

## **Town and Country Planning Act 1990**

### **Planning appeal by the University of Sussex**

**Outline application with some matters reserved for demolition of existing buildings and construction of new buildings providing new academic facilities (D1) circa 59,571sqm, 4,022 new student accommodation bedrooms (C1) and new mixed use building circa 2,000 sqm, providing (A1, A3, A4, C1 and D1) uses, incorporating new pedestrian, cycle, vehicular and service routes, landscaping, new parking, upgrading of related infrastructure and associated works. Matters for approval include layout, access and scale. Matters reserved are appearance and landscaping.**

**University of Sussex, Refectory Road, Falmer, Brighton**

**Local Planning Authority ref: BH2013/04337**

### **STATEMENT OF CASE**

**December 2014**



## Contents

	<b>Chapter</b>	<b>Page</b>
1.	Introduction and Background	1
2.	The Application Site	2
3.	The Application	3
4.	The Applicable Policies	8
5.	The Appellant's Case	8
6.	Planning Conditions and Section 106 Agreement	15
7.	Witnesses	15
8.	Time Estimate	15
9.	Documents	15

## 1.0 Introduction and Background

- 1.1 This Statement of Case is prepared and submitted on behalf of the University of Sussex (the Appellant) in relation to its appeal against the refusal of outline planning permission, (with appearance and landscape reserved), for demolition of existing buildings and construction of new buildings at its Falmer Campus, East Sussex BN1 9RJ ("the Application Site"). The full description of the scheme as it appears in the decision notice of Brighton and Hove City Council ("the City Council") decision notice is;

*"Outline application with some matters reserved for demolition of existing buildings and construction of new buildings providing new academic facilities (D1) circa 59,571sqm, 4,022no new student accommodation bedrooms (C1) and new mixed use building circa 2,000 sq m, providing (A1, A3, A4, C1 and D1) uses, incorporating new pedestrian, cycle, vehicular and service routes, landscaping, new parking, upgrading of related infrastructure and associated works. Matters for approval include layout, access and scale. Matters reserved are appearance and landscaping."*

- 1.2 The application, Council reference: BH2013/04337 ("the Application"), was submitted to the City Council on 20 December 2013 and was considered by its Planning Committee at a meeting on 25 June 2014. Notwithstanding a recommendation from the City Council's officers that the Application should be approved, the Committee resolved that permission should be refused and subsequently issued a notice of refusal dated 1 July 2014 (UoS1). This set out the following purported reasons for refusal:

1. *The proposed development would result in the loss of a significant number of trees which would have a negative impact on the amenity of the campus both in terms of its users and its ecology contrary to policies QD16 and QD18 of the Brighton & Hove Local Plan 2005 (Reason for Refusal 1).*
2. *The outline application, by virtue of its overall masterplanning approach, does not make a positive contribution to the existing visual quality of the environment by virtue of its proposed scale and height resulting in the creation of a more dense urban environment to the detriment of the existing character of this edge of city location contrary to policy QD1 of the Brighton & Hove Local Plan 2005 and policy CP21 (5) of the Submission City Plan Part One (Reason for Refusal 2).*
3. *The application fails to demonstrate that it would not result in a negative impact on the city's existing housing stock as a result of the proposed increase in student numbers contrary to the sustainable objectives within the National Planning Policy Framework. (Reason for Refusal 3).*
4. *The proposed development will overwhelm the composition and setting of the campus and its listed buildings as envisaged by Sir Basil Spence contrary to*

---

*policies HE3 and QD3 of the Brighton & Hove Local Plan 2005 (Reason for Refusal 4).*

## **2.0 The Application Site**

- 2.1 The Application Site is 23.3 hectares in size and forms a significant part of the existing University campus. It accommodates buildings in use for academic, research and residential accommodation together with associated access roads, car parking and areas of informal open space. The Application Site is predominantly on the eastern and western sides of the campus and the south eastern quarter.
- 2.2 The campus is located to the west of the village of Falmer, which lies approximately 4 miles to the north east of Brighton city centre. It is located on the floor and slopes of a dry valley that runs north-south. The levels in the valley floor fall from 73m AOD in the north to 60m AOD in the south with a gradient of approximately 1 in 70. The high point of the western slope within the site boundary is 82m AOD. The high point on the eastern slope is 93m AOD.
- 2.3 It is reached from within the campus via internal access roads which in turn are linked to the A27, A270 and B2123 via two access points to the campus.
- 2.4 The land adjoining the Application Site accommodates a range of University-related uses including student accommodation, research and academic buildings and associated ancillary uses. These include a number of listed buildings at the heart of the campus that were the first buildings constructed for the University in the 1960s. To the east and west of the Application Site is undeveloped countryside within the South Downs National Park. Falmer village lies a short distance to the east and south east of the application site across Knights Gate Road. To the north east, beyond the built envelope of the campus, is the Tenant, Lain and Moon Gate Woods Site of Nature Conservation Importance. There are also playing fields and buildings associated with the Falmer Sports Centre. The Sports Centre is owned by the University and located to the east of the campus. To the west of the Application Site is grassland and woodland within the South Downs National Park. The land rises to a ridge, shared with the main part of Stanmer Park (and the defined Stanmer Conservation Area and the Stanmer Park/Coldean Local Nature Reserve). To the south, beyond the existing campus buildings is the A27 trunk road linking Brighton with Lewes and beyond this the American Express Community Stadium and buildings within the University of Brighton's Falmer campus.
- 2.5 Part of the Application Site falls within the adjoining area administered by Lewes District Council (the District Council), therefore an identical application submission was made to that authority on 8 January 2014 – City Council ref : LW/14/0006. At the time of the submission of the appeal, that application remains undetermined. However, planning officers from the District Council have confirmed they are minded to support the proposals subject to the resolution of one remaining issue regarding car-parking. They have also confirmed they have received no objections to the planning application.

- 2.6 The remaining car-parking issue to be resolved at the time of the submission of the appeal concerns the treatment of the multi-storey car park identified within the part of the masterplan that falls within the District Council's administrative area. As a result of the City Council's decision, the District Council officers were reluctant to recommend the grant permission for this element of the proposals because of the scale of parking proposed, relative to the amount of built development it would be approving. Appropriate wording has therefore been provided to the District Council that it could include as a condition, or have included in a legal agreement associated with the grant of outline planning permission that would prevent the development of the multi-storey car park until either this appeal was allowed, or an alternative development of a comparable scale was approved by the City Council. At the time of the submission of this appeal, the District Council's response to this proposed wording is pending.

### **3.0 The Application**

#### ***Evidence in Support of the Application***

- 3.1 The following documents comprise the Application and are referenced within the Indexed Appeal Bundle. This Statement of Case cross refers to them as necessary:

- Planning application forms (UoS2);
- Covering letter from Parker Dann dated 20<sup>th</sup> December 2013 (UoS3);
- Letter from the University's Director of Residential, Sport and Trading Services dated 12<sup>th</sup> December 2013 (UoS4);
- Letter from the University's Director of Residential, Sport and Trading Services dated 22<sup>nd</sup> May 2014 (UoS5);
- Fly-through presentation of the proposals (on disc only) (UoS6)
- Design and Access Statement prepared by ADP including drawings illustrating the proposed phasing of the masterplan and Design Guidelines (UoS7);
- Environmental Statement

Volume 1. Environmental Statement – Main Report & Figures (UoS8) covering;

- Ecology
- Landscape and Visual Impact
- Archaeology and Cultural Heritage including Additional Assessment of Setting Issues and photomontages
- Water Resources and Flood Risk
- Traffic and Transport
- Noise
- Socio-economic impact

Volume 2. Environmental Statement – Technical Appendices (UoS9) including the Environmental Impact Assessment Scoping Report and Scoping Opinion from the City

---

Council, Flood Risk Assessment, Transport Assessment, ecology surveys and Framework Environmental Management Plan

Volume 3. Environmental Statement – Non-Technical Summary (UoS10)

- Updated University Travel Plan, December 2013 prepared by Steer Davies Gleave (UoS11);
- Planning Statement prepared by Parker Dann (UoS12);
- Statement of Community Involvement prepared by Parker Dann (UoS13);
- Sustainability Statement prepared by ADP including the completed Sustainability Checklist (UoS14);
- Biodiversity Checklist prepared by LUC (UoS15);
- Pre-Construction Site Waste Management Plan prepared by ADP (UoS16);
- Arboricultural Report by RW Green Limited including a Tree Constraints Plan (UoS17); and
- Volumes 1 and 2 of the Phase 1 Contamination Assessment Report prepared by Ashdown Site Investigation (UoS18).

3.2 The following drawings prepared by ADP and LUC were also submitted as part of the planning application;

- D-100 Application site boundary (scale1:2000) (UoS19)
- D-105 Application site boundary with “phases” or “zones” marked (scale 1:2000) (UoS20)
- D-110 Application site boundary Brighton & Hove City Council (scale1:2000) (UoS21)
- D-120 Application site boundary Lewes District Council (scale1:2000) (UoS22)
- D-130 Demolition Plan (scale 1:2000) (UoS23)
- D-140 Parameter plan 01 Access (scale1:2000) (UoS24)
- D-150 Rev. D. Parameter plan 02 Landscape Infrastructure (scale1:2000) (UoS25)
- D-160 Parameter plan 03 Land Uses (scale1:2000) (UoS26)
- D-170 Parameter plan 04 Building heights (scale1:2000) (UoS27)
- D-200 Listed buildings (scale1:2000) (UoS28)
- D-220 Rev. B. Existing Topography (scale1:2000) (UoS29)
- D-230 Boundaries Plan (approx. scale1:5000) (UoS30)

3.3 In addition the following drawings were submitted for illustrative purposes only;

- D-300 Illustrative Masterplan (scale1:2000) (UoS31)
- D-305 Rev A Illustrative Masterplan showing Building Heights (scale 1:2000) (UoS32)
- D-310 Illustrative East Slope Plans and Sections (scale1:1000) (UoS33)
- D-320 Illustrative West Slope Plans and Sections (scale1:1000) (UoS34)
- D-330 Illustrative Academic Area Plans and Sections (scale1:1000) (UoS35)
- D-400 Rev. B. Illustrative Tree Removal and Retention Plan (scale 1:2000) (UoS36)

---

3.4 The following additional correspondence was sent to the City Council and District Council during their assessment of the planning applications;

- Email from the City Council to Parker Dann dated 6th March 2014 providing comments on the application from the Council's Environmental Health Department (UoS37)
- Letter from the City Council to Parker Dann dated 14th March 2014 concerning the inclusion of layout as a matter for determination within the planning application. (UoS38)
- Email from Parker Dann to the District Council dated 19<sup>th</sup> March 2014 responding to matters raised by the South Downs National Park Authority (also sent to the City Council by email dated 15<sup>th</sup> April 2014) (UoS39);
- Letter from the City Council to Parker Dann dated 21st March 2014 requesting additional information on the application (UoS40).
- Email from Parker Dann to the City Council dated 21st March 2014 responding to the comments on the application from the Council's Environmental Health Department (UoS41)
- Letter from Steer Davies Gleave dated 2<sup>nd</sup> April 2014 responding to East Sussex County Council on transport issues (UoS42);
- Letter from Steer Davies Gleave dated 14<sup>th</sup> April 2014 responding to the City Council on transport issues (UoS43);
- Email from Parker Dann to the City Council dated 15<sup>th</sup> April 2014 confirming that layout should be a matter for which approval is being sought as part of the outline application (UoS44);
- Email from Parker Dann to the District Council dated 25<sup>th</sup> April 2014 confirming that layout should be a matter for which approval is being sought as part of the outline application (UoS45);
- Email from Parker Dann to the City Council dated 28th May 2014 concerning the inclusion of an orchard within the masterplan scheme and responding to an email from the City Council on the subject dated 28th May 2014 (UoS46).
- Letter from Steer Davies Gleave dated 13<sup>th</sup> June 2014 responding to East Sussex County Council on transport issues (UoS47);
- Email from Parker Dann to the City Council dated 16th June 2014 providing minutes of a meeting between the University's transport consultants and Brighton and Hove Buses (UoS48).
- Email from Parker Dann to the City Council dated 19<sup>th</sup> Jun 2014 responding to various matters (UoS49);
- Email from Parker Dann to the City Council dated 20th June 2014 concerning existing building heights on the University campus. (UoS50)
- Email from Parker Dann to the District Council dated 25<sup>th</sup> July 2014 responding to various matters (UoS51); and
- Letter from Parker Dann to the District Council dated 30<sup>th</sup> October 2014 (UoS52).

***Overview***

3.5 A description of the development proposals is provided within Section 3 of the Planning Statement (UoS12) (paragraphs 3.1 – 3.10) and within the separate Design

---

and Access Statement (UoS7) (particularly sections 4.0 to 8.0) that also explains the evolution of the scheme. The Application embodies a masterplan, the key elements of which are summarised at paragraphs 3.7 to 3.10 below. The masterplan development has been designed in a comprehensive and integrated way and continues a well-established approach to the masterplanning of the campus that respects and seeks to re-establish themes from the original masterplan prepared by Sir Basil Spence in the early 1960s, as well as masterplans used by the Appellant over the past decade.

- 3.6 The aim of the masterplan is to provide a framework that will guide future growth and change within the campus. This approach will ensure a high quality of design of buildings and the wider campus environment that will in turn respect the setting of listed buildings within the campus and the setting of the adjoining South Downs National Park. The Application is designed to accommodate future growth of the University in line with its Strategic Plan: *Making the Future 2013-2018* (UoS53). The location and scale of development proposed has been determined by a careful assessment of development opportunities within the campus having regard to relevant planning policy and other landscape and visual amenity, built heritage, ecological and transport-related constraints. It has also been determined by the predicted future demands of a University that is continuing to grow and evolve to meet changing requirements within the higher education and research sectors.

### ***Summary of Key Elements***

- 3.7 There are three separate elements to the Application, as identified in drawing no.D-105 (UoS20):
- 3.7.1 Development of student residential accommodation on the East Slope of the campus, identified in drawing no.D310 (UoS33). This will involve the redevelopment of existing outdated accommodation as well as new build development on adjoining undeveloped land within the campus. It will also include appropriate infrastructure including a new access road that will serve the development and the north of the campus, appropriate car parking provision and landscaping.
  - 3.7.2 The redevelopment and extension of existing academic buildings in the south eastern quarter of the campus identified in drawing no.D-330 (UoS35). The proposals involve the redevelopment of existing buildings together with new build development on adjoining land. The proposals also involve the introduction of new landscaping and the relocation of existing car parking provision to the fringe of the campus as part of wider initiatives to upgrade access for pedestrians and enhance the quality of the built environment for staff, students and visitors.



- 
- 3.7.3 Demolition of existing student accommodation and construction of new student accommodation (identified in drawing no.320 (UoS34). This will be accompanied by facilities for ancillary services for the campus and car parking, including improvements to public spaces through the creation of a public square and associated landscaping.
- 3.8 In addition to related pedestrian, cycle, vehicular and service routes, landscaping, parking provision and upgrades to related infrastructure, the development proposals comprise:
- East Slope:**  
592 study bedrooms proposed for demolition  
2000 study bedrooms proposed to be built.  
Net gain: 1408 study bedrooms
- Academic Area:**  
16,537 m2 Net Internal Area (NIA) of academic space proposed for demolition  
59,571 m2 NIA of academic space proposed to be built  
Net gain: 43,034 m2 NIA
- West Slope:**  
900 study bedrooms proposed for demolition  
2022 study bedrooms proposed to be built  
Net gain: 1122 study bedrooms  
and  
2000m2 NIA of Mix Use space
- 3.9 Extensive tree planting is proposed as part of the proposals to compensate for trees required to be removed to accommodate the new development. This tree planting will also help to integrate the new development areas into the wider campus environment. To mitigate the impact of development on local ecology, the proposals include a range of measures including the use of green roofs to the new buildings, appropriate new planting, grassland mitigation, reptile mitigation and enhancements to existing woodland adjoining the application site. These measures are identified in drawing no.D-400 Rev B (UoS36) and paragraphs 6.146 to 6.177 (pages 6-24 to 6-29) and Figure 6.8 of Chapter 6 of Volume 1 of the ES (UoS8).
- 3.10 Once completed, the development will support the expansion of the University from 13,400 students to 18,000 students. It is estimated that this expansion will require the employment of a further 386 staff directly by the University. In addition to this, the benefits of employment created by the construction of the development (estimated at 281 full time equivalent jobs directly created) and spending by the additional staff and students (the additional student expenditure alone is estimated at £17.2 million of expenditure into the economy per annum) will make an important contribution to the local economy (see Chapter 12 of Volume 1 of the ES

---

(paragraphs 12.38 to 12.79) (pages 12-5 to 12-8) (UoS8)). Overall, the expansion is predicted to achieve a permanent moderately beneficial economic impact on the local economy (Table 12.1 (page 12-9) of Chapter 12 of Volume 1 of the ES (UoS8)).

## **4.0 The Applicable Policies**

- 4.1 The Application was subject to the general requirements of section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70 of the 1990 Act. In accordance with these provisions, the Application should have been determined in accordance with the Development Plan unless material considerations indicated otherwise.
- 4.2 So far as material to the Application, the development plan currently consists of the policies of the Brighton and Hove Local Plan 2005 (the Local Plan). The relevant policies of the Local Plan and the National Planning Policy Framework (NPPF) are set out in Section 4 (pages 16 to 49) (UoS12) of the Planning Statement, as is the appraisal of the proposed development against those policies. The Application proposal fully accords with Local Plan Policy. The Appellant has also assessed the Application against the Government's National Planning Policy Guidance (March 2014) (NPPG) which was published after the Application was submitted but before it was determined. The Application fully accords with the guidance contained in the NPPG. The Appellant also notes that no reference was made to the NPPG to support the Council's reasons for refusal of the Application.
- 4.3 The Planning Statement also identifies support for the proposed development from a range of other documents of relevance including the Council's City Plan Part One Submission document (UoS54) and the Council's Housing Strategy 2009 – 2014 (UoS55) and Student Housing Strategy 2009 -2014 (UoS56) (please see Section 3 of the Planning Statement (pages 12 to 13) (UoS12). These documents confirm the City Council's policy support for the principle of further development on the campus to meet the Appellant's needs. In addition, the Transport Chapter (Chapter 10, paragraphs 10.36 to 10.56 - pages 10-9 to 10.11) of Volume 1 of the ES (UoS8) confirms the accessibility of the campus by a range of sustainable transport modes. The Travel Plan UoS11) submitted with the planning application confirms how these will be used to support the further growth proposed (Sections 4, 6 and 7 - pages 9 to 33 and 36 to 47).

## **5.0 The Appellant's Case**

### **Overview**

- 5.1 The development proposed within the Application will support the continued growth of the University. A high quality campus environment is essential if it is to compete effectively within an increasingly international market for staff, research and higher

education. The Application Site covers parts of the campus where much of the building stock is of a similar age and is approaching a stage in its lifecycle when extensive overhauls are required to keep the buildings in good repair and suited to current requirements. Parts of these areas represent an inefficient use of land or are inefficient in their internal layout whilst others also lack a sense of definition with deficiencies in vehicle circulation and/or the car dominating the immediate built environment. The proposed development would address these issues by providing the opportunity to introduce a high quality environment of buildings and landscaped areas that respects the countryside setting of the campus and the adjoining National Park as well as the existing campus built and natural environment that would be retained. Crucially, it would also provide certainty to the Appellant in future decision-making on campus development and would guide future investment decisions.

5.2 The Officer's report to Committee (UoS57) recommended that the Application be granted subject to the imposition of conditions and the provision of a Section 106 Agreement. The key conclusions of the Officers set out in the report were that:

- 5.2.1 the proposed increase in academic and residential buildings complied with policy;
- 5.2.2 the increase in purpose built student accommodation was to be welcomed to meet the aims of the emerging City Plan;
- 5.2.3 the proposals were as appropriate as could be achieved, given the quantum of development the Appellant considered to be necessary, in terms of layout and scale and visual impact;
- 5.2.4 the report noted the conclusions of the arboriculturalist that as many trees as possible were being retained within the site and that a landscaping condition could be used to secure adequate replacement planting;
- 5.2.5 the internal view of the Heritage Office was that there would be no significant harm to any of the listed buildings on the university campus. Whilst English Heritage considered the demolition of four 'quads' of student accommodation would result in the total loss of significant undesignated heritage assets, English Heritage recommended that an appropriate level of recording is carried out, secured by way of a condition;
- 5.2.6 the proposed development would substantially address the predicted shortfall in student housing by 2018 (3360 bed spaces needed) and the net shortfall of 340 bed spaces was considered acceptable;
- 5.2.7 the University intended to identify a further 700 units of off-site accommodation to enable more private sector rented accommodation to be released and reduce the potential problems of the loss of family housing to student HMOs and the over concentration of students in certain locations in Brighton and Hove.

The overall conclusion of the Officers was as follows:

---

*"The application accords with relevant legislation and development plan policies, has a negligible impact on the setting of the listed buildings on the campus [sic] South Downs National Park and will preserve strategic views and character of the surrounding location. The scheme provides additional student accommodation and academic buildings which is required within the City. Adequate mitigation has been identified in the accompanying ES and can be achieved to protect and enhance nature conservation features and species on the site and the scheme can achieve an 'Excellent' BREEM rating."*

***The First Reason for Refusal***

- 5.3 By contrast, the Committee has purported to refuse the Application on the basis that it would result in the loss of a significant number of trees. However, the Application was accompanied by a comprehensive Arboricultural Report (UoS17) prepared by an arboricultural expert in accordance with the pre-application advice from the Council's Arboricultural Officer (confirmed within an email from the Council Planning Officer dated 11<sup>th</sup> November 2013) (UoS58). This Report confirmed that the majority of the trees which would be lost were of limited amenity and landscape value because they were semi-mature or early-mature specimens and that adequate mitigation for their loss could be provided through extensive new tree planting within the proposals. On this basis, the Report concluded that there were no arboricultural reasons to restrict the proposed development of the site.
- 5.4 At no point during the assessment of the Application were the findings of this Report challenged by the Council Officers or any consultees. Indeed at Paragraphs 5.17 and 5.18 of the Committee report (UoS57), the Council's Arboricultural Officer confirmed she had no objection to the proposal subject to suitable conditions regarding protection of retained trees and landscaping being attached to any consent granted. Further, paragraph 5.4 of the Committee report confirms the County Ecologist supported the Application – concluding the proposed development was unlikely to have a detrimental impact on biodiversity providing the agreed mitigation measures, (see paragraphs 6.145 to 6.179 of Volume 1 of the ES) (UoS8) are implemented. These points were also repeated to Members of the Planning Committee by the Council's Arboriculturalist and County Ecologist in the advice given to them in person in the Committee meeting itself. The Committee was also informed that it would be possible to replace almost all of the trees which would be felled for the proposed development.
- 5.5 In light of the consensus amongst the professionally qualified experts, the Council's decision is neither sustainable, nor supported by any analysis explaining why the loss of trees with such mitigation is unacceptable. It is the Appellant's case, supported by the available professional evidence, that the Application fully accords with policies QD16 and QD18 of the Local Plan and national policy and guidance. Evidence will be produced to support the Appeal that covers the above points and supports the case presented at the planning application stage.

---

### ***The Second Reason for Refusal***

- 5.6 The Appellant undertook a significant amount of work, both before and after submission of the Application, to address the City Council Officers' requirements in relation to the scale, height and massing of buildings. The result of these revisions to the scheme was that the design of the proposed development was adjusted and the City Council Officers had concluded that the proposed development was appropriate given the quantum of development needed by the Appellant. It was agreed between the Appellant and the City Council that layout, scale and access would be determined rather than being held over as reserved matters.
- 5.7 The Planning Committee report on the Application addressed matters concerning visual quality of the environment, the scale and height of the proposed development at paragraphs 8.7 to 8.11 – identifying the feedback the Planning Officer received from the Heritage Officer to support the conclusion that the proposals were appropriate for the quantum of development necessary. The conclusions on the visual impact of the development proposed at paragraphs 8.14 to 8.18 of the Planning Committee report are also of relevance to this assessment as are the findings of the submitted Landscape and Visual Impact Assessment within Chapter 7 of Volume 1 of the ES (UoS8) that:
- 5.7.1 There is potential for additional development within the site whilst retaining the character of the surrounding landscape and the visual amenity of local receptors, if the building and landscape design is sensitive (paragraph 7.126).
  - 5.7.2 Effects on the character of Character Area A2: Adur to Ouse Open Downs including the special qualities of the South Downs National Park as a result of the Masterplan development are not predicted to be significant. This is due to the containment of new development within the valley, retention of existing groups of trees, biodiverse roofs which integrate buildings into the surroundings, the delineating features of woodland to the East and West Slopes which mark the separate character of the University from the Landscape Character Area, and the potential to integrate the development well into the existing site and surroundings through building style and materials and landscape design, particularly through tree planting. (paragraph 7.129)
  - 5.7.3 Views of both the existing and proposed development within the university campus from within the National Park in general will be relatively limited. This is due to undulating topography and woodland blocks surrounding the site, which limit views for the majority of potential visual receptors. (paragraph 7.131)
  - 5.7.4 Effects on landscape character and visual amenity have been minimised by existing measures within the Masterplan and Parameters Plans (built-in mitigation). These measures include retention of existing woodland blocks and tree clumps within the site, integration of biodiverse roofs for buildings at the edges of the site, and maintaining the height of development below

---

the existing valley ridgeline. Proposed tree planting (see Application Drawing D-400) will help to minimise visual effects over time as the planting matures (paragraph 7.132).

- 5.8 These findings were not challenged by the Council Officers or the statutory consultees Natural England and the South Downs National Park Authority during their assessment of the Application.
- 5.9 It is therefore the Appellant's case that the proposal fully accords with Policy QD1 of the Local Plan or Policy CP21 (5) of the Submission City Plan Part One and evidence based on the above matters and information supplied at the planning Application stage will be produced to support this case for the appeal.
- 5.10 In any event, the City Council's reason for refusal is contradicted by policy CP21 (5). This policy requires that:
- A. The council will encourage the provision of purpose built accommodation to help meet the housing needs of the city's students. Proposals for new purpose built student accommodation will need to demonstrate that the following criteria have been addressed:
  - ...
  - (5) 5. Proposals should be designed to be safe and secure for their occupants whilst respecting the character and permeability of the surrounding area.
- 5.11 This policy is aimed at ensuring that student accommodation provides a safe environment for students through the provision of security, while at the same time ensuring that student accommodation is not cut-off from the public and surrounding community. The accommodation proposed in the Application is integrated within the University Campus, rather than off-site where there would be a risk that security measures would result in the accommodation being isolated from the community around it. The Application is fully compliant with this Policy.

### ***The Third Reason for Refusal***

- 5.12 In advancing the third Reasons for Refusal, the Committee members of the City Council have contended that the Appellant is required to demonstrate that "no negative impact" on the city's existing housing stock would result from the proposed development.
- 5.13 As a matter of principle, there is no requirement in the National Planning Policy Framework, in particular the principle of Sustainable Development, which imposes such a requirement and the City Council's approach is therefore unjustified in its approach.

- 
- 5.14 However, the members' approach is also unjustified in practice as no such negative impact would occur in any event. The Council's concerns regarding the impact of the proposed development on the City's existing housing stock is covered at paragraphs 8.62 and 8.63 of the Planning Committee report.
- 5.15 In fact the maximum shortfall in relation to student numbers compared with on site campus accommodation comes to only 340 bed spaces. This level would have no material impact on housing provision in the Council's overall area. In this regard, it should be noted that in the Examination into the Council's emerging core strategy, the Inspector identified a significant shortfall in available housing land within the Council's administrative area.
- 5.16 Moreover, the City Council's own professional officers recognised that the identified shortfall was acceptable – particularly in the context of the scope for the University to grow in the future without providing any on-campus accommodation if it decided to do so but also in view of the University's commitment to identify further units of student accommodation and to work to reduce the potential problems of the loss of housing to student houses in multiple occupation and the over-concentration of students in certain locations in the City.
- 5.17 Furthermore, the members' approach is misconceived because if no additional accommodation were to be provided as provided for in the Application, there would in fact be a potential shortfall of around 2,500 bed spaces by 2018 if the University expands as is predicted. The Appellant will provide further information in evidence for the Appeal that will support these points as necessary.
- 5.18 The matter is also addressed within the Socio-Economics Chapter (12) of the ES (UoS8) and the Planning Statement (UoS12) submitted with the Application where references are made to the proposed development's compliance with emerging Council planning policy on student housing within the City Plan and the Council's own Housing and Student Housing Strategies.
- 5.19 In addition, any shortfall consequent upon the Application regarding housing would only gradually arise over time, as the University expanded from 2015 to 2018. At the same time, as is properly noted in the Officer's report (at 8.63), the Council has land in its ownership which can be released for the development of an additional 700 bed spaces in the near future. Any shortfall arising is capable of being overcome by the release of further land in the same period.
- 5.20 Having regard to the above matters, the Appellant therefore submits that the proposal accords with all relevant Local Plan policy and with the sustainable objectives within the NPPF and the members' approach is unjustified.

#### ***The Fourth Reason for Refusal***

- 5.21 Under the fourth reason for refusal the members have made an assertion that the proposed development would overwhelm the composition and setting of the campus



and its listed buildings. This is not a sustainable contention. The effect of the development is addressed within the Planning Committee report at paragraphs 5.2, 5.8, 5.20-5.22, 8.11, 8.15, 8.18 and 8.21-8.22 which deal with (amongst other things) the positive feedback from consultees including English Heritage, the Council's Conservation Area Group (CAG) and the Heritage Officer. The Archaeology and Cultural Heritage Chapter of the Environmental Statement (Chapter 8, paragraphs 8.7 - 8.9, 8.11 - 8.21 and 8.33 and Table 8.1) (pages 8-1 to 8-7) together with the Additional Assessment of Setting Issues addendum and photomontages (UoS8) submitted with the Application also comprehensively addresses this issue. The conclusion is that the proposals within the Application would have "a negligible impact on the physical fabric and setting of the designated heritage assets, including the group of listed buildings within the campus".

- 5.22 That conclusion was shared by the City Council's Officers and the statutory consultee as set out in the Committee report – English Heritage identified that the new buildings would "not compete" with the Spence buildings.
- 5.23 Having regard to these points, it is submitted that there is no analysis and no evidence to support the assertions made within this reason for refusal by the members, nor is there any proper basis for suggesting that the proposal is contrary to policies HE3 and QD3 of the Local Plan. The proposed development fully accords with the Local Plan and all relevant NPPF policies applying the statutory requirements contained in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Evidence will be produced as necessary on behalf of the Appellant to support the Appeal based on the above points and the information presented to support the Application.
- 5.24 It can also be noted that the Council did not refuse the Application on the grounds of archaeological impact, flood risk, traffic and transport or noise and vibration impact (covered within Chapters 8, 9, 10 and 11 respectively within the ES) (UoS8 and UoS9) and no concerns were raised with respect to potential impact on the residential amenity of housing near to the application site and within Falmer.

### **Third Party Representations**

- 5.25 The Planning Committee report confirms that only 9 objections to the Application were received and the matters covered by these are identified in paragraph 5.1 of the Planning Committee report. No other areas of objection which have not already addressed, were raised in these representations.
- 5.26 Overall therefore, the proposed development is in accordance with the NPPF and the Development Plan (comprising the saved policies of the Brighton and Hove Local Plan 2005 and Lewes District Local Plan 2003) to the extent that these policies remain up to date and constitute sustainable development as defined in the NPPF.



---

## **6.0 Planning Conditions and Section 106 Agreement**

- 6.1 **Appendix 1** to this document contains the planning conditions from the Planning Officer's report to the City Council's Planning Committee and with conditions 3 and 14 as amended in line with the Council's Planning Committee Addendum document (UoS59). These are acceptable in principle to the Appellant.
- 6.2 **Appendix 2** contains the draft S.106 Agreement that was submitted to the City Council during consideration of the Application. A completed document will be submitted at least 10 days prior to the Inquiry, in keeping with the Appeal timetable.

## **7.0 Witnesses**

- 7.1 It is currently envisaged that the Appellant will be legally represented and will call witnesses to give evidence at the Inquiry to cover the following topics:
- Strategic need for the masterplan and student housing
  - Housing and socio-economic issues
  - Landscape Impact
  - Design
  - Arboricultural and Ecology Impact
  - Historic Environment Impact
  - Planning balance
- 7.2 The Appellant reserves the right to call other witnesses to give evidence at the Inquiry as necessary in order to respond to any issues raised in the Statements of Case of other parties.

## **8.0 Time Estimate**

- 8.1 The Appellant estimates that the inquiry will last up to 8 days including the Inspector's site visit.

## **9.0 Documents**

- 9.1 The Appellant anticipates referring to the following documents;
- Brighton and Hove Local Plan (2005)
  - Brighton and Hove City Council Supplementary Planning Document 06 : Trees and Development Sites
  - Brighton and Hove City Council Supplementary Planning Document 11 : Nature Conservation
  - Brighton and Hove City Plan Part One Submission Draft (2013) with amendments (2014)
  - Brighton and Hove City Council Housing Strategy 2009-2014
  - Brighton and Hove City Council Student Housing Strategy 2009-2014

- 
- Lewes District Local Plan (2003)
  - Lewes District Local Plan – Part 1 – Joint Core Strategy (2013)
  - National Planning Policy Framework (2012)
  - National Planning Practice Guidance (2014)
  - Inspector’s “Initial Conclusions” letter dated 13<sup>th</sup> December 2013 following the Examination into the Brighton and Hove City Plan Part One

9.2 In addition to the documents submitted as part of the Application (see paragraph 3.1), the Appellant will refer to the following documents associated with the planning application;

- Consultation responses to the planning application;
- The Planning Officer’s report on the planning application to the Council’s Planning Committee meeting including the Planning Committee Addendum document (25<sup>th</sup> June 2014); and
- Minutes of the Council’s Planning Committee meeting (25<sup>th</sup> June 2014).

## **Appendix 1**

## Planning Conditions

1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or two years from the approval of the last of the reserved matters as defined in condition 2 below, whichever is the later.

**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

2) a) Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:

(i) appearance; and

(ii) landscaping.

b) The reserved matters shall be carried out as approved.

c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

**Reason:** To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

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

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

Plan Type	Reference	Version	Date Received
Site boundary	D/100		20/12/13
Site boundary with the 3 development phases shown.	D/105		20/06/14
Site boundary – Brighton & Hove	D/110		20/12/13
Site boundary – Lewes District boundary	D/120		20/12/13
Demolition plan	D/130		20/12/13
Parameter Plan1 -Access	D/140		20/12/13
Parameter Plan 2 – Landscape infrastructure	D/150	D	20/12/13
Parameter Plan 3 – Land uses	D/160	A	07/01/14
Parameter Plan 4 - Building heights	D/170		20/12/13
Listed buildings	D/200		20/12/13
Existing topography	D/220	B	20/12/13
Boundaries plan	D/230		20/12/13
Masterplan	D/300		20/12/13
Illustrative building heights	D/305	A	19/03/14
Illustrative East slope plans and sections	D/310		20/12/13
Illustrative West slope plans and sections	D/320		20/12/13
Illustrative Academic Area plans and sections	D/330		20/12/13
Tree removal and retention plan	D/400	B	20/12/13

Phase 1: East Slope Development

4) No hedgerow, tree or shrub shall be removed from the Phase 1 Site between 1st March and 31st August inclusive without the prior submission of a report to the Local Planning Authority which sets out the results of a survey to assess the nesting bird activity on the Phase 1 Site and describes a method of working to protect any nesting bird interest. The report must first be agreed in writing by the Local Planning Authority and shall then be carried out in strict accordance with the approved details.

**Reason:** To ensure that wild birds building or using their nests are protected, in accordance with QD18 of the Brighton & Hove Local Plan.

5) All planting, seeding or turfing comprised in the approved scheme of landscaping on the Phase 1 site shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development on the Phase 1 Site is occupied.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

6) Piling or any other foundation designs on the Phase 1 Site using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the Phase 1 site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

**Reason:** To prevent pollution of the water environment and to comply with policy SU3 of the Brighton & Hove Local Plan.

7) No infiltration of surface water drainage into the ground of the Phase 1 Site is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the Phase 1 Site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

**Reason:** To prevent pollution of the water environment and to comply with policy SU3 of the Brighton & Hove Local Plan.

8) Noise associated with plant and machinery incorporated within the development on the Phase 1 Site shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 10dB(A) below background, as per BS4142.

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

9) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development of the Phase 1 Site hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development on the Phase 1 Site shall be carried out in accordance with the approved details.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy QD1 of the Brighton & Hove Local Plan.

10) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping on the Phase 1 Site, which shall

include hard surfacing, boundary treatments, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

11) No work shall take place on the Phase 1 Site (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement for the Phase 1 Site has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place on the Phase 1 Site except in complete accordance with the approved Method Statement. Such method statement shall include full detail of the following:

- Implementation, supervision and monitoring of the approved Tree Protection Scheme.
- Implementation, supervision and monitoring of the approved Treework Specification.
- Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme.
- Timing and phasing of Arboricultural works in relation to the approved development

**Reason:** To ensure the adequate protection of the protected trees which are to be retained on the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.

12) No works on the Phase 1 Site which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

- i. creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of the working day; and
- ii. open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

The scheme shall be implemented fully in accordance with the approved details.

**Reason:** To ensure that badgers are protected, in accordance with QD18 of the Brighton & Hove Local Plan.

13) Unless otherwise agreed in writing by the Local Planning Authority, no work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until:

- a) evidence that the development on the Phase 1 Site is registered with the Building Research Establishment (BRE) under BREEAM (either a 'BREEAM Buildings' scheme or a 'bespoke BREEAM') and a Design Stage Assessment Report showing that the development will achieve an BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development have been submitted to the Local Planning Authority; and
- b) a BRE issued Design Stage Certificate demonstrating that the development on the Phase 1 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

14) Prior to the demolition the East Slope residential buildings on the Phase 1 site, these buildings shall be fully recorded by scaled drawing and photographs to be submitted to and

approved in writing by the Local Planning Authority. The recording shall be in line with the guidance set out in the English Heritage guidance 2006 'Understanding Historic Buildings: A guide to good recording practice. The recording to of the buildings shall follow the guidance for a Level 2 record. Evidence that a copy of the record has been deposited with the East Sussex Historic Environment Record (HER) shall also be submitted to the Local Planning Authority.

**Reason:** In order to provide a reasonable opportunity to record the history of the buildings and to comply with policies HE3 and HE6 of the Brighton & Hove Local Plan.

15) No development of the Phase 1 Site shall take place until the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority:

1. A site investigation scheme for the Phase 1 Site, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
2. The results of the site investigation and detailed risk assessment referred to in 1 and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required on the Phase 1 Site and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in 2 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action on the Phase 1 Site.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

**Reason:** To prevent pollution of the water environment and to comply with policy SU3 of the Brighton & Hove Local Plan.

16) No work shall take place at ground floor slab level or above of any part of the development hereby approved on the Phase 1 Site until a surface water drainage scheme for the Phase 1 Site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development of the Phase 1 Site is completed and the buildings of the Phase 1 Site are occupied.

**Reason:** To prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

17) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until details of disabled car parking provision for the students, staff and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development hereby permitted and shall thereafter be retained for use at all times.

**Reason:** To ensure the development provides for the needs of disabled staff and visitors to the site and to comply with Local Plan policy TR18 and SPG4.

18) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until further details of additions and improvements on campus to pedestrian and cycle routes , bus stops, along with details of cycle parking for the students, staff and visitors to, the development hereby approved on the Phase 1 Site have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the first occupation of the development permitted on the Phase 1 Site and shall thereafter be retained for use at all times.

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

19) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 1 Site until full details of existing and proposed ground levels (referenced as Ordinance Datum) within the site and on land adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures on the Phase 1 Site, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

**Reason:** To safeguard the character and appearance of the area, in addition to comply with policies QD2 of the Brighton & Hove Local Plan.

20) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved on the Phase 1 Site shall not be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the development built on the Phase 1 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' has been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

21) Prior to the first occupation of the buildings on the Phase 1 Site, a "lighting design strategy for biodiversity" for the buildings and car parks on the Phase 1 Site shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- i. identify those areas/features that are particularly sensitive for bats and badgers and that are likely to cause disturbance in or around their breeding sites, resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- ii. show how and where external lighting will be installed on the Phase 1 Site (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting on the Phase 1 site shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

**Reason:** To safeguard protected species from the impact of the development in accordance with policy QD18 of the Brighton & Hove Local Plan.

#### Phase 2: Academic Buildings

22) No hedgerow, tree or shrub shall be removed from the Phase 2 Site between 1st March and 31st August inclusive without the prior submission of a report to the Local Planning Authority which sets out the results of a survey to assess the nesting bird activity on the Phase 2 Site and describes a method of working to protect any nesting bird interest. The report must first be agreed in writing by the Local Planning Authority and shall then be carried out in strict accordance with the approved details.

**Reason:** To ensure that wild birds building or using their nests are protected, in accordance with QD18 of the Brighton & Hove Local Plan.



23) All planting, seeding or turfing comprised in the approved scheme of landscaping on the Phase 2 site shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development on the Phase 2 site is occupied.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

24) Piling or any other foundation designs on the Phase 2 Site using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the Phase 2 site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

**Reason:** To prevent pollution of the water environment and to comply with policy SU3 of the Brighton & Hove Local Plan. 25) No infiltration of surface water drainage into the ground of the Phase 2 Site is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the Phase 2 Site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

**Reason:** To prevent pollution of the water environment and to comply with policy SU3 of the Brighton & Hove Local Plan.

26) Noise associated with plant and machinery incorporated within the development on the Phase 2 Site shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 10dB(A) below background, as per BS4142.

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

27) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development of the Phase 2 Site hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development on the Phase 2 Site shall be carried out in accordance with the approved details.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy QD1 of the Brighton & Hove Local Plan.

28) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping on the Phase 2 Site, which shall include hard surfacing, boundary treatments, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

29) No work shall take place on the Phase 2 Site (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement for the Phase 2 Site has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place on the Phase 2

Site except in complete accordance with the approved Method Statement. Such method statement shall include full detail of the following:

- Implementation, supervision and monitoring of the approved Tree Protection Scheme.
- Implementation, supervision and monitoring of the approved Treework Specification.
- Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme.
- Timing and phasing of Arboricultural works in relation to the approved development

**Reason:** To ensure the adequate protection of the protected trees which are to be retained on the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.

30) No works on the Phase 2 Site which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

- i. creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of the working day; and
- ii. open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

The scheme shall be implemented fully in accordance with the approved details.

**Reason:** To ensure that badgers are protected, in accordance with QD18 of the Brighton & Hove Local Plan.

31) Unless otherwise agreed in writing by the Local Planning Authority, no work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until:

- a) evidence that the development on the Phase 2 Site is registered with the Building Research Establishment (BRE) under BREEAM (either a 'BREEAM Buildings' scheme or a 'bespoke BREEAM') and a Design Stage Assessment Report showing that the development will achieve an BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development have been submitted to the Local Planning Authority; and
- b) a BRE issued Design Stage Certificate demonstrating that development on the Phase 2 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

32) No development of the Phase 2 Site shall take place until the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority:

1. A site investigation scheme for the Phase 2 Site, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
2. The results of the site investigation and detailed risk assessment referred to in 1 and, based on these, an options appraisal and remediation strategy for the Phase 2 Site giving full details of the remediation measures required and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in 2 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action for the Phase 2 Site.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

**Reason:** To prevent pollution of the water environment and to comply with policy SU3 of the Brighton & Hove Local Plan.

33) No work shall take place at ground floor slab level or above of any part of the development hereby approved on the Phase 2 Site until a surface water drainage scheme for the Phase 2 Site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development of the Phase 2 Site is completed and the buildings of the Phase 2 Site are occupied.

**Reason:** To prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

34) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until details of disabled car parking provision for the students, staff and visitors to, the development hereby approved on the Phase 2 Site have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development hereby permitted on the Phase 2 Site and shall thereafter be retained for use at all times.

**Reason:** To ensure the development provides for the needs of disabled staff and visitors to the site and to comply with Local Plan policy TR18 and SPG4.

35) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until further details of additions and improvements on campus to pedestrian and cycle routes, bus stops, along with details of cycle parking for the students, staff and visitors to, the development hereby approved on the Phase 2 Site have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the first occupation of the development of the Phase 2 Site hereby permitted and shall thereafter be retained for use at all times.

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

36) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 2 Site until full details of existing and proposed ground levels (referenced as Ordinance Datum) within the site and on land adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures on the Phase 2 Site, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

**Reason:** To safeguard the character and appearance of the area, in addition to comply with policies QD2 of the Brighton & Hove Local Plan.

37) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved on the Phase 2 Site shall not be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the development built on the Phase 2 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' has been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

38) Prior to the first occupation of the buildings on the Phase 2 Site, a "lighting design strategy for biodiversity" for the buildings and car parks on the Phase 2 Site shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- i. identify those areas/features that are particularly sensitive for bats and badgers and that are likely to cause disturbance in or around their breeding sites, resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- ii. show how and where external lighting will be installed on the Phase 2 Site (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting on the Phase 2 site shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

**Reason:** To safeguard protected species from the impact of the development in accordance with policy QD18 of the Brighton & Hove Local Plan.

#### Phase 3 – West Slope Development

39) No hedgerow, tree or shrub shall be removed from the Phase 3 Site between 1st March and 31st August inclusive without the prior submission of a report to the Local Planning Authority which sets out the results of a survey to assess the nesting bird activity on the Phase 3 Site and describes a method of working to protect any nesting bird interest. The report must first be agreed in writing by the Local Planning Authority and shall then be carried out in strict accordance with the approved details.

**Reason:** To ensure that wild birds building or using their nests are protected, in accordance with QD18 of the Brighton & Hove Local Plan.

40) All planting, seeding or turfing comprised in the approved scheme of landscaping on the Phase 3 site shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development on the Phase 3 site is occupied.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

41) Piling or any other foundation designs on the Phase 3 Site using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the Phase 3 site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

**Reason:** To prevent pollution of the water environment and to comply with policy SU3 of the Brighton & Hove Local Plan.

42) No infiltration of surface water drainage into the ground of the Phase 3 Site is permitted other than with the express written consent of the Local Planning Authority, which may be given

for those parts of the Phase 3 Site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

**Reason:** To prevent pollution of the water environment and to comply with policy SU3 of the Brighton & Hove Local Plan.

43) Noise associated with plant and machinery incorporated within the development on the Phase 3 Site shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 10dB(A) below background, as per BS4142.

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

44) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development of the Phase 3 Site hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development on the Phase 3 Site shall be carried out in accordance with the approved details.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy QD1 of the Brighton & Hove Local Plan.

45) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping on the Phase 3 Site, which shall include hard surfacing, boundary treatments, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

46) No work shall take place on the Phase 3 Site (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement for the Phase 3 Site has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place on the Phase 3 Site except in complete accordance with the approved Method Statement. Such method statement shall include full detail of the following:

- Implementation, supervision and monitoring of the approved Tree Protection Scheme.
- Implementation, supervision and monitoring of the approved Treework Specification.
- Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme.
- Timing and phasing of Arboricultural works in relation to the approved development

**Reason:** To ensure the adequate protection of the protected trees which are to be retained on the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.

47) No works on the Phase 3 Site which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

- i. creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of the working day; and

- ii. open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

The scheme shall be implemented fully in accordance with the approved details.

**Reason:** To ensure that badgers are protected, in accordance with QD18 of the Brighton & Hove Local Plan.

48) Unless otherwise agreed in writing by the Local Planning Authority, no work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until:

- a) evidence that the development on the Phase 3 Site is registered with the Building Research Establishment (BRE) under BREEAM (either a 'BREEAM Buildings' scheme or a 'bespoke BREEAM') and a Design Stage Assessment Report showing that the development will achieve an BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development have been submitted to the Local Planning Authority; and
- b) a BRE issued Design Stage Certificate demonstrating that development on the Phase 3 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

49) No development of the Phase 3 Site shall take place until the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority:

- 1. A site investigation scheme for the Phase 3 Site, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 2. The results of the site investigation and detailed risk assessment referred to in 1 and, based on these, an options appraisal and remediation strategy for the Phase 3 Site giving full details of the remediation measures required and how they are to be undertaken.
- 3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in 3 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action for the Phase 3 Site.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

**Reason:** To prevent pollution of the water environment and to comply with policy SU3 of the Brighton & Hove Local Plan.

50) No work shall take place at ground floor slab level or above of any part of the development hereby approved on the Phase 3 Site until a surface water drainage scheme for the Phase 3 Site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development of the Phase 3 Site is completed and the buildings of the Phase 3 Site are occupied.

**Reason:** To prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

51) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until details of disabled car parking provision for the students, staff and visitors to, the development hereby approved on the Phase 3 Site have been

submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development hereby permitted on the Phase 3 Site and shall thereafter be retained for use at all times.

**Reason:** To ensure the development provides for the needs of disabled staff and visitors to the site and to comply with Local Plan policy TR18 and SPG4.

52) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until further details of additions and improvements on campus to pedestrian and cycle routes, bus stops, along with details of cycle parking for the students, staff and visitors to, the development hereby approved on the Phase 3 Site have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the first occupation of the development of the Phase 3 Site hereby permitted and shall thereafter be retained for use at all times.

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

53) No work shall take place above ground floor slab level of any part of the development hereby approved on the Phase 3 Site until full details of existing and proposed ground levels (referenced as Ordinance Datum) within the site and on land adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures on the Phase 3 Site, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

**Reason:** To safeguard the character and appearance of the area, in addition to comply with policies QD2 of the Brighton & Hove Local Plan.

54) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved on the Phase 3 Site shall not be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the development built on the Phase 3 Site has achieved a BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' has been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

55) Prior to the first occupation of the buildings on the Phase 3 Site, a "lighting design strategy for biodiversity" for the buildings and car parks on the Phase 3 Site shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- i. identify those areas/features that are particularly sensitive for bats and badgers and that are likely to cause disturbance in or around their breeding sites, resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- ii. show how and where external lighting will be installed on the Phase 3 Site (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting on the Phase 3 site shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

**Reason:** To safeguard protected species from the impact of the development in accordance with policy QD18 of the Brighton & Hove Local Plan.

56) Prior to the demolition of The four 'quads' buildings of Lancaster, York, Norwich and Essex and The Park Village buildings on the Phase 3 Site, these buildings shall be fully recorded by scaled drawing and photographs to be submitted to and approved in writing by the Local Planning Authority. The recording shall be in line with the guidance set out in the English heritage guidance 2006 'Understanding Historic Buildings: A guide to good recording practice. The recording to of the buildings shall follow the guidance for a Level 2 record. Evidence that a copy of the record has been deposited with the East Sussex Historic Environment Record (HER) shall also be submitted to the Local Planning Authority.

**Reason:** In order to provide a reasonable opportunity to record the history of the buildings and to comply with policies HE3 and HE6 of the Brighton & Hove Local Plan.

## **Informatives**

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. This decision to grant Planning Permission has been taken:

- (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents: (Please see section 7 of the report for the full list); and
- (ii) for the following reasons:-
  - 1. The application accords with relevant legislation and development plan policies, has a negligible impact on the setting of the listed buildings on the campus South Downs National Park and will preserve strategic views and the character of the surrounding location. The scheme provides additional student accommodation and academic buildings which is required within the City. Adequate mitigation has been identified in the accompanying ES and can be achieved to protect and enhance nature conservation features and species on the site and the scheme can achieve an 'Excellent' BREEAM rating.
  - 2. The applicant is advised that under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting birds, their nests and eggs is a criminal offence. The nesting season is normally taken as being from 1st March – 30<sup>th</sup> September. The developer should take appropriate steps to ensure nesting birds, their nests and eggs are not disturbed and are protected until such time as they have left the nest.
  - 3. The applicant is advised of the possible presence of bats on the development site. All species of bat are protected by law. It is a criminal offence to kill bats, to intentionally or recklessly disturb bats, damage or destroy a bat roosting place and intentionally or recklessly obstruct access to a bat roost. If bats are seen during construction, work should stop immediately and Natural England should be contacted on 0300 060 0300.
  - 4. The applicants are advised that badgers may be present on site. Badgers and their setts are protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure or take badgers or to interfere with a badger sett. Should a sett be found on site during construction, work should stop immediately and Natural England should be contacted on 0300 060 0300.
  - 5. The applicant/developer is required to enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service the



development and for connection to the water supply. Southern Water, southern House Sparrowgrove, Otterbourne Hampshire SO21 2SW (Tel: 0330 303 0119).

6. The applicant is advised that it has been identified that the land is potentially contaminated. If, during development, contamination not previously identified is found to be present at the site then no further development should be carried out until the developer contacted the Council's Environmental Health Department for advice. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

## **Appendix 2**

**BRIGHTON & HOVE CITY COUNCIL**  
-and-  
**LEWES DISTRICT COUNCIL**  
-and-  
**UNIVERSITY OF SUSSEX**  
-and-  
**BRIGHTON & HOVE CITY COUNCIL**  
-and-  
**SUSSEX INNOVATION CENTRE DEVELOPMENT LIMITED**  
-and-  
**SUSSEX INNOVATION CENTRE MANAGEMENT LIMITED**  
-and-  
**AISIN SEIKI KABUSHIKI KAISHA**  
-and-  
**ROSEMARY McCONNELL, CHRISTOPHER ANTHONY WATSON,  
PHILIP DENIS LE SEVE and JAN AUSTERA**  
-and-  
**A2DOMINION HOMES LIMITED**  
-and-  
**ACCENT FOUNDATION LIMITED**  
-and-  
**T.H.F.C. (INDEXED) LIMITED**

---

**AGREEMENT**

pursuant to Section 106 & 106A of the Town and Country Planning Act 1990,  
Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011  
in respect of development of halls of residence, academic buildings and  
car parks at University of Sussex

---

**Gaby Hardwicke**

33 The Avenue  
Eastbourne  
East Sussex  
BN21 3YD  
Telephone: 01323 435900 Fax: 01323 435901  
djp@gabyhardwicke.co.uk  
www.gabyhardwicke.co.uk  
Ref: DJP.AAG.PAR.79645.3

**THIS AGREEMENT** is dated

day of

2014

and made BETWEEN :

- (1) **BRIGHTON & HOVE CITY COUNCIL** of Kings House Grand Avenue Hove East Sussex BN3 2SR in its capacity as local planning authority ("the City Council")
- (2) **LEWES DISTRICT COUNCIL** of Southover House, Southover Road, Lewes, East Sussex, BN7 1AB ("the District Council")
- (3) **UNIVERSITY OF SUSSEX** of Hastings Building Falmer Brighton BN1 9RJ ("the Developer")
- (4) **BRIGHTON & HOVE CITY COUNCIL** of Kings House Grand Avenue Hove East Sussex BN3 2SR ("the First Owner")
- (5) **SUSSEX INNOVATION CENTRE DEVELOPMENT LIMITED** (Company number 02951828) of Sussex House, Southern Ring Road, Falmer, Brighton, BN1 9RH ("the Second Owner")
- (6) **SUSSEX INNOVATION CENTRE MANAGEMENT CENTRE LIMITED** (Company number 02943738) of Sussex Innovation Centre, Science Park Square, Falmer, Brighton, BN1 9SB ("the Third Owner")
- (7) **AISIN SEIKI KABUSHIKI KAISHA** (Company number F11965) of Aisin Seiki Building, University of Sussex, Lewes Road, Brighton, BN1 9RF ("the Fourth Owner")
- (8) **ROSEMARY McCONNELL, CHRISTOPHER ANTHONY WATSON, PHILIP DENIS LE SEVE and JAN AUSTERA** of Sussex Health Centre, University of Sussex, Falmer, Brighton ("the Fifth Owner")
- (9) **A2DOMINION HOMES LIMITED (INDUSTRIAL AND PROVIDENT SOCIETY NUMBER IP18313R)** of Capital House, 25 Chapel Street, London, NW1 5DH ("the Sixth Owner")
- (10) **ACCENT FOUNDATION LIMITED (INDUSTRIAL AND PROVIDENT SOCIETY NUMBER IP19229R)** of Butterfield House, Otley Road, Baildon, Shipley, West Yorkshire, BD17 7HF ("the Seventh Owner")

- (11) **T.H.F.C (INDEXED) LIMITED (INDUSTRIAL AND PROVIDENT SOCIETY NUMBER IP27161R)** of Fourth Floor 107 Cannon Street, London, EC4N 5HF (“the Mortgagee”)

## **WHEREAS**

- (1) The First Owner is the freehold owner registered with title number ESX300632 of part of the Property and enters into this Agreement in this capacity solely for the purpose of giving effect to the obligations herein.
- (2) The Second Owner is the freehold owner registered under title number ESX323658 of part of the Property and enters into this Agreement in this capacity solely for the purpose of giving effect to the obligations herein.
- (3) The Third Owner is the leasehold owner registered with title number ESX324547 of part of the Property and enters into this Agreement in this capacity solely for the purpose of giving effect to the obligations herein.
- (4) The Fourth Owner is the leasehold owner registered with title number ESX108480 of part of the Property and enters into this Agreement in this capacity solely for the purpose of giving effect to the obligations herein.
- (5) The Fifth Owner is the leasehold owner registered with title number ESX198276 of part of the Property and enters into this Agreement in this capacity solely for the purpose of giving effect to the obligations herein.
- (6) The Sixth Owner is the leasehold owner registered with title number ESX172086 of part of the Property and enters into this Agreement in this capacity solely for the purpose of giving effect to the obligations herein.
- (7) The Seventh Owner is the leasehold owner registered with title number ESX178288 of part of the Property and enters into this Agreement in this capacity solely for the purpose of giving effect to the obligations herein.
- (8) The Mortgagee is the registered proprietor of the charge dated 3<sup>rd</sup> June 1991 referred to in entry number 1 of the charges register of title number ESX178288 and has agreed to enter into this Agreement in this capacity solely for the purpose of giving its consent to the entering into of the obligations herein.

- (9) The Developer is the freehold owner registered with title number ESX337438 of part of the Property and the leasehold owner of further parts of the Property registered at HM Land Registry under title numbers and SX110974, SX110975, ESX189891 and ESX182825.
- (10) By the Applications the Developer has applied for planning permission to develop the Property by the Proposed Development.
- (11) The City Council is the local planning authority for the area within which part of the Property is situated and the District Council is the local planning authority for the area within the remainder of the Property is situated for the purposes of Section 106 of the Town & Country Planning Act 1990 ("the 1990 Act"), Section 111 of the Local Government Act 1972 ("the 1972 Act") and Section 1 of the Localism Act 2011 ("the 2011 Act").
- (12) The City Council and the District Council both consider that the Application generates the need for this Agreement to be entered into.
- (13) The parties have agreed to enter into this Agreement pursuant to Section 106 & 106A of the 1990 Act, Section 111 of the 1972 Act and Section 1 of the 2011 Act and all other powers enabling them for the purposes specified in Clause 2.

**NOW IT IS AGREED as follows :**

**1. DEFINITIONS AND INTERPRETATION**

**1.1. In this Agreement unless the context otherwise requires:**

**“Applications”** means the application for outline planning permission submitted to the City Council on 20<sup>th</sup> December 2013 and given application reference number BH2013/04337 the application for outline planning permission submitted to the District Council on 8<sup>th</sup> January 2014 and given application reference number LW/14/0006 for the Proposed Development.

**“Commencement of the Proposed Development”** shall refer to the Proposed Development and shall have the same meaning as ascribed to a “material operation” by Section 56(4) of the 1990 Act but excluding any operation relating to

works of investigations in respect of land contamination or remedial action in respect of it enabling works site clearance archaeological investigations and digs exploratory boreholes operations permitted by the Town & Country Planning (General Permitted Development) Order 1995 the erection of hoardings and fencing temporary diversion of services and signage (including the formation of temporary construction accesses) preliminary landscaping before construction activity occurs on the Property and any works matters and operations to enable any of the foregoing to take place.

**“Habitat Creation and Management Plan”**

means the Habitat Creation and Management Plan in respect of Phase 1 and Phase 2 and the Proposed Development combined referred to in the Schedule.

**“Occupation”**

means beneficial occupation for any use for which the relevant building is designed other than occupation for the purposes of construction fitting out security marketing and repair and “Occupy” shall be construed accordingly

**‘Owners’**

means the First Owner, the Second Owner, the Third Owner, the Fourth Owner, the Fifth Owner, the Sixth Owner and the Seventh Owner collectively and each of them

**“Phase 1”**

means Phase 1 of the Proposed Development, comprising the demolition of buildings, relocation of car parks, provision of new temporary and permanent car parks, construction of new student bedrooms and new academic buildings in sub-phases, all as described in the attached Drawing Nos [ ] entitled “INDICATIVE PHASING PHASE 01-06” respectively

**“Phase 2”**

means phase 2 of the Proposed Development, comprising the demolition of buildings, relocation of car park and parking spaces, construction of new student bedrooms and new academic buildings in sub-phases, all as described in the attached Drawing Nos [ ] entitled “INDICATIVE PHASING PHASE 07-09” respectively

**“Property”** means the land forming part of the campus of the University of Sussex Brighton which forms part of title numbers SX110974, ESX337438 and ESX300632 and is shown for identification purposes only edged red on Plan 1

**“The Proposed Development”** means extension and redevelopment to provide additional academic floorspace, student residential accommodation and supporting facilities and infrastructure, together with associated landscaping to the Property.

**“Public Art Contribution”** the sum of at least £[ ] to be applied in accordance with the provisions of Part C of the Schedule.

1.2 Where the context so requires:

- (a) the singular includes the plural;
- (b) reference to any party shall include the successors in title to that party;
- (c) where a party includes more than one person any obligations of that party shall be joint and several;
- (d) reference to clauses and schedules are references to clauses in and schedules to this Agreement; and
- (e) reference to a Plan is to a plan attached to this Agreement

1.3 A reference to any statute or statutory section shall be taken to include a reference to any statutory amendment modification or re-enactment of it for the time being in force.

1.4 The headings in this Agreement do not and will not by implication form any part of this Agreement and shall have no legal force

1.5 The expressions “the City Council” and “the District Council” shall include successors in title and any statutory successor authority of either of them and the expressions “the Owner” and “the Developer” shall include all persons deriving title under them to the parts of the Property now vested in each of them and shall include (if appropriate) two or more owners of the legal estate.

## **2. PRELIMINARY**

### **2.1 Legal Powers**



This Agreement is made pursuant to Section 106 of the 1990 Act, Section 111 of the 1972 Act and Section 1 of the 2011 Act and all other powers enabling.

2.2 **Enforceability**

The various covenants restrictions requirements stipulations and other obligations on the part of the Owner and the Developer contained in this Agreement are entered into under the provisions and powers referred to in Clause 2.1 and are planning obligations for the purposes of Section 106 of the 1990 Act whether expressed to be planning obligations or not and are enforceable by the City Council and by the District Council against the Owner and/or the Developer and any person deriving title from the Owner and/or the Developer.

2.3 **Expiry**

If the permission granted pursuant to the Application shall expire or shall have been revoked before the Commencement of the Proposed Development this Agreement shall forthwith determine and cease to have effect.

2.4 **Commencement**

The obligations contained in this Agreement save for those contained in Clauses 1 and 2 (which shall take effect on the execution hereof) shall take effect only on the Commencement of the Proposed Development.

2.5 **Liability**

No person shall be liable for breach of a covenant contained in this Agreement after it shall have parted with all interest in the part of the Property now vested in it or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.

2.6 **No Prohibition**

Nothing in this Agreement shall prohibit or limit the right to develop any part of the Property in accordance with a planning permission (other than the permission for the

Proposed Development) granted (whether or not on appeal) after the date of this Agreement.

**2.7 Registration**

This Agreement is a local land charge and shall be registered as such

**2.8 Fettering of discretion**

Nothing in this Agreement shall fetter or restrict the discretion of the City Council or the District Council in the exercise of its powers under any statutory enactment or other enabling power for the time being in force.

**2.9 Service of Notices**

Any notice or other written communication to be served by one party upon any other pursuant to the terms of this Agreement shall be deemed to have been validly served if delivered by hand or sent by prepaid recorded or special delivery post to the party to be delivered at its address herein specified or such other address as may from time to time be notified for the purpose in writing.

**2.10 Approvals etc ...**

2.10.1 Subject to clause 2.8 where any agreement certificate consent permission expression of satisfaction or other approval (together "Approval") is to be given to any party or any person on behalf of any party hereto under this agreement it shall not be unreasonably withheld or delayed.

2.10.2 Where any request for any Approval is submitted to the City Council or to the District Council, the Approval of the City Council or of the District Council (as the case may be) shall be deemed to have been given if (a) the City Council or the District Council (as the case may be) shall not have given to the Developer, within two months after submission of the written request, either a written, reasoned refusal of the Approval, or a written request for further information, or (b) following receipt of any such further information requested, the City Council or the District Council (as the case may be) shall not have given to the Developer a written refusal of the Approval within one month after submission of the further information requested.

2.11 **Agreement Costs**

The Developer shall pay the City Council's reasonable costs for the negotiation and completion of this Agreement

3. **ENFORCEABILITY**

The provisions of this Agreement are not intended to be enforceable by any third party (which for the avoidance of doubt shall exclude any statutory successor authority to the City Council or the District Council and successors in title to the Owner and/or the Developer) pursuant to the Contracts (Rights of Third Parties) Act 1999.

4. **COVENANTS**

4.1 The Owners and the Developer hereby covenant with the City Council and with the District Council as specified in Parts A and B of the Schedule.

4.2 The Owners and the Developer hereby covenant with the City Council as specified in Part C of the Schedule.

4.3 The Developer hereby covenants with the Owners that, as between the Owners and the Developer, the Developer shall have sole responsibility for observing and performing the obligations contained in the Schedule and hereby indemnifies each of the Owners against any actions, proceedings, claims, demands, costs and expenses incurred by each of them as a result of any non-observance or non-performance of those obligations.

**IN WITNESS WHEREOF** the parties hereto have executed this Deed the day and year first before written

**THE SCHEDULE**

**A. Habitat Creation and Management Plan ("the Plan")**

1. The Plan shall be submitted to the City Council and to the District Council for approval within three calendar months after Commencement of the Proposed Development

2. The following general principles and features shall be incorporated into the Plan:
- The Plan shall be written by a qualified ecologist
  - Plans showing the location and extent of all features
  - Existing and proposed species lists
  - Construction and maintenance methodologies to follow established good practice in all cases
  - Timing of all works and dates for completion (generally all habitat creation works to be completed during the building construction phase or soon after, time frame of maintenance plan to be 25 years)
  - Contact details of all personnel responsible for the works – these should be qualified and experienced in habitat creation and management

Features to be addressed shall include:

- Opportunities for wildlife-friendly planting to be created in Landscape Infrastructure Zone and in Development Zone shown on Plan 2
  - Retention of key existing tree groups
  - Provision of off-site ecological mitigation
  - Provision of green roofs and (where applicable) roosting facilities for bats in buildings within Development Zones shown on Plan 2.
  - Woodland management in respect of the existing woodland shown on Plan 2:
    - diversify tree species age structure and vertical structure
    - introduce sustainable woodland management
    - manage low-key access for the public
  - Development bordering woodland edges to have suitable lighting so as to minimise impacts on bats
3. Once it has been approved in writing by the City Council and by the District Council, to implement the Plan in accordance with its terms and provisions
4. Not to Occupy or cause the Occupation of any of the residential buildings within the Proposed Development until the Plan has been approved in writing by the City Council and by the District Council.

## **B. Phasing Obligations**

1. Prior to Commencement of the Development the Developer shall submit to the City Council and to the District Council and obtain the City Council's and the District

- Council's approval to a programme ("the Phase 1 Programme") for the construction of Phase 1. The Phase 1 Programme shall include the anticipated date of Commencement of the Development, the anticipated dates of completion of each of sub-phases 01-06 of Phase 1 and the anticipated date for overall completion of Phase 1.
2. Prior to Commencement of Phase 2, the Developer shall submit to the City Council and to the District Council and obtain the City Council's and the District Council's approval to a programme ("the Phase 2 Programme") for the construction of Phase 2. The Phase 2 Programme shall include the anticipated date of Commencement of Phase 2, the anticipated dates of completion of each of sub-phases 07-09 of Phase 2 and the anticipated date for overall completion of Phase 2.
  3. The Developer shall use its reasonable endeavours to adhere to the Phase 1 Programme and to the Phase 2 Programme as approved by the City Council and by the District Council PROVIDED THAT the period for construction of any given Phase or sub-phase, or the period for overall completion of Phase 1 or of Phase 2, as stated in the Phase 1 Programme or in the Phase 2 Programme, shall be capable of extensions of time by such period or periods as shall be reasonable, having regard to any delays owing to any circumstances beyond the reasonable control of the Developer.

### **C. Public Art Contribution**

1. The Developer shall spend the Public Art Contribution on the provision of public art ("the Artistic Component") on the University of Sussex Campus as identified in a Campus-wide public art scheme which is to be agreed in writing between the City Council and the Developer ("the Campus Public Art Scheme").
2. The Campus Public Art Scheme shall accord with the City Council's Public Art Policy QD6 in force at the date of the Agreement.
3. The commissioning process for the Artistic Component shall be approved in writing by the City Council prior to the artist being formally commissioned.
4. The Artistic Component shall bear a relationship to its surroundings and any particular characteristics of the University of Sussex Campus.

5. If the Artistic Component will be accessible to the public a robust design shall be required, in keeping nevertheless with its setting within the University of Sussex Campus.
6. The Artistic Component shall be installed to the satisfaction of the City Council.
7. The Artistic Component shall be installed prior to the Occupation of the last of the new buildings to be constructed within Phase 1 of the Proposed Development.

**EXECUTED AS A DEED by  
affixing THE COMMON SEAL OF  
BRIGHTON & HOVE CITY COUNCIL  
(as local planning authority)  
in the presence of:**

**Authorised Officer**

**EXECUTED AS A DEED by  
affixing THE COMMON SEAL OF  
LEWES DISTRICT COUNCIL  
in the presence of:**

**Authorised Officer**

**EXECUTED AS A DEED by  
affixing THE COMMON SEAL OF  
BRIGHTON & HOVE CITY COUNCIL  
(as Owner)  
in the presence of:**

**Authorised Officer**

**EXECUTED AS A DEED by  
THE UNIVERSITY OF SUSSEX  
acting by :**

**Vice Chancellor\***

**Registrar and Secretary\***

**Director of Finance\***

\*Delete as appropriate, Note: any two of the above to sign

EXECUTED AS A DEED by  
SUSSEX INNOVATION CENTRE  
DEVELOPMENT LIMITED acting by  
a director

.....

in the presence of:-

witness signature.....

witness print name.....

witness address.....

EXECUTED AS A DEED by  
SUSSEX INNOVATION CENTRE  
MANAGEMENT LIMITED  
acting by a director

.....

in the presence of:-

witness signature.....

witness print name.....

witness address.....

EXECUTED AS A DEED by  
AISIN SEIKI KABUSHIKI KAISHA  
acting by a [add appropriate attestation]

SIGNED AS A DEED by  
ROSEMARY McCONNELL

in the presence of:-

witness signature.....

witness print name.....

witness address.....

SIGNED AS A DEED by  
CHRISTOPHER ANTHONY WATSON



in the presence of:-

witness signature.....

witness print name.....

witness address.....

SIGNED AS A DEED by  
PHILIP DENIS LE SEVE

in the presence of:-

witness signature.....

witness print name.....

witness address.....

EXECUTED AS A DEED by  
JAN AUSTERA

in the presence of:-

witness signature.....

witness print name.....

witness address.....

EXECUTED AS A DEED by  
A2DOMINION HOMES LIMITED  
acting by a director

.....

in the presence of:-

witness signature.....

witness print name.....

witness address.....

EXECUTED AS A DEED by  
ACCENT FOUNDATION LIMITED  
acting by a director

.....

in the presence of:-

witness signature.....

witness print name.....

witness address.....

EXECUTED AS A DEED by  
T.H.F.C. (INDEXED) LIMITED  
acting by a director

.....

in the presence of:-

witness signature.....

witness print name.....

witness address.....