prior to determination.

It gives weight to the conservation of biodiversity within the planning process to avoid decisions being challenged.

4.2 Local planning policy framework

4.21 City Plan Parts 1 and 2:

City Plan Parts 1 and 2 contain many policies relevant to biodiversity and nature conservation (see Annex 2). The key policies are CPP1 CP10 Biodiversity and CPP2 DM37 Green Infrastructure and Nature Conservation.

Policy CP10 Biodiversity

This policy sets the overarching strategy relating to the conservation, protection and enhancement of biodiversity. The policy takes a strategic approach to improving biodiversity within the South Downs Way Ahead Nature Improvement Area (NIA) in the city; this incorporates the Brighton and Hove Green Network and is designated on the City Plan Policies Map.

The policy also seeks to ensure all development conserves existing biodiversity, provides biodiversity net gains wherever possible, and contributes towards ecosystem services.

Policy DM37 Green Infrastructure and Nature Conservation This policy requires development to contribute towards the network of green infrastructure, avoid adverse impacts on biodiversity, and seeks to conserve and enhance biodiversity and nature conservation features.

The policy also seeks to ensure development achieves measurable biodiversity net gains. All proposals must accord with the mitigation hierarchy and include measures to avoid or prevent harmful effects where required.

The policy requires the following assessments for designated sites:

- International Sites - Habitats Regulations Assessment (HRA) screening/Appropriate Assessment
- National Sites - Environmental Impact Assessment (EIA) screening/EIA; and/or MCZ assessment
- Local sites - Ecological Impact Assessment

4.22 East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan

The Waste & Minerals Plan sets out the vision, objectives and strategy for sustainable waste development and minerals production in the area. The policy relating to biodiversity is Policy WMP27 Environment and Environmental Enhancement. The Plan is currently under review and this policy is proposed to be replaced by Policy RD1; this replacement policy proposes to add a reference to biodiversity net gain.

4.23 Area Action Plans and Neighbourhood Plans

Policies in the Shoreham Harbour Joint Area Action Plan are applicable to development within the Shoreham Harbour area of the city alongside the City Plan policies referred to above. Policy SH7 Natural Environment, Biodiversity and Green Infrastructure is the key policy of relevance to biodiversity.

There are currently six neighbourhood areas designated in Brighton and Hove; all are at various stages of preparation. Information about the areas designated for Neighbourhood Planning and the status of the plans can be found on the council website.

4.24 Supplementary Planning Documents, Planning Advice Notes and Special Guidance

Other SPDs should be read alongside this SPD to ensure cross compliance and integration. The most relevant are SPD06 Trees and Development Sites; SPD15 Toad's Hole Valley; SPD16 Sustainable Drainage; and SPD17 Urban Design Framework. In addition, the council also has PAN06 Food Growing and Development and has produced Special Guidance A: Swift Boxes and Bricks for New Developments.

Step by step guide to the planning process

Table 3 summarises the main steps at each stage of the planning process to ensure development is in accordance with the mitigation hierarchy, provides appropriate and measurable biodiversity net gains, and that adequate information on biodiversity is provided. Adopting this approach ensures best practice for integrating biodiversity into the design of development is achieved. Each section is explained in full.

Table 3 Summary of step-by-step process

Step	Key considerations/actions	Outputs	Principles and biodiversity matters
Stage A - Pre-application and design stage			
A1: First Impressions Survey (Biodiversity Checklist)	Check whether biodiversity features are present and likely to be affected.	Biodiversity Checklist.	Principle 1: Mitigation Hierarchy. Biodiversity Matters 1-7.
A2: Pre-application advice	Option to seek pre-application advice to ensure policy requirements are fully understood and to clarify the scope of any information likely to be required in further assessments.	Preliminary Ecological Appraisal (PEA) including Ecological Constraints and Opportunities Plan (ECOP). Pre-Application Advice.	
A3: Ecological survey and assessment; BNG baseline assessment	Appropriate surveys and assessment carried out by suitably qualified ecologist. BNG habitat baseline assessment carried out using the relevant Defra Biodiversity Metric.	Ecological Impact Assessment with information from all ecological surveys including PEA / ECOP, and habitats and species surveys.	Principle 1: Mitigation Hierarchy. Principle 2: BNG.
A4: Avoidance, mitigation and compensation	Scheme design and layout to avoid harm / impacts wherever possible; minimise impacts to identified features, firstly through adequate mitigation then compensation as a last resort.	Baseline Defra Metric.	Principle 1: Mitigation Hierarchy. Biodiversity Matters 1-7.
A5: Biodiversity Net Gain	Design to incorporate enhancements to deliver net gains. Defra Biodiversity Metric completed, where relevant, to reflect design.	Completed Defra Metric. Biodiversity Net Gain Report.	Principle 2: BNG. Integrating biodiversity into development.
Stage B – Application and Validation			
Submission of planning application and accompanying information	Ensure the application includes: biodiversity checklist; PEA report and ECOP if no additional surveys required, or EclA incorporating protected species survey results, ECOP, assessment and mitigation where relevant; BNG Report including Biodiversity Metric calculations. Ensure all assessments undertaken in accordance with specified standards by suitably qualified professionals.	Biodiversity Checklist Ecological Surveys and Impact Assessment (where relevant) including EclA / PEA / ECOP BNG Report	
Stage C – Planning permission granted – construction			
Construction	Discharge any relevant planning conditions, such as Construction Environmental Management Plan (CEMP) and Landscape and Ecology Management Plan (LEMP). Ensure good practice is followed during construction and CEMP adhered to, where relevant.	Construction Environmental Management Plan (CEMP) and/or Landscape and Ecology Management Plan (LEMP)	
Stage D – Post-construction – management and monitoring			
Operation	Ensure adequate provision is made for ongoing management and monitoring of biodiversity habitats retained or created including any requirements relating to a LEMP, where relevant.	LEMP – Landscape and Ecology Management Plan	

Stage A: Pre-application and design stage

A1: First impressions survey (Biodiversity Checklist)

Once a site has been selected, a first impressions survey using the Biodiversity Checklist should be carried out for certain applications (see Annex 5).

The Checklist helps to identify developments which may have an impact on certain habitats and species. If the Checklist indicates that development could have a potential impact on protected or Priority habitats or species, or sites such as a designated site, further ecological survey and assessment will be required, as described under Stage A3.

A2: Pre-application advice

The council offers a paid pre-application advice service. This may help to ensure that policy requirements are fully understood at an early stage; and that potential biodiversity sensitivities are identified, and discussions held at an early stage, in order to seek advice and avoid impacts. The pre-application service may be particularly valuable to householders and those who are not regularly involved in development, who may not routinely seek professional ecological support, or be aware of all the relevant legislative requirements or issues.

A3: Ecological survey and assessment and BNG baseline assessment.

Where appropriate, planning applications will need to be supported by adequate ecological information, using up to date desk studies and site assessment to inform survey methodologies sufficient in scope to allow the impact of a proposal to be appropriately assessed to enable the council to demonstrate in the exercise of planning functions how it is fulfilling the duty to have regard to the conservation and enhancement of biodiversity. This includes householders and developers of small sites where there may be risks of impacts to habitats and species.

A4: Avoidance, mitigation and compensation

The results of any ecological surveys and assessment should feed into the initial design process, as should the ECOP. These will help ensure the layout and design of the development avoids wherever possible and minimises impacts to the features identified in steps A1 and A3, thus ensuring design is in accordance with the mitigation hierarchy. Design in accordance with the mitigation hierarchy should be considered as a sequential process, with each step in the hierarchy being considered in turn and incorporated into the design, before the next step is considered.

A5: Biodiversity Net Gain

BNG or biodiversity enhancements are additional to any measures necessary to deal with impacts from the development and should not be used to provide either mitigation or compensation. To meet national and local policy requirements ahead of mandatory measurable net gain, applicants should ensure that biodiversity enhancements are included in a development to secure measurable net gains. Creating new habitat, enhancing existing habitat or providing new features all contribute

towards biodiversity enhancement and BNG (see Section 6: Integrating biodiversity into development). All BNG should conform to Biodiversity Net Gain - Good Practice Principles for Development.

BNG for small sites and householder applications³

For small sites⁴ and any relevant householder applications, BNG measures should be clearly identified in supporting information and illustrated on the relevant plans. The measures should be proportionate to the scale and type of development, should be appropriate to the site's location and surroundings, and should be focussed on supporting recognised nature conservation priorities.

For small sites, the Defra small sites Biodiversity Metric is available in a beta version and should be used to demonstrate biodiversity value and net gain. However, the small sites metric cannot be used if a priority habitat is present on site. Guidance has been published by Natural England on how to use the metric.

BNG for larger applications³

For larger⁵ developments, or where a priority habitat is present on site, the latest version of the Defra Biodiversity Metric should be used as a tool to inform the assessment of demonstrating biodiversity value and measurable mandatory net gain of at least 10%. Guidance has been published by Natural England on how to use the metric.

A Biodiversity Net Gain report should also be submitted. It is anticipated that the government will provide further guidance on the content of a BNG report, however prior to this being released, a Biodiversity Net Gain report in line with Biodiversity Net Gain Report and Audit Templates (CIEEM, 2021) should be submitted with planning applications. For outline applications, a Biodiversity Net Gain Feasibility Assessment report should be submitted, and for full and reserved matters applications, a Biodiversity Net Gain Design Stage report should be submitted. This should include:

- Steps taken to avoid adverse impacts to biodiversity
- Pre-development and post-development biodiversity value
- Additional information to explain and justify the approach to delivering net gain, including notes on the existing and target habitat condition and any assumptions made.

The council will verify the accuracy of the biodiversity value calculations and consider the merits of any on or off-site BNG measures. Any scheme for BNG must include a mechanism for delivery of the target habitats, management, and monitoring of their condition, and an approach to remediation in the event of targets not being met. Schemes for the delivery of BNG should be developed with regards to BS8683:2021 "Process for designing and implementing biodiversity net gain – Specification".

Planning conditions will be used to secure delivery of BNG measures and their long-term management. Obligations, such as Section 106 agreements may be used where BNG is on land outside the applicant's control.

(See Principle 2: Biodiversity Net Gain)

3 Forthcoming government regulations will identify certain developments that will be exempt from the mandatory measurable BNG requirements of the Environment Act and will provide clarity on which Biodiversity Metric should be used.

4 For the purposes of BNG, small sites include residential development providing between 1 and 9 dwellings on a site of less than 1ha; residential development where the number is unknown on a site less than 0.5ha; other development where the site area is less than 0.5ha or provides less than 5,000sqm floorspace.

5 This applies to any development falling outside the parameters of the small sites metric, or development where a priority habitat is present on site.

Stage B: Application and validation stage

Planning applications must be accompanied by all necessary and relevant ecological information in order for it to be validated and determined. This will vary between applications and will depend on the proposal and the site itself. Information required could include:

- Biodiversity Checklist (validation requirement for certain applications)
- Preliminary Ecological Appraisal
- Ecological Impact Assessment
- Ecological Constraints and Opportunities Plan

- Defra Biodiversity Metric
- Biodiversity Net Gain Report

Protected species information is key to supporting determination. Validation of an application does not necessarily mean there is sufficient information to allow for determination. The submitted EclA has to provide the council with certainty of all likely ecological impacts on designated sites and protected or Priority species and demonstrate that effective and deliverable mitigation can be secured either by condition or mitigation licence from Natural England.

If insufficient ecological information is provided the council may suggest the application is withdrawn, decline to validate the application, or refuse it on grounds that there is insufficient information to make a lawful determination."

Response

In accordance with SPD 11, the planning application is accompanied by a completed Biodiversity Checklist.

There is also a submitted Preliminary Ecological Appraisal. This notes within it that there are no designated sites within the site boundary. With this site classifying as a small site under the description contained in SPD 11, Biodiversity Net Gain measures need also to be identified within the submission.

These are set out in the PEA as a series of recommendations including various ecological enhancements such as bird nesting boxes, bat roosting boxes, the incorporation of wildlife-friendly planting, bug hotels, native planting strategies and other measures that form part of the proposed works.

Furthermore, it is highly likely that the site's overall biodiversity value will form part of the activities to be undertaken within the Outdoor Learning Centre, thereby enhancing the educational aspects of the scheme.

With these measures the proposals align with the recommendations of SPD 11.

"SPD 16 Sustainable Drainage

3. Introduction

Sustainable Drainage Systems (SuDS) aim to minimise the adverse impacts caused by runoff following rainfall, particularly from impermeable urban surfaces, whilst maximising the opportunities for improving water quality, enhance biodiversity and providing amenity value.

SuDS mimic natural processes in the interception, storage, conveyance, treatment and disposal of surface water. SuDS components can include 'soft' engineering of the landscape such as swales, rain gardens or detention basins, as well as 'hard' engineered structures, including permeable paving or attenuation tanks.

4. TECHNICAL GUIDANCE (INCLUDING NATIONAL STANDARDS AND LOCAL GUIDANCE)

Introduction

Planning applications for major developments should be accompanied by a site-specific drainage strategy that provides details of the proposed sustainable drainage system and arrangements for its whole life management and maintenance. The submitted drainage strategy should also demonstrate compliance with the Non-statutory Technical Standards for Sustainable Drainage Systems, published by the Department for Environment Food and Rural Affairs (DEFRA) in March 2015, and consider the Local Guidance given in Section 4.4.

The definition of major development is presented below, taken from Article 2(1) of The Town and Country Planning (Development Management Procedure) (England) Order 2010:4

- (a) the winning and working of minerals or the use of land for mineral-working deposits
- (b) waste development;
- (c) the provision of dwelling houses where —
 - (i) the number of dwelling houses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);

(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or

(e) development carried out on a site having an area of 1 hectare or more;"

Response

The proposals would fall into category (e) above and as such need to include a site specific drainage strategy.

This is provided within the Drainage Statement prepared by CTB Consulting Engineers and submitted as part of the planning application. The drainage strategy noted therein notes that the surface water will discharge either by infiltration or to existing private sewers on site.

Whilst the latter is the least favoured option for discharge of surface water runoff, it is what happens currently and is not being increased by the proposed works. Hence we see no reason why this does not follow the recommendations of SPD 16.

"SPD 17 Urban Design Framework (UDF)

This Urban Design Framework Supplementary Planning Document (UDF SPD) has been prepared to help support the city councils' corporate objectives as set out in the Council Plan 2020 – 2023 – A Fairer City with a Sustainable future and the vision, objectives and planning policies set out in the Brighton & Hove City Plan (Parts One and Two), in particular City Plan Part One Policy CP12 Urban Design.

It signposts priorities the council would like applicants to consider when preparing design proposals. The level of consideration will depend on the scale and type of the development."

Response

As the proposals clearly do not include large scale development, SPD 17 does not apply. Aspects of public realm design are covered by other policies noted above.

6. Conclusion

Having reviewed the policies of the BHCC City Plan Parts 1 and 2, both of which conform to the NPPF applying that framework of policies to a local level, and other relevant Supplementary Planning Documents we have identified where we feel the proposed application for Planning Approval and Listed Building Consent aligns with the applicable policies.

Fundamentally, the proposals have been developed in direct response to specific policies that refer to the Royal Pavilion Estate and address each requirement or recommendation positively and with no or little divergence.

As a consequence we anticipate an approval on policy grounds with some conditions. As noted above these would be limited to aspects of archeological watching briefs, a Waste Minimisation Statement and confirmation of details prior to implementation.

Furthermore, we would expect conditions relating to hours of construction, hours of use and relating to the management of the facilities prior to occupation.

rhp