

Planning Committee

Date: **30 September 2020**

Time: **2.00pm**

Venue **Virtual Via Skype**

Members: **Councillors:**Littman (Chair), Osborne (Deputy Chair), Childs (Opposition Spokesperson), Miller (Group Spokesperson), Fishleigh, Henry, Janio, Shanks, C Theobald and Yates

Conservation Advisory Group Representative

Contact: **Penny Jennings/Shawn Hughes**
Democratic Services Officers
penny.jennings@brighton-hove.gov.uk;
shaun.hughes@brighton-hove.gov.uk

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AGENDA

53 PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest or Lobbying

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

- (d) All Members present to declare any instances of lobbying they have encountered regarding items on the agenda.

(c) Exclusion of Press and Public: To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

54 MINUTES OF THE PREVIOUS MEETING

1 - 20

Minutes of the meeting held on 2 September 2020 (copy attached)

55 CHAIR'S COMMUNICATIONS

56 PUBLIC QUESTIONS

Written Questions: to receive any questions submitted by the due date of 12 noon on 25 September 2020.

57 REQUEST TO VARY THE HEADS OF TERMS OF DEED OF VARIATION, FORMER WHOLESALE MARKET, CIRCUS STREET, BRIGHTON (CIRCUS STREET DEVELOPMENT) 21 - 26

Report of the Head of Planning (copy attached)

58 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

Please note that in recognition of the current Covid 19 pandemic and in response to Central Government Guidance alternative arrangements have been put into place to ensure that Committee Members are able to familiarise themselves with application sites in those instances where a site visit is requested.

59 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

The Democratic Services Officer will callover each of the applications appearing on the agenda and those on which there are speakers are automatically reserved for discussion.

Please note that the published order of the agenda may be changed; major applications will always be heard first; however, the order of the minor applications may be amended to allow those applications with registered speakers to be heard first.

MAJOR APPLICATIONS

- A BH2019/00964 - Land At Brighton Marina Comprising Outer Harbour, Western Breakwater And Adjoining Land Brighton Marina, Brighton -Part Full Part Outline Planning **27 - 136**
- RECOMMENDATION – MINDED TO REFUSE** (subject to appeal)
Ward Affected: Rottingdean Coastal

MINOR APPLICATIONS

- B BH2020/01899 - 4 Tandridge Road, Hove - Full Planning **137 - 152**
- RECOMMENDATION – GRANT**
Ward Affected: Wish
- C BH2020/01756 - The White House, Roedean Road, Brighton - Full Planning **153 - 184**
- RECOMMENDATION – GRANT**
Ward Affected : Rottingdean Coastal
- D BH2020/01823 - Garages at 2a Lowther Road, Brighton - Full Planning **185 - 202**
- RECOMMENDATION – GRANT**
Ward Affected: Preston Park
- E BH2020/01808 -39 Guildford Road, Brighton - Full Planning **203 - 220**

RECOMMENDATION – GRANT

Ward Affected: St. Peter's & North Laine

60 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS

Please note that in recognition of the current Covid 19 pandemic and in response to Central Government Guidance alternative arrangements have been put into place to ensure that Committee Members are able to familiarise themselves with application sites in those instances where a site visit is requested.

INFORMATION ITEMS

61 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

Nothing to report to this meeting.

62 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

Nothing to report to this meeting.

63 APPEAL DECISIONS

Nothing to report to this meeting.

Members are asked to note that plans for any planning application listed on the agenda are now available on the website at: <http://www.brighton-hove.gov.uk>

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

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FURTHER INFORMATION

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email penny.jennings@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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PLANNING COMMITTEE	Agenda Item 54 Brighton and Hove City Council
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BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 2 SEPTEMBER 2020

VIRTUAL MEETING - SKYPE

MINUTES

Present: Councillors: Hugh-Jones, Osborne (Chair), Childs (Opposition Spokesperson), Miller (Group Spokesperson), Henry, Fishleigh, Janio, Shanks, C Theobald and Yates

Co-opted Members: Roger Amerena (Conservation Advisory Group)

Officers in attendance: Nicola Hurley (Planning Manager), Hilary Woodward (Senior Solicitor), Robin Hodgetts (Principal Planning Officer), Henrietta Ashun (Senior Planning Officer), Luke Austin (Principal Planning Officer), Michael Tucker (Planning Officer), Russell Brown (Senior Planning Officer), Jack Summers (Planning Officer), Sven Rufus (Planning Officer) and Shaun Hughes (Democratic Services Officer).

PART ONE

32 PROCEDURAL BUSINESS

a) Declarations of substitutes

32.1 Councillor Hugh-Jones substituted for Councillor Littman.

b) Declarations of interests

32.2 All Committee Members have been lobbied by residents regarding items A, B and C. Councillor Yates stated they had submitted an objection to item G and would leave the meeting while the item was considered by the Committee.

c) Exclusion of the press and public

32.3 In accordance with Section 100A of the Local Government Act 1972 ('the Act'), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members

of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

- 32.4 **RESOLVED:** That the public are not excluded from any item of business on the agenda.

33 MINUTES OF THE PREVIOUS MEETING

- 33.1 The minutes of the meeting held on 5 August 2020 were being circulated separately and would be considered at the next Committee meeting.

34 CHAIR'S COMMUNICATIONS

- 34.1 This meeting is being recorded and will be capable of repeated viewing via the online webcast.

Welcome Committee Members and members of the public, to this virtual meeting.

To enable the meeting to run smoothly, all presentations, questions and answers have been circulated in advance and are available online for members of the public and can be referenced by all attending the meeting. Presentations take into account that no site visits were arranged following Covid19 guidelines and have enhanced visuals showing the context of the area. The report has also been published in advance as usual.

The Chair stated that the recent changes to planning legislation by the Government would be considered by the Planning Officers. Training will be given on the changes. Design training will also be given on three separate dates, whilst mandatory refresher training will be given in October this year.

35 PUBLIC QUESTIONS

- 35.1 There were none.

36 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

- 36.1 The Chair explained that in line with current Central Government guidance in relation to the Covid 19 pandemic, formal site visits had not been arranged. To reflect that in depth presentation material and visuals had been circulated in advance of the meeting and had also been appended to the agenda papers published on the council website. If, however, Members considered that they required more detailed information in order to determine any application a site visit could be requested either at this point on the agenda or at any point in the proceedings. No site visits were requested at this point in the meeting.

37 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

1. The Democratic Services Officer read out Items on the agenda. It was noted that all Major applications and any Minor applications with speakers were automatically reserved for discussion.

2. It was noted that the following item was not called for discussion and it was therefore deemed that the officer recommendation was agreed including the proposed Conditions and Informatives and any additions / amendments set out in the Additional / Late Representations List:

- **Item H:** BH2020/01691 – 13 Landseer Road, Brighton – Full Planning

A BH2020/00917 - 1-3 Ellen Street, Hove - Full Planning

1. It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, elevational drawings and photographs which also showed the proposed scheme in the context of neighbouring development.
2. The Members were updated by the Planning Manager that one additional condition and two informatives were listed on the late list.

Speakers

3. Mike Gibson representing Hove Station Neighbourhood Forum stated that the forum supports the application as a car free development. It was considered that 10% affordable housing would be suitable for the scheme. Following community engagement, the improvements to the development have been good. The forum considers the engagement to have been very beneficial throughout the application process. The forum wanted to be involved and are pleased that they were.
4. Nick Green, the agent acting on behalf of the applicant, felt the current application was an improvement on the previous scheme following consultations with the local community, the authority, and the Design Review Panel. Improvements have been made in the greening of the development and the infrastructure. It was confirmed that Watkins Jones own the site and will continue to manage the site once the development is completed. It is considered that the ground floor offices will help to regenerate the area. The development will bring many benefits to the area and the city with new and improved green spaces.

Questions for the speaker

5. Councillor Janio was informed that there was no obligation for residents of the car free development to not have cars/vehicles. The lack of parking was considered a deterrent.
6. Councillor Fishleigh was informed that the viability assessment has been agreed and that the average affordable rent will be 25% less than market rent.
7. Councillor Theobald was informed that there some of the disabled parking bays would be for office workers and visitors, as well as residents. The applicant had tried to ensure that as few as possible on-street parking bays had been lost as a result of the scheme.
8. Councillor Hugh-Jones was informed that the mix of affordable housing units was under discussion.

Questions to officers

9. Councillor Yates was informed that they were correct, page 35 of the presentation showed the proposed elevation facing onto Ellen Street not Conway Street.

Debate

10. Councillor Miller stated they supported the application with much needed housing in an area that needs developing. The S106 agreement is good and the development will help to 'kick start' the Hove economy after the pandemic.
11. Councillor Henry considered that the public consultation had been good. The current site is currently unpleasant and would benefit from development. The loss of parking is not worth dismissing the application at this well connected site.
12. Councillor Childs considered it was naïve to think residents would not have cars on this car free development. It is considered that there is insufficient affordable housing. Development on this site is good, but not this one.
13. Councillor Theobald was against the application and raised concerns over the density and height of the development and noted that the previous permission was granted at appeal. The 18 storeys of the highest building will require sprinklers. The target number of dwellings in the space is exceeded and the development will harm the heritage assets of the area. It is noted that 7 units are below space standards and there will be loss of daylight to neighbouring properties.
14. Councillor Janio considered that it was unrealistic that the development would be car free and did not support the application.
15. Councillor Shanks supported the application which provided much needed housing. It was noted that there were not many objections. More affordable housing would be beneficial however; the scheme before the committee is supported.
16. Councillor Hugh-Jones had reservations regarding the affordable housing. It was calculated that a one bed unit would be £200 more than market rent. The councillor was minded to support the application given the conditions, the consultations that have taken place and the green credentials.
17. Councillor Fishleigh considered that 10% affordable housing was insufficient, and the committee should reject the application and ask for more affordable housing.
18. Councillor Yates supported the application, considering the affordable housing and the consultation process was good.
19. Councillor Shanks considered the S106 consultation would be good for the community.
20. Councillor Osborne supported the application considering the community engagement that had taken place, the transport links with busses and trains next to the development, the sustainability and viability of the development.

21. Following the end of the debate the Chair invited the committee to vote: Out of the 10 Members present the vote was 6 to 4 that planning permission be granted.
22. **Resolved:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to be MINDED TO GRANT planning permission subject to a s106 agreement on the Heads of Terms set out in the report and the Conditions and Informatives are set out in the report, **SAVE THAT** should the s106 Planning Obligation not be completed on or before the **2nd October 2020** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 10.1 of the report.

B BH2020/01403 - 64-68 Palmeira Avenue & 72-73 Cromwell Road, Hove - Full Planning

1. It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, elevational drawings and photographs which also showed the proposed scheme in the context of neighbouring development. The main considerations in the determination of this application relate to the principle of development including the loss of the existing residential buildings on site, the proposed residential units and affordable housing contribution, the impact of the design on the character and appearance of the adjacent conservation area and on the street scene and wider views, neighbouring amenity, sustainable transport impacts including parking demand, landscaping, ecology/biodiversity and contribution to other objectives of the development plan.
2. The Planning Officer updated the committee informing the Members that 13 further letters of objection had been received from neighbouring residents. The issues mentioned had already been covered by previous letters.

Speakers

3. Charles Harrison noted the development was controversial with no affordable housing as part of the windfall development; that is not in the BHCC Development Plan. The development will place more pressures on schools, roads etc. The existing houses are fine family homes and are not ready for demolition. Concerns were raised regarding thermal insulation and sunlight criteria for all units, as these are not currently met. The development will appear dominant on Cromwell Road, where parking will be an issue. The deep base excavations will be an issue for the neighbouring properties. The proposals are inconsistent and inaccurate. The committee are requested to reject the application.
4. Paul Ashwell considered that the amenities of the neighbouring Bellmead Court will be damaged as the development will be overbearing. It was noted that the report states the side windows will impact on Bellmead Court where vulnerable residents live. It is considered that there is a balance for and against the scheme, however the design is considered harmful to the heritage of the area. The development is considered to have a material loss of amenities for neighbours and the public consultation could have been better.

5. Ward Councillor Allcock stated that they did not consider this to be a windfall as described, it was the worst type of opportunistic overdevelopment, designed with a cavalier disregard for its impact on the neighbourhood. The developers bought sound houses as a speculative investment in the hope that they would get planning permission to build a hotel. Having failed, they have brought forward their Plan B - to generate a substantial profit from the gross overdevelopment of this site. The project is not considered to comply with the Council's policy for tall buildings, which in Hove is to concentrate high rise redevelopment on brownfield sites. The committee has just approved Ellen Street for 216 apartments, which is a significant contribution to the city's housing supply target and also provides 10% affordable housing units. Prices will be beyond the reach of residents and it does nothing for the 9100 people on the housing waiting list. Committee colleagues should draw a line now and refuse permission, or at the least defer the application until officers can give a view about the extent that developments in the area are contributing to the City's 5-year plan.
6. Ward Councillor O'Quinn considered that the planning application had gone through several stages, first a hotel with 80 rooms plus 80 flats, then when it was obvious that the planners would refuse it morphed into an application for 94 flats and questioned whether they would be AirBnB?) and then it was changed again in an effort to make it more palatable. The planning report on this application constantly states that there are issues that are not policy compliant, but they can be over-ridden due to housing need in the city. The Councillor asked: 'What is the point of planning policy if it's constantly ignored'? The loss of sunlight and daylight and private amenity for local residents particularly those at the top of Holland Road and those opposite in Cromwell Road, are dismissed as being of little consequence. This dense, cheap, unattractive and over high block of flats is set far too close to the front in Cromwell Road, and are out of sync with the building line of flats in that area, which are well set back from the road, so that they don't create a tunnel effect. It considered that this application turns that section of the road into a dark and oppressive area.
7. Ward Councillor Ebel spoke about the negative impact that this proposed development will have on the environment. The developer intends to install gas boilers, just before they are being phased out in 2025. The developer has failed to suggest a more environmentally friendly way of generating energy. The development will also result in demolishing the existing buildings. The property in 64 Palmeira Ave was recently rebuilt to a high standard after a fire. Tearing down a newly built house is a waste of resources and contradicts our city's aim to become carbon neutral by 2030. The development will also result in the loss of habitats and biodiversity as established gardens will be demolished. The new development is not car-free, and whilst this is not a reason to refuse planning permission by itself, it shows how little consideration the applicant has for the environment and our city's aim to become carbon neutral by 2030. For the reasons detailed by all three Ward Councillors the Committee was asked to refuse planning permission for this application.

Questions to Ward Councillors

8. Councillor Fishleigh was informed that none of the ward councillors were consulted on the scheme.

9. Paul Jenkins, agent acting on behalf of the applicant and stated their support for the scheme. It was noted that numerous consultations have taken place between the applicant and the Planning officers. Following this the hotel was removed from the scheme and the scale and massing of the development have been reduced to fit into the urban context. The development includes the maximum number of off street parking spaces allowed under policy. The standards of each unit are good with no objections from statutory officers. The development will contribute £800,000 to the local services with £384,000 contribution to affordable housing. The environmental and green measures in the scheme include green roofs, solar panels, and cycle parking in a sustainable location. The development will contribute to the 5 year housing supply targets and will aid recovery from the COVID-19 pandemic. Having worked with officers on the application the committee are requested to support the application.

Questions for speaker

10. Councillor Shanks was informed that the viability study did not require any affordable housing. Contributions have been negotiated and accepted under the S106 agreement.
11. Councillor Yates was informed that the carbon reduction would be 21.4%, which was better than the target of 19%. The percentage was achieved using modelling as the scheme had not been built yet. It was noted that gas boilers were efficient at this time and electric heating will be better in the future. Two scenarios were modelled, one for today and one the future giving a total result of 21.4%.
12. Councillor Miller was informed that negotiations had been ongoing with the authority for 3½ to 4 years. The first scheme was withdrawn following objections. The second scheme brock the development into smaller blocks. It was noted that the number of solar panels had been increased to the maximum possible. Green roofs have been added and the green spaces enlarged to 600sqm for communal use.
13. Councillor Hugh-Jones was informed that the number of solar panels had been vastly increased but the cost per user was not known. It was noted that the future use of electricity would be less expensive than now.
14. Councillor Childs was informed that 17.5% profit was less than the normal 20% under the NPPF.
15. The Planning Manager informed the committee that Policy CP20 allows for offsite contributions to affordable housing and that none of the current policies require developments to be carbon neutral at the current time. It was noted that the Local Planning Authority had carried out all the necessary consultation on the application. It was also confirmed that the NPPF acceptable range of profitability was 15% to 20%.
16. The case officer informed the committee that the gas boilers had now been replaced with electric heaters.

Questions of officers

17. Councillor Fishleigh was informed the Planning officers had carried out statutory consultations.

18. Councillor Theobald was informed that the empty property - 64 Palmeira Avenue - had been recently refurbished and the nursery previously at the address had relocated to a nearby property.

Debate

19. Councillor Miller offered their congratulations to the Planning officers. It was noted that the committee were not to judge the application by the number of letters of objection or support for the scheme. The government are looking at schemes having no affordable housing. The scheme submitted has more than others and the homes are needed to combat the housing crisis. The green credentials were good as was the underground parking. It was considered that the new homes were much needed, and the Councillor supported the scheme.
20. Councillor Childs noted the number of rough sleepers in the current housing crisis. The proposals offered no balance and was for profit only and was an overdevelopment of the site. The Councillor stated they were against the scheme.
21. Councillor Shanks understood the need for more houses, however the developers need to listen to residents. The area is a mix of flats and houses and the loss of 6 family houses would not be good for the area. The demolition of the houses was not good and with the lack of affordable housing the Councillor stated they were against the scheme.
22. Councillor Henry considered that the housing mix in this conservative area was good and would not support the scheme.
23. Councillor Yates considered that pre-application consultation with the community would have been good, and the applicant needed to listen to residents. The site is not a windfall. The development would add to the flats in the area and this was not good. The Councillor stated they were against the scheme.
24. Councillor Hugh-Jones considered that the affordable housing was missing, and the general design was overbearing. The use of electric panel heaters would be expensive, and the parking was not good. The Councillor stated they were against the scheme.
25. Councillor Janio considered it was a case of supply and demand and the profit did not need to be used for affordable housing. The Councillor supported the scheme.
26. Councillor Theobald stated they were not against the proposed flats or parking. It was considered that the loss of the 6 family homes was terrible. The scale and massing of the development was considered an issue for the surrounding area and the neighbouring conservation area. The lack of consultation was not good, and the objections should not be ignored. The design was considered terrible and the Councillor stated they were against the scheme.
27. Councillor Osborne considered the electric heaters were better. The number of objections was not a material consideration and agreed the lack of engagement was not great. The Councillor supported the scheme.

28. The Senior Legal officer informed the committee that pre-application consultation was not statutory on a scheme of this type. It was noted that the authority had complied with statutory consultations. The committee were also informed that should the committee be minded to refuse the application the reasons would need to be defensible at appeal. The matter of costs at appeal would be a matter of evidence.
29. The Planning Manager informed the committee that the demolition of the existing 6 family homes did not require permission and there was no policy to restrict the loss of the homes.
30. The Chair invited the Committee to vote on the application: The 10 Members present voted by 3 to 7 that planning permission be refused on the loss of existing housing, no affordable housing and scale.
31. Councillor Fishleigh formally proposed that the application be refused and seconded by Councillor Childs.
32. A recorded vote was taken in respect of the alternative recommendation that the application be refused. Councillors: Childs, Fishleigh, Henry, Hugh-Jones, Shanks, Theobald and Yates voted that planning permission be refused. Councillors: Miller, Janio and Osborne voted that planning permission be granted. The application was refused on a vote of 3 to 7.
33. **RESOLVED:** That the Committee has taken into consideration the reasons for the recommendation set out in the report and resolves to **REFUSE** planning permission on the grounds that the proposed development would result in loss of existing housing, insufficient affordable housing, height, scale, overlooking, overshadowing, loss of privacy and outlook. The final wording of the refusal to be agreed by the Planning Manager in consultation with the proposer and seconder.

C BH2020/01275 - Dubarry House, Hove Park Villas, Hove - Full Planning

1. It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, elevational drawings and photographs which showed the proposed scheme in the context of neighbouring development. The main material considerations in the determination of this application relate to the principle of the development, the design and appearance of the proposal, including its impact upon heritage, the impact on amenity, the standard of accommodation, highway impacts and sustainability.
2. The case officer updated the committee informing the Members that one further objection had been received making a total of 41 and the online petition had 1,519 signatures as of 2 September 2020.
3. The Planning Manager informed the committee that the decision notice had been issued for the application in error. The decision notice could not be rescinded. The Members should proceed with hearing the speakers, asking questions and debating the application to understand how they would have voted.

4. The Senior Solicitor informed the meeting attendees that the administrative error meant the decision could not be withdrawn. However, the Members should consider the application as normal and as if the decision notice had not been issued. If Planning Permission is granted the decision will stand.

Speakers

5. Ian Thompson informed the committee they represented the residents of Dubarry House. It is considered that the development would lead to a loss of light and privacy for the flats with existing balconies. The architecture of the existing building is beautiful and is a celebration of a bygone age. Opinion is against the development with a petition of over 1,500, some signatories having worked at the factory. The committee is requested to resist the destruction of this part of Hove history and to maintain the beauty of Hove.

Questions for speaker

6. Councillor Fishleigh was informed that the opinion was that the development would not be seen from the street. The best view would be from Hove station platforms. It was also noted that a condition to move the bin store was not necessary as the bins are not prominent. The roofing felt is currently undergoing maintenance.
7. Ward Councillor Allcock considered that the application, if approved, would have a detrimental impact on many Newtown Road residents. Particularly those living in 2 to 8 Newtown Road who will incur considerable loss of light and overshadowing at kitchen level on the ground floor. They will also be overlooked by the proposed flats with a significant impact on their amenity.

The existing residents within Dubarry House will be affected by the loss of part of the roof terrace, which was designed for the benefit of all leaseholders. The Councillor believed that there are currently 8 existing residential units in the Dubarry building and there has been no consideration for affordable housing in any of the previous planning applications. This is mainly due to the offices being converted to flats under Permitted Development. The councillor considered that the 3 flats proposed will be beyond the financial means of most residents and will do little to ease the situation regarding housing in our City.

8. Ward Councillor Ebel: The Councillor noted that the first building you see when you travel to Hove by train is the iconic Dubarry building. The building is so iconic that it is listed in the Local List of Heritage Assets. The Dubarry building is also in very close proximity to the Hove Station Conservation Area. It was considered that whilst the principle of development on the roof is lost, due to a previous planning application approved at appeal, modifications to the building must still be well designed. The Councillor considered that this alteration to the roof line of the Dubarry building will significantly alter the character of the building to its detriment. The proposed changes are not considered a good enough design to compensate for this. The applicant plans to build only three additional flats. It is considered that this does not outweigh the negative effect the changes will have on the host building and the nearby conservation area. The Councillor asked the committee to refuse planning permission for this application.

9. Ward Councillor O'Quinn: The Councillor noted that the building is on the local list of heritage assets and the council have never sought to apply for national listed status for the Mosaic frontage of the building despite its historical significance. There have been many applications to build on the roof and in 2018 a full width extension on Microscope House was passed and this established the principle of development at roof level. However, other applications have failed since then and been turned down at appeal.

The Councillor commented that when they stood at the junction of Newtown Road and Hove Park Villas they could clearly see a shed like structure on the roof, which marred the building line and flats will be even more visible. It was considered that they would also be seen from the Clarendon and Ellen estate and from the newly proposed 1-3 Ellen St development. The Councillor considered the real beauty of Dubarry House is seen when standing on the platforms of Hove Railway Station. What has already been built there can be seen quite clearly. The removal of overhanging felt and handrails on the Hove Park Villas site will not offset the damage caused to this historic building.

10. Gareth Giles spoke as the agent for the applicant and thanked the officers for the positive pre-application discussions. It was considered that the single storey proposals are low key and low impact with setback to prevent overlooking or overshadowing. The northside windows will be obscured glazed to protect privacy and the repair of the building will be included in the development. The communal roof terrace will be improved and kept for residents.

Questions for speaker

11. Councillor Theobald was informed by the agent that the bin store had been moved to behind the railings on the ground floor.
12. Councillor Miller was informed that the application site is the eastern end of the building and was the main building. The western extensions are taller than Dubarry House. The development is considered to restore the order of the building with most of the terracing already extended.

Questions for Officers

13. Councillor Hugh-Jones was informed that there were no projecting balconies to the east or south on the existing building. The daylight and sunlight assessments were acceptable for Newtown Road and there was considered to be no significant impact on the properties in the road.

Debate

14. Councillor Theobald noted that a similar scheme had been granted permission in 2019 and stated they supported the application that would not be seen much by the residents and will return the roofline.
15. Councillor Miller stated they were against the application.

16. Councillor Hugh-Jones noted the heritage aspects were acceptable and the development would re-instate the roofline, improve the roof and railings. The Councillor supported the application.
17. Councillor Fishleigh considered the development would not spoil the view from Hove station and supported the application.
18. Councillor Childs considered the scheme would not cause much damage and supported the application.
19. A vote was taken and of the 9 Members present on a vote of 8 to 1 planning permission was granted. (Councillor Henry had left the meeting before the item was discussed and took no part in the discussions or vote).
20. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

D BH2020/01319 - 23 Shirley Drive, Hove - Full Planning

1. It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, elevational drawings and photographs which showed the proposed scheme in the context of neighbouring development. The main considerations in determining the application relate to the principle of development, the design and appearance of the dwellinghouse, landscaping and biodiversity, impact on neighbouring amenities, the standard of accommodation created, the impact on the highways network and sustainability.

Speakers

2. Tim Pope, the residents' representative, considered the proposals to have a negative impact on the neighbouring properties. The lack of impact stated in the report cannot be substantiated, the development will impact on the properties nearby. It was noted that no site visits to the neighbouring properties had been carried out and any decision would be challengeable. The development is not compatible with the area where other backland developments have been refused. It is not considered that back gardens are windfall sites. The application is unreasonable and should be refused.
3. The Planning Manager informed the Members that no site visits had taken place during the COVID-19 lockdown. Officers have used photographs, mapping and aerial mapping to view the site. Enhanced presentations have been attached to all applications during the pandemic and have proved satisfactory.
4. Ward Councillor Bagaeen considered the proposed sub-division of the plot to be unacceptable and fails to respect Planning policy. A nearby subdivision was refused as the plot was too narrow. The same applies here. Other applications have also been rejected. It is noted that the highway's officer did not find the proposals to be in line with standards. The height, bulk, detailing and materials are out of keeping on this cramped

plot. The committee were reminded that the application at 19 was refused and upheld at appeal.

Questions for speaker

5. Councillor Fishleigh was informed that Councillor Bagaeen had visited the site.
6. Councillor Janio was informed that appeal at the nearby property had been refused for similar reasons that Councillor Bagaeen was requesting the application before the committee to be refused.
7. The Planning Manager requested the Members to consider each application on its own merits.
8. Gareth Giles spoke to the committee as agent for the applicant and thanked the officers for their time. The proposals are for one new dwelling which is a self-build project of a high standard well designed family home with green credentials secured by condition. The project will not be visible from the road. The host dwelling has been 3 flats since the 1950s with two plots in the garden. The rear plot is the site of the proposed development. The development will have a simple material palette. The side elevation window facing 25B will be partially glazed to maintain privacy. It is considered that the appeal at 19 was different. The applicant considered they worked well with officers on the application.

Questions of officers

9. Councillor Fishleigh was informed that the application at 19 Shirley Drive was refused and upheld at appeal as the site was too narrow. The application at 23 is not considered to be the similar and is of a better design.
10. Councillor Shanks was informed that back garden developments are taken on a case-by-case basis.
11. Councillor Theobald was informed that site visits were not considered safe at this time due to COVID-19. This was under constant review. There is considered sufficient information for the application to be considered.
12. Councillor Hugh-Jones was informed that it was the opinion of the Planning Manager that the speaker on behalf of the residents considered there to have been insufficient review of the impact by the case officer. The Planning Manager considered the report to be acceptable.

Debate

13. Councillor Theobald considered that not just 25B would be affected by the development, 21 Rigden Road, to the rear, would be affected too. The plot is small, narrow and cramped on the boundary with the Hove Park Neighbourhood Forum. The cars at the front of the property were an issue and the 50 objections were noted.

14. Councillor Shanks stated they were happy with the application as it was a good use of space. The days of big houses were going. The Councillor supported the application.
15. Councillor Osborne supported the application as it was considered to be a good standard and sustainable.
16. A vote was taken and of the 8 Members present and on a vote of 5 to 3 planning permission was granted. (Councillors Child and Henry were not present for the discussions and did not take part in the subsequent vote).
17. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

E BH2020/00505 - 99-100 North Road & 42 Vine Street, Brighton - Full Planning

1. It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, elevational drawings and photographs which showed the proposed scheme in the context of neighbouring development. The main considerations in the determination of this application relate to the principle of development, the proposed design, and its impact on heritage assets, landscaping and biodiversity, impact on neighbouring amenity, the standard of accommodation created and the impact on the highway network.

Speakers

2. Ward Councillor Deane did not consider the application to be an improvement on previous schemes that have been rejected before. The heritage officer reviewed the design and found it flat and unprepossessing. The properties nearby in Cheltenham Place will be impacted by the development. It is considered that the additional storey will remove sunlight from the tiny gardens. 1-11 Cheltenham Place will also suffer noise disruption. The two new homes will be detrimental to neighbours and there is not considered to be much need for offices. The committee are requested to reject the application.
3. A statement from the applicant's agent, Sarah Sheath was read out to the committee and stated that the application before Members follows the refusal of an earlier scheme and seeks to address the previous reason for refusal by reducing the scale of the proposed roof addition. The previous application was refused solely due to concerns about the scale, bulk, height and positioning of the roof addition being harmful to the character and appearance of the host buildings and wider conservation areas. In light of earlier refusals and the consideration by Appeal Inspectors, the Council raised no concerns in relation to any other matters, including impact on neighbour amenity. In order to address the last reason for refusal this proposal significantly reduces the scale of the roof addition and seeks to replicate an unimplemented scheme previously found to be acceptable by an Appeal Inspector. Accordingly, the additional floor has been stepped back from the edge of the building substantially and the existing parapets are proposed to be raised in height very slightly. All other elements of the proposals remain

as previously proposed as no objections were raised to these parts of the previous application. The raising of the parapets not only helps reduce the visual impact of the now reduced roof addition but also addresses concerns raised previously in respect of the potential visibility and reflectivity of balustrade treatments. The Conservation Officer has confirmed that the amendments to the proposals now ensure that the host buildings will remain the dominant built forms and that the roof addition will read as a taller building in the background of the development. Given that many of the objections to this proposal have previously been considered and dismissed by various appeal inspectors and that the scheme now before members is virtually identical to a scheme that has previously been found acceptable by an appeal inspector, there can be no reason to now resist the application before you. The proposals have overcome the one reason for refusal previously cited, and all other elements of the scheme remain as were previously proposed and found to be acceptable by the Council. The scheme will secure the delivery of some 700 sqm of office floorspace in the centre of Brighton, along with two small residential units of accommodation. Planning officers have rightly balanced these benefits with the limited visual impact of the proposals and they have concluded that the overall balance falls in favour of the proposals. Officers are satisfied that the proposals have adequately addressed the previous reason for refusal, and now accord with Development Plan policies and it was requested that Members concur with officer's findings and support the application.

Questions for officers

4. Councillor Shanks was informed that the previous scheme was dismissed at appeal and the ground floor being residential did not form part of this application. The change of use class on the ground floor would allow more flexibility in the future.

Debate

5. There was no debate.
6. The Members were invited to vote and out of the 9 attending Planning permission was granted by a unanimous vote. (Councillor Henry was not present for the discussion and did not take part in subsequent the vote).
7. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

F BH2020/01791 - 28-29 George Street, Hove - Full Planning

1. It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, elevational drawings and photographs which showed the proposed scheme in the context of neighbouring development. The main considerations in the determination of this application relate to the impact of the physical alterations on the character and appearance of the host building and wider area (including part of the

Cliftonville Conservation Area); and the potential impact on the amenities of local residents.

Speakers

2. Mr Patel spoke to the committee on behalf of local residents. The speaker requested the committee balance the need for the development, George Street and the conservation area next door. The wall to the rear of the properties is approximately 200 years old and runs for 200m. The main objections are the proposal would be overbearing for the properties to the rear, noise, loss of privacy, sunlight and daylight issues. The proposal will allow overlooking of neighbours, especially the bedrooms. The roof terrace harms the setting and is against policy. If permission is granted it will cause harm to the conservation area and the environment.
3. Ward Councillor Wilkinson objected to the application on the grounds of impact on the neighbours. The proposal would be overbearing and contrary to policy. The flat roof to the rear of the application site will be the same level as neighbouring bedrooms. The proposal is too close to the rear. No noise and disturbance are acceptable under policy. The proposed screening is not sufficient.
4. Ward Councillor Moonan noted that the approval at 53 George Street had a reduced roof terrace. It considered that the same issues apply at the application site. The committee were requested to reduce the roof terrace by 2m as a buffer space. All new development should respect the site and surrounding area. The rear wall is important and should be valued. The committee are requested to add a condition to reduce the terrace if the application is permitted.
5. Huw James spoke as the applicant's agent and noted the application was for new rear windows and rear screening. The development is proposed to improve the issues for the neighbours to the rear. The flats being created are lawful development. The shops at the site closed due to COVID-19. The owner now wishes to invest in the site with a new shop front in the future. The proposed screening is to prevent overlooking. The terrace cannot be restricted. The alternative would be no screening. To clarify the screen will be attached to the roof not the rear wall.

Questions for officers

6. Councillor Hugh-Jones was informed that an alteration to the 2m reduction would be too much to be considered in this application?
7. The Planning Manager requested the committee to consider the application as submitted.
8. The case officer noted that other developments in George Street were new and thereby subject to control. This property is not. The roof terrace is already accessible.
9. Councillor Childs was informed that a change to the fence would normally be subject to consultation. It is considered that this would be a step to far.

10. Councillor Shanks was informed that by condition the terrace would be attached to the roof.
11. Councillor Hugh-Jones was informed that the Members should determine the application before them.
12. Councillor Childs was informed that the application at 53 George Street was approved last year and was for a new development where conditions could be applied. The application site was built in the 1980s and permitted development allows development, so no conditions can be applied here. The new windows are not considered unreasonable and they will allow more light into the new flats.

Debate

13. Councillor Childs stated they did not support the application as they had concerns relating to the wall and overlooking.
14. The Chair invited the Members to vote and of the 8 present a vote of 7 to 1 permission was granted. (Councillors Henry and Miller were not present for the discussions and subsequent vote).
15. **RESOLVED:** That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

G BH2020/00995 - 90 Southall Avenue, Brighton - Full Planning

1. It was noted that an in-depth presentation had been provided by officers in advance of the meeting and was included on the council website detailing the scheme by reference to site plans, elevational drawings and photographs which showed the proposed scheme in the context of neighbouring development. The main considerations in the determination of this application relate to the principle of the proposed change of use; the standard of accommodation provided; the acceptability of the proposed rear extension in design terms; the impact of the proposed change of use on the amenity of the neighbourhood; and the transport implications of the proposals.

Speakers

2. Ward Councillor Yates informed that committee that within the radius of 98 Southall Avenue the report did not note other properties in multiple occupancy as they were operated under head lease operation. These are not in the report. If 98 Southall Avenue has C4 and not? C3 use this would affect the 10% of properties in the area as homes of multiple occupancy (HMO). The committee are requested to defer the application to seek clarification.

Questions for Officers

3. Councillor Fishleigh was informed that properties owned by educational establishments were excluded from the 10%.

4. The Senior Solicitor stated that under use classes order properties controlled by educational establishments were not counted as HMOs in C4 use class.
5. Councillor Fishleigh was informed that the information regarding the further use of the educational properties in the area was not known.
6. Councillor Childs proposed a motion to defer the application to give time for clarification of other properties in the application area including 98 Southall Avenue. Councillor Fishleigh seconded the motion.
7. The motion was put to the vote and from the 7 Members present a vote of 5 to 2 the motion was carried. The application would be deferred to a future meeting. (Councillors Henry and Miller were not present for the discussions and subsequent vote. Councillor Yates withdrew from the meeting following their representation to the committee and took no part in the discussions or subsequent vote).
8. **RESOLVED:** To defer the application to a future meeting following clarification.

H BH2020/01691 - 13 Landseer Road, Hove - Full Planning

1. This application was not called for discussion and the officer recommendation was therefore taken as having been agreed unanimously.
2. **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives in the report.

38 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS

- 38.1 As previously stated, in line with current Central Government guidance in relation to the Covid 19 pandemic, formal site visits had not been arranged.

39 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

- 39.1 The Committee noted the new appeals that had been lodged as set out in the planning agenda.

40 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

- 40.1 The Committee noted the information regarding informal hearings and public inquiries as set out in the planning agenda.

41 APPEAL DECISIONS

- 41.1 The Committee noted the content of the letters received from the Planning Inspectorate advising of the results of planning appeals which had been lodged as set out in the agenda.

The meeting concluded at 7.31pm

Signed

Chair

Dated this

day of

Subject:	Former Wholesale Market, Circus Street, Brighton, BN2 9QF (Circus Street Development)		
Date of Meeting:	30 September 2020		
Report of:	Liz Hobden, Head of Planning		
Contact Officer:	Name:	Mick Anson	Tel: 01273 292 354
	Email:	Mick.anson@brighton-hove.gov.uk	
Ward(s) affected:	Queens Park		

1. PURPOSE OF THE REPORT

- 1.1 To consider a request to vary the Heads of Terms of the Deed of Variation to the Section 106 Agreement dated 18 March 2016 in connection with planning permission BH2013/03461 to remove the clause requiring that 750 sq.m of office space to be affordable flexible B1 space which should be managed by the applicants.

2. RECOMENDATION

- 2.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** the Deed of Variation to the S106 Agreement dated 18th March 2016 related to planning consent ref: BH2013/03461.

3. BACKGROUND INFORMATION

- 3.1 Full planning permission was granted for the following development:

BH2015/04299 - Application for variation of Conditions 11, 12, 18, 19, 39, 40, 49, 50, 55, 56, 70, 71, 80, 81, 86, 87, 98 and 99 and removal of (duplicate) Condition 103 of application BH2015/03076 (Application for variation of condition 2 of application BH2013/03461 to allow for minor material and non-material amendments to all proposed buildings) to allow submission of materials and BREEAM assessments post commencement of development. Granted: 26th February 2016

- 3.2 The granting of permission was subject to the completion of a Deed of Variation which amended a previous S106 agreement tied to the original permission (BH2015/03076).
- 3.3 The permission relates to a large redevelopment site of 0.8 ha. close to the centre of Brighton which has been under construction for about three years to provide a mixed use development. The first phase of the development of 400 student units was completed and then occupied in the autumn of 2019. The residential development of 142 units fronting Circus Street and Morley Street should have reached 'Practical Completion' by 18th September 2020 and be ready for occupation.

- 3.4 Two other phases, being a dance studio and seven storey B1 office block, are due for Practical Completion in December 2020.
- 3.5 The final part of the development would involve the University of Brighton's arts library, which has not yet started, so this parcel will become temporary open space.

4. PROPOSAL

- 4.1 The 2016 Deed of Variation required that 750 sq. m of the office building should be affordable flexible B1 space which should be managed by the applicants. The applicants are seeking to have this clause removed.
- 4.2 The building in question is seven storeys in height, and 3,300 (Gross Internal Area) sqm. om area, with a ground floor retail unit situated on the corner of Circus Street and Kingswood Street is the subject of this deed of variation application.

5. CONSULTATIONS

- 5.1 **Planning Policy:** No objection
- 5.2 The site is a strategic allocation in City Plan Part One Policy DA5, with a requirement for a minimum of 750sqm of the proposed 3300sqm office space to be provided in the form of B1 affordable managed workspace.
- 5.3 The developer has more recently asserted that the delivery of this affordable floorspace is no longer viable due to the changes in the market in the time since the S106 was agreed.
- 5.4 Policy DA5 remains part of the development plan for the city. The proposed change is therefore contrary to policy and must be fully justified to be acceptable.
- 5.5 Information submitted by the developer sets out how floorspace in the building has been actively marketed since late 2018, with "affordable" workspace providers (such as co-working businesses and serviced office providers) targeted for the element of floorspace that is the subject of this application. Details are set out of the outcome of discussions with these providers, and it clear that there is little prospect of any of them taking their interest any further. It is understood that most co-working space providers are now either more mature or at the quirkiest end of the market using existing buildings. Since setting the condition in question, Brighton & Hove has seen several providers offering this type of flexible workspace and have thus filled a gap within the market. The specific policy requirement with relation to this site therefore appears out of date.

- 5.6 Furthermore, the ongoing difficulties in identifying an operator are delaying progress with the remaining, larger, element. Heads of terms have been agreed with an occupier for the upper 4 floors (approximately 1,800 sqm) in November 2019 on a pre-let basis, but agreement for occupation cannot currently be completed due to the S106 requirement. This is unsatisfactory and will be resulting in a negative economic impact through a delay in the provision of a significant number of jobs in the city centre, a particular concern at a time of wider economic pressures.
- 5.7 For the reasons outlined above it is considered that an exception to policy is justified and the proposed deed of variation is acceptable.
- 5.8 **Economic Development:** No objection
- 5.9 City Regeneration: supports the removal of this condition from the original planning requirement.
- 5.10 City Regeneration understands that the original planning requirement to necessitate 750sqm of affordable managed business floorspace pre occupation, which applies to the office space due to be delivered later this year is no longer viable due to the change in the market place. However, this is still is a requirement of the City Plan Part 1 policy DA5 for Circus Street.
- 5.11 It is understood that Knight Frank and SHW have been marketing the property on a multi-tenure basis since Q4 2018 and have targeted “affordable” workspace providers (such as co-working businesses and serviced office providers) along with more traditional local and national businesses for the wider building.
- 5.12 It is a reasonable point that the market has moved on, and most of the co-working space providers are now either more mature or at the quirkier end of the market using existing buildings. Since setting that condition, Brighton & Hove has seen several providers offering this type of flexible workspace and have thus filled a gap within the market.
- 5.13 Move on space for those organisations that are growing is also important to the city. Since the applicants state that there is an existing company that wishes to expand into this space then City Regeneration would support the subletting of this entire space to one organisation.
- 5.14 Demand Post Covid 19
- 5.15 The January 2020 office focus quarterly report produced by Stiles Harold Williams stated that the Brighton office market was performing well, with rents continuing to rise and incentives reducing. This is largely due to the lack of availability in the city. When Grade A space becomes available it lets quickly. 2019 saw the completion of The Brinell Building which set new headline terms for the city at £32 per sq. ft. The report also states that the 30,000 sq. ft. at Circus Street which was due for PC in June, had at that time, a guiding rent of

£35 per sq. ft. and that there is already strong interest. 110,000 sq. ft. is under construction at Edward Street. Refurbished buildings are also performing well with 20,000 sq. ft. now let at QRQ at £30 per sq. ft. Freehold opportunities remain very limited but are in strong demand. It was expected that headline rents would continue to rise with demand outweighing availability.

- 5.16 The low vacancy rate combined with comparatively higher rental values did highlight that demand was strong for office space in Brighton & Hove and Central Brighton and in particular faced a lack of available sites to match demand.
- 5.17 However, due to recent events City Regeneration is not able to advise on office demand currently, until further statistical evidence is available.

6. COMMENT

- 6.1 The main considerations in the determination of this application relate to the principle of relaxing the requirement of the current S106 agreement that “prior to occupation of the office element, a management plan for a minimum of 750 sq.m of affordable office space should be provided on site or an alternative off site location to be agreed with details of marketing, rents, lease arrangements and the shared space available”.
- 6.2 The description of development for the implemented planning approval (BH2015/04299) did not refer to a floorspace figure for B1 offices, nor the affordable floorspace element, so an application to vary the planning consent under S.73 of the Planning Act is not required in conjunction with this deed of variation sought.
- 6.3 The obligation reflects the policy requirement for the Circus Street site within DA5 of City Plan Part 1 and thus its variation as proposed by the applicants would be contrary to the policy.
- 6.4 The applicants have submitted marketing analysis from national and local commercial agents who have been marketing the building since autumn 2018. A firm interest to occupy the majority of the building has been identified and heads of terms agreed.
- 6.5 However the requirement that, prior to occupation, details of accommodation for 750 sqm. of affordable or flexible space first is creating an impediment to concluding an agreement. The marketing evidence suggests that the affordable element would be vacant for some time, and the requirement of the S106 agreement risks the loss of a significant occupation of the building.
- 6.6 The applicant’s direct approaches to companies specialising in flexible co-working employment space for rent has identified that the amount of co-working floorspace set aside in this building is insufficient to achieve economies of scale to be viable. At the time of designing the building, the letting of a single floor to a flexible user(s) was achievable in the market, but this is no longer the case.

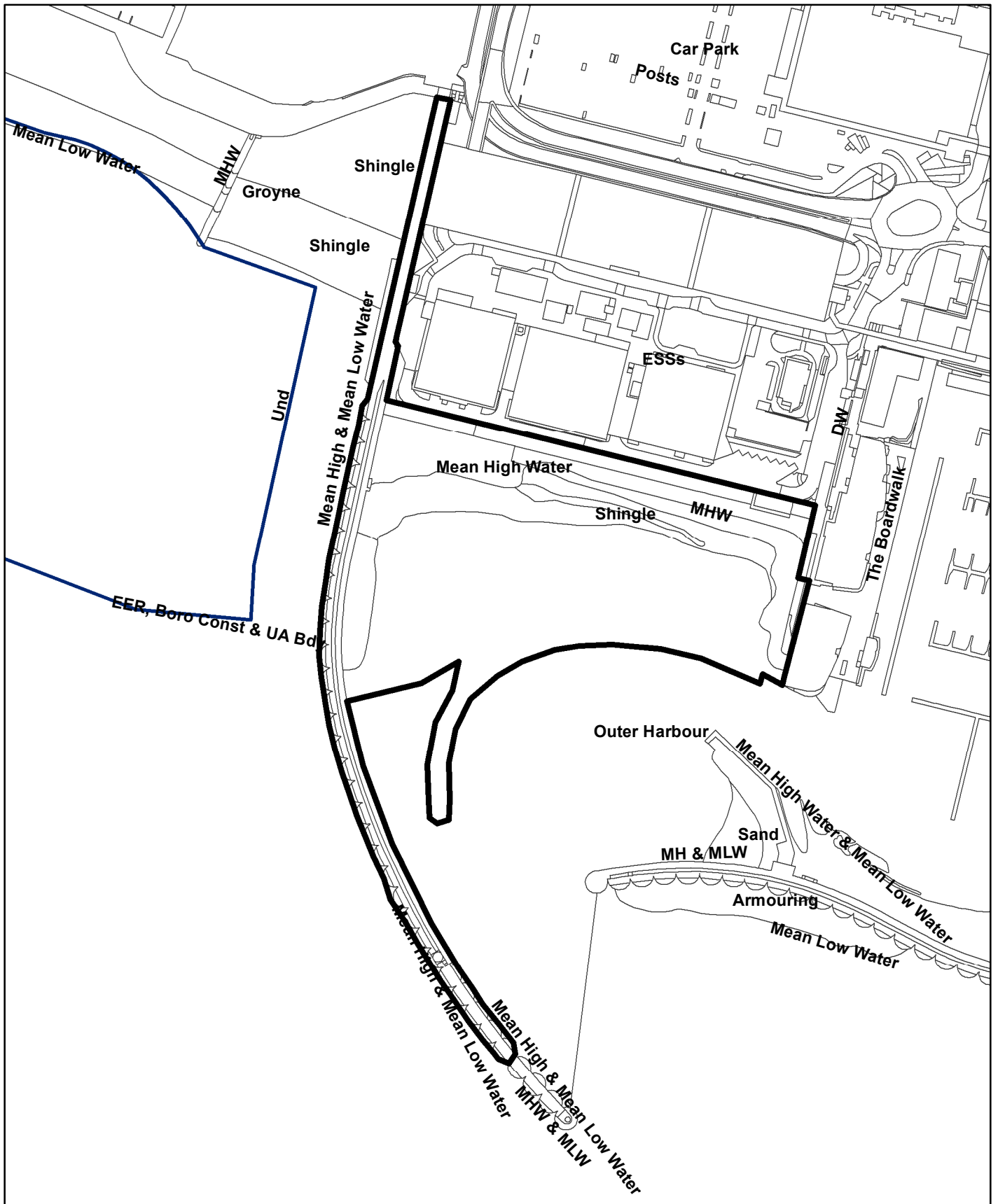
- 6.7 A further practical element which is impacting on the securing of a main tenant is that 750 sq. m represents one and a half floors of the building. Allocating two whole floors of this building to an affordable office user would still not achieve the economies of scale required by a management company and further impacts on the primary Grade A office floorspace availability.
- 6.8 The market has also changed since the inception of this requirement in 2006 in SPD05 (Circus Street) for the site and the subsequent planning consent in 2015. The office building is now considered to be more suited to providing Grade A office space for which there is high demand in the city as confirmed by the Economic Development Officer.
- 6.9 It is not considered practical to accommodate this modest floorspace elsewhere off site which the obligation would allow with the planning authority's agreement for the same demand reasons. However, whilst the primary obligation is for the provision of affordable managed workspace at this site, it is of note that the applicants U+I (through its 'Plus X' brand) has re-purposed two floors (c.1,458 sqm (GIA)) at their Preston Barracks Central Research Laboratory (CRL) recently opened, to provide *additional* co-working floorspace for scale up businesses. This replaced some of the traditional B1 office floorspace originally proposed on the upper floors of that building. A total of almost 3,500 sqm. of flexible space will therefore be provided at the CRL building which is completed and in partial occupation.
- 6.10 The applicants are not seeking to formally link the changes at Preston Barracks retrospectively in order to meet the obligation at Circus Street, but it does provide a counter benefit to the potential loss of the provision of flexible co-working space in the city. As the applicants are not making a new offer of relocation, it is therefore necessary to seek to vary the S106 obligation.
- 6.11 It is not considered that the removal of the obligation in paragraphs 84(b) - 86 related to the provision of managed affordable employment space would set a precedent on other sites as it has been demonstrated that in the site specific circumstances of the B1 floorspace at the Circus Street development required by policy DA5 and the impact that the S106 obligation is having on securing a main occupier for the building in the current office market. The economic benefits of securing a main tenant for this building are considered to outweigh the likely loss of a co-working or affordable space in future and the risk that no occupiers could be found in the near future.
- 6.12 On balance, it is recommended that the Deed of Variation is permitted.
7. **BACKGROUND DOCUMENTS:** Planning Application BH2015/04299

ITEM A

**Land At Brighton Marina
Comprising Outer Harbour
BH2019/00964
Full Planning**

DATE OF COMMITTEE: 30th September 2020

BH2019 00964 - Land At Brighton Marina Comprising Outer Harbour



N



Scale: 1:3,000

<u>No:</u>	BH2019/00964	<u>Ward:</u>	Rottingdean Central
<u>App Type:</u>	Part Full, Part Outline Planning Application		
<u>Address:</u>	Land At Brighton Marina Comprising Outer Harbour, Western Breakwater And Adjoining Land Brighton Marina, Brighton		
<u>Proposal:</u>	Hybrid planning application for the phased residential-led mixed-use development of Brighton Marina Outer Harbour. Full Planning Permission for Phase Two of the development comprises: 480no. residential units (C3) in 3 buildings ranging from 9-28 storeys plus plant levels, 761 sqm of flexible commercial floor space (A1-A4, B1, C3 Ancillary, D1/D2), works to existing cofferdam, undercroft car and cycle parking, servicing, landscaping, public realm works and infrastructure (harbour wall) works. Outline Planning Permission (all matters reserved apart from access) for Phase Three of the development comprises: up to 520no residential units (C3) in 6 buildings ranging from 8-19 storeys, up to 800 sqm of flexible commercial floor space (A1-A4, B1, C3 Ancillary, D1/D2), construction of engineered basement structure to create a raised podium deck over Spending Beach, installation of Navigation Piles, undercroft car and cycle parking, servicing, landscaping and public realm works. Land At Brighton Marina Comprising Outer Harbour, Western Breakwater And Adjoining Land Brighton Marina Brighton		
<u>Officer:</u>	Carl Griffiths	<u>Valid Date:</u>	05.04.2019
<u>Con Area:</u>		<u>Expiry Date:</u>	05.07.2019
<u>Listed Building Grade:</u>		<u>EOT:</u>	NA
<u>Agent:</u>	Avison Young, 65 Gresham Street, London, EC2V 7NQ		
<u>Applicant:</u>	The Outer Harbour Development Company		

PREAMBLE:

An appeal against the non-determination of this application was submitted by the applicant on 17 September 2020. The decision on the application therefore now sits with the Planning Inspectorate. The following report seeks a view on the decision the Committee would have made, had the decision remained with them.

1. RECOMMENDATION

1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves that had the planning application come before the Committee for determination it would have **REFUSED** planning permission for the following reasons:

- 1) Phase 2 of the development and the parameters sought under Phase 3 of the development, by virtue of the density, massing, inadequate spacing between buildings, rigid layout and the lack of definition between public and private spaces, would result in a cramped, impermeable, illegible and homogeneous form of development that would represent an unacceptable quality of building design, layout and public realm; and the cumulative views of both phases would not protect or positively enhance the Marina environment, would harm the surrounding townscape, heritage features and the setting of the South Downs National Park, and would thereby be contrary to Policies CP12, CP13, CP14, CP15, DA2, and SA5 of City Plan Part One, Planning Advice Note 04 (Brighton Marina Masterplan), the National Design Guide, and paragraphs 127 and 130 of the National Planning Policy Framework.
- 2) Insufficient information has been submitted to justify why a non-policy compliant level of affordable housing being provided as part of the proposal, contrary to Policy CP20 of City Plan Part One.
- 3) Phase 2 of the development, combined with the parameters sought under Phase 3 of the development, by virtue of the zero provision of private amenity space, the lack of sunlight penetration to the communal amenity spaces and the inadequate level of children's playspace, would result in unacceptable residential amenity for future occupiers, contrary to Policies CP12, CP13, CP14 and CP16 of City Plan Part One, Planning Advice Note 04, and Saved Policy HO5 of the Brighton & Hove Local Plan.
- 4) The development, by virtue of the inadequate separation distances between Blocks 1 and 2, and Blocks 2 and 3 (Phase 2), would result in an unacceptable level of daylight, sunlight, outlook and privacy to future occupiers, failing to provide an adequate standard of accommodation, contrary to Policies DA2 and CP12 of City Plan Part 1, paragraph 127 of the NPPF, and Saved Policy QD27 of the Brighton & Hove Local Plan.
- 5) The development by virtue of the inadequate levels of cycle parking within Phase 2 and the lack of dedicated accessibility for cyclists across the breakwater would fail to promote safe, sustainable modes of transport, contrary to Policies DA2 and CP9 of City Plan Part 1, Saved Policies TR7 and TR14 of the Brighton & Hove Local Plan, SPD14: Parking Standards, and paragraphs 108 and 110 of the National Planning Policy Framework.

1.2. That the Head of Planning be authorised to agree a s106 planning obligation in terms acceptable to her, should the appeal be allowed.

2. SITE LOCATION

- 2.1. The site comprises an area within the operational Outer Harbour of Brighton Marina, and the Western Breakwater. The site has an area of 3.54Ha, comprising of 1.56Ha within Phase Two to the west and 1.97Ha within Phase Three to the east.
- 2.2. The Outer Harbour site is located beyond the southern wave wall, with the development proposed to be located atop and adjacent to the existing Cofferdam (dry area from which water is pumped), and atop a new platform which is to be constructed over the Spending Beach. The Spending Beach is a man-made beach that absorbs and dissipates wave energy to ensure calm and safe conditions within the Marina's entrance channel.
- 2.3. The Western Breakwater runs along the west of the site. The Western Breakwater is made up of a series of caissons (retaining walls) which reduce the intensity of wave action, and prevent longshore drift, to create a safe and functioning marina. Vehicular access (for emergencies and maintenance only) and pedestrian access is provided along the Western Breakwater, linking with from the Black Rock Site to the north and west.

3. APPLICATION DESCRIPTION

- 3.1. The application seeks permission for the following description of development:
“Hybrid planning application for the phased residential-led mixed-use development of Brighton Marina Outer Harbour. Full Planning Permission is sought for Phase Two of the development and comprises: 480 residential units (Use Class C3) in 3 buildings ranging from 9 – 28 storeys; 761 sqm (GIA) of flexible commercial floor space (Use Class A1-A4, B1, C3 Ancillary, D1/D2); works to existing cofferdam; undercroft car and cycle parking; servicing; landscaping; public realm works; and infrastructure (harbour wall) works. Outline Planning Permission (all matters reserved apart from access) is sought for Phase Three of the development and comprises: up to 520 residential units (Use Class C3) in 6 buildings ranging from 8 – 19 storeys; up to 800 sqm (GIA) of flexible commercial floor space (Use Class A1-A4, B1, C3 Ancillary, D1/D2); construction of engineered basement structure to create a raised podium deck over Spending Beach; installation of Navigation Piles; undercroft car and cycle parking; servicing; landscaping; and public realm works. The application is accompanied by an Environmental Statement”.

- 3.2. As is set out above, this is a hybrid application, submitted in part detailed form (Phase 2, seeking full planning permission) and part outline form (Phase 3, with all matters except access reserved with the exception of access). In line with statutory procedure for outline applications, all reserved matters, in this case appearance, landscaping, layout and scale, would be determined through subsequent Reserved Matter applications.

Phase 2

- 3.3. Phase 2 of the application, submitted in detailed form, seeks permission for 480 residential units (Use Class C3) in three buildings ranging from 9 – 28 storeys; 761 sqm (gross internal area (GIA)) of flexible commercial floor space (Use Classes A1-A4 (retail, professional/financial, restaurants/cafes, pubs/bars), B1 (business), C3 ancillary, and D1/D2 (non-residential institutions and assembly/leisure)).
- 3.4. Phase 2 of the development would be located to the east of the existing breakwater on land reclaimed using a cofferdam. Due to the proximity of the breakwater and the risk of wave overtopping, a lagoon has been incorporated into the proposed layout to accommodate the overtopping waves during such events.
- 3.5. Phase 2, as with the wider development, would be built at podium level, above an undercroft parking area at natural ground level. Vehicular access to the undercroft parking area would be provided from the existing access running parallel to the north of the site adjacent to the premises to the north. Pedestrian access to the Phase 2 development area would be provided from a number of points, with ramped access from the breakwater to the north of the site, stepped access from the breakwater at the southern extremity of the site, stepped access from the road to the north of the site as well as access being provided through the undercroft area. In addition, an access lift capable of accommodating bikes would be provided to the north west corner of the site.
- 3.6. The tallest element of Phase 2, and the development overall, would be Block 3, located at the southern end of the site at 28 storeys in height. The building would have a square floorplate and would accommodate flexible use commercial units on the ground floor with residential units on the upper floors. A landscaped area would be provided immediately to the west of the building comprising of hard and soft landscaping.
- 3.7. To the north of Block 3 would be Block 2 which would have a rectangular floorplate and would rise to 16 storeys in height. The building would accommodate a mix of residential and commercial uses to the ground floor, along with residential on all of the upper floors.

- 3.8. Adjacent to the northern boundary of the site and positioned to the north of Block 2 would be Block 1 which would be part twelve- and part nine-storey height. The building would be laid out in an inverted 'c' shape with a central courtyard area which would be landscaped, providing a mix of public and private amenity space. The building would provide a mix of commercial and residential uses at ground floor level with residential to all of the upper floors.

Phase 3

- 3.9. Phase 3, submitted in outline form, seeks permission for up to 520 residential units (Use Class C3) in 6 buildings ranging from 8 – 19 storeys; up to 800 sqm (GIA) of flexible commercial floor space (Use Class A1-A4, B1, C3 Ancillary, D1/D2).
- 3.10. As with Phase 2 and the development as a whole, Phase 3 would be built at podium level with an undercroft parking area. Phase 3 would link into Phase 2 to the west at both basement and podium level whilst access from the north would be provided through a central stepped access along with a stepped and ramped access to the east of the Phase 3 development area. Phase 3 would also link into the extant Phase 1 to the east at both basement and podium level.
- 3.11. Whilst Phase 3 is submitted in outline, indicative parameter plans set out that development would come forward in six separate buildings with the following heights:
- Block 4 – 14 storeys
 - Block 5 – 19 storeys
 - Block 6 – 8 storeys
 - Block 7 – 17 storeys
 - Block 8 – 8 storeys
 - Block 9 – 8 storeys
- 3.12. Blocks 4, 5, 7 and 8 would be solely residential, and located adjacent to the northern boundary of the site. Each would have a square floorplate and would be spaced evenly in a linear fashion along the boundary, with areas of landscaping between the buildings.
- 3.13. Blocks 8 and 9 would have curved form fronting the seafront inside the marina and a curved boardwalk that would run along the frontage, providing pedestrian access across the site, and linking to Phase 1 to the east and Phase 2 to the west. Blocks 8 and 9 would accommodate commercial uses at ground floor level, with residential uses above.

Post Submission Revisions

- 3.14. Since the submission of the original application, revisions were made to the application in respect of the elevational treatment of the buildings within Phase 2 including the colour tones.

4. RELEVANT HISTORY

Design Reviews

- 4.1. The current application was subject to an extensive pre-application process with the LPA and as part of the process was subject to three Design Reviews.
- 4.2. The first Design Review was undertaken in October 2018 and the main points issued in response to the applicant can be summarised as follows:
- There is architectural merit to the proposal, but there is concern that it does not sit comfortably in this specific environment. The site is relatively cut off from the surrounding city and it will be essential to address connectivity issues in any future proposals;
 - The way the proposal relates to the recently completed phase 1 scheme and any potential future developments to the north should be improved;
 - A relatively high-density approach on this site is supported, but the lack of private amenity provision and the level of overshadowing is a fundamental problem with the current scheme;
 - Public and communal spaces that are designed to mitigate challenging environmental conditions and accommodate a greater variety of activities are required.
- 4.3. Subsequent to the initial Design Review, revisions were made to the scheme and a second Review was undertaken in December 2018. The key points arising from the review can be summarised as follows:
- Some advances have been made since the previous review, the increased focus on the quality of the landscape has benefitted proposals, and the architectural treatment is now more appropriate for the context.
 - Clarity on the number and form of building types is still required and some concerns remain over issues such as the lack of information on the retail strategy, the reduced scale of the boardwalk, and the deliverability of the ambitious landscape proposals;
 - The increase in height of some blocks will make the scheme appear bulkier in long distance views and decrease the legibility of the main tower as a singular object. On balance, improvements elsewhere in the scheme currently seem to justify this, but the impact on key views should be continually investigated as the scheme develops and may inform adjustments to the form and mass.
- 4.4. Following some revision to the scheme pursuant to the initial reviews, a final Design Review was undertaken in February 2019. The key points from the response can be summarised as follows:

- The scheme retains many of the successful qualities seen in the previous review, though some of the clarity has been lost, particularly in the differentiation of the tower from the surrounding blocks;
- While the relationship between the crescent and the main tower is successful, the remaining blocks do not fit into this clear hierarchy and the panel is less comfortable with the approach to create a 'family of towers' in its current form, and believe further work is required to resolve these issues;
- The 'playful rigour' underpinning the scheme should be strengthened, and there are concerns that the more corporate style seen previously has returned to some extent. This should be reflected both in the architectural treatment and the way public spaces are used;
- The quality of the street elevation and landscape of the northern boundary also requires further focus. This will be one of the most prominent areas of the site, and it is vital that it is perceived as an integrated city street rather than a service road. Measures to activate the parking frontages currently proposed should be explored to address this, linking to a wider strategy to improve the connection to Madeira Drive.

Members' Pre-Application Presentation

4.5. In addition to the Design Reviews set out above, the scheme was presented to Members in November 2018. The key feedback from Members can be summarised as follows:

- Councillors welcomed the amendments to the footprint of the scheme which now incorporates both curved and square forms of development and queried whether rounded corners could be introduced to the squares?
- Councillors queried the introduction of the higher 15 and 17 storey towers to the north part of the development, as their form and height and those of lower 6, 10 and 12 storey towers would increase the bulk of the development in short and long-distance views;
- The scheme needs to be carefully designed in relation to views from Sussex Square. Given the change from the slender sculptured form of the buildings in the approved scheme, strong justification for this change to the development;
- Councillors would welcome the provision of improved access into the scheme from Marine Drive;
- Councillors welcomed the introduction of the boardwalk. Uses that provide active frontages should be provided to the curved boardwalk overlooking the harbour entrance. Councillors queried whether other uses in addition to residential, such as offices, could be introduced to the development;
- Consideration should be given to the extension of the boardwalk around the southern end of the completed Phase 1 to improve pedestrian connectivity with the rest of the marina;
- Councillors would like to see the bridge over the harbour entrance included within the scheme, as in the approved development. If not, the applicant will need to demonstrate why this is not achievable;
- Councillors welcomed the fluting to the elevations of the proposed scheme;
- Samples and product specifications of the external materials should be submitted with the planning application. Given the location of the

development, marine grade materials should be used and render and concrete avoided;

- The scheme should provide clarity about the parking provision for the development and how it relates to the parking provision in Phase 1;
- The scheme should provide 40% affordable housing and any lower provision will require justification through a Financial Viability Appraisal submitted with the application.

Pre-Application PRE2018/00328

4.6. A final comprehensive pre-application response was issued to the applicant in March 2019, the key points of the response can be summarised as follows

- Officers had concerns over the density and rigidity of Phase 2. The overall design approach needs to be made clearer as due to the rise in height of other blocks, Block 3 is no longer as prominent, therefore the development appears more as a single, high density mass;
- The design and landscaping should reflect and celebrate the coastal/marina environment, but this isn't coming through clearly in the submissions to date;
- The removal of sections of deck to account for wave overtopping is a concern due to the reduction in public realm in Phase 2;
- There are still concerns that the proposals do not go far enough to satisfy policy objectives of improving connectivity of the site and wider marina;
- The Transport Officer seeks the reinstatement of the bridge over Black Rock Beach or the equivalent financial contribution to be made;
- No proposals for improving Breakwater Approach have been made. The cycle/pedestrian link between the site and Breakwater Approach is narrow and could be improved by reinstating the deck in the NW corner and extending the deck further north to widen the ramp;
- The location of bin stores and cycle stores needs to be shown;
- The vehicular and emergency vehicular access to the Waterfront Promenade appears to be no longer viable. Tracking drawings are required to show emergency vehicles traversing this area, which is expected to accommodate moderate pedestrian flows;
- The development should include community uses at ground floor in every block, unless it can be fully justified within the submissions why this would not be possible;
- The retail assessment should justify the case for A1 Use Classes within the site;
- The non-residential uses should be spread across Phases 2 and 3.

Planning Applications

4.7. The following applications are considered to be relevant to the consideration of the current scheme. It should be noted that, in addition to the history outlined, there have been numerous applications for non-material-amendments and discharge of conditions of the extant consent. For the sake of brevity, these submissions are not listed.

- 4.8. BH2004/03673/FP - Construction of a structural platform over the Spending Beach and West Quay and associated engineering works. Development of residential accommodation comprising 988 flats in 11 buildings ranging from 5 to 40 storeys above the structural deck including associated plant accommodation; high level viewing gallery, Class A use and associated plant; Class D1 use and associated plant; Class D2 use and associated plant; Class B1 use and associated plant; free-standing lifeboat station including relocation of floating lifeboat house; single storey covered car park providing up to 171 car parking spaces, 12 motorcycle spaces and 990 cycle parking spaces. Alterations to existing vehicular, pedestrian and cycle access arrangements and creation of new routes for access and servicing to include pedestrian/cycle/vehicular access along the western breakwater with associated engineering works. Alteration to existing pontoons and creation of replacement moorings and installation of navigation piles. Construction of an openable foot and cycle bridge between West Quay and eastern breakwater and associated works. Construction of a foot and cycle bridge between Madeira Drive and western breakwater and associated works. New areas of hard and soft landscaping and public realm. Engineering and structural works and alterations to the Marina and adjoining land associated with the above.
- 4.9. The application was refused in December 2005 for the following reasons:
1. The proposed development by reason of siting, layout and height, would be overly dominant and would not relate satisfactorily to existing development within the Marina and would fail to preserve the setting of views of strategic importance, in particular views into and out of the Kemp Town Conservation Area and the Sussex Downs AONB.
 2. The proposed development, by reason of excessive scale, height, bulk and site coverage, would represent over-development of the site and would be out of character with surrounding development.
 3. The proposed development fails to incorporate sufficient public and private amenity space and outdoor recreation space to meet the demands of the development.
 4. The proposed development fails to incorporate sufficient on-site car parking spaces to meet the demands of the development and would lead to overspill parking in the vicinity of the site and would result in significant traffic generation.
- 4.10. The refusal of the application was appealed however the appeal was subsequently withdrawn.
- 4.11. BH2006/01124 - Construction of engineered basement structure to create platform on Spending Beach and West Quay and associated engineering works, including formation of reinforced wave dissipation chambers. Development of residential accommodation comprising 853 flats in 11 buildings ranging from 6 to 40 storeys above structural deck including associated plant accommodation; high level viewing gallery; Class A, D1, D2 and B1 uses and associated plant;

lifeboat station including relocation of floating lifeboat house and installation of communication aerials; three storey covered car parking providing up to 491 parking spaces, 32 motorcycle spaces and 876 bicycle parking spaces; 5 visitor disabled parking spaces along proposed promenade. Alterations to vehicular, pedestrian and cycle access arrangements and creation of new routes for access and servicing to include pedestrian/cycle/vehicular access along western breakwater with associated engineering works. Alterations to pontoons and creation of replacement moorings and installation of navigation piles. Construction of openable foot and cycle bridge between West Quay and eastern breakwater and associated works. New areas of hard and soft landscaping and public real, including children's playground and formal and informal areas of amenity space. Solar panels at roof level and wind and tidal turbines. Engineering and structural works and alterations to marina and adjoining land associated. Revised application to BH2004/0373/FP

- 4.12. The application was approved in April 2006 subject to a S106 Agreement,
- 4.13. BH2006/04307 - Amendment to planning permission for mixed use development BH2006/01124 to allow revisions to basement structures over Spending Beach and West Quay and associated engineering works to accommodate revised car parking layout. Total no. of car parking spaces and main access point to remain unchanged.
- 4.14. The application was approved in March 2007 subject to a S106 Deed of Variation (DoV).
- 4.15. BH2012/04048 - Minor Material Amendment for variation of condition 70 of application BH2006/01124 as amended by BH2012/00042 (Major mixed use development comprising new engineered basement structure to create platform on Spending Beach and West Quay, 853 residential units in 11 buildings ranging from 6-40 storeys, Class A, D1, D2 and B1 uses, Lifeboat Station, 496 parking spaces, alterations to pontoons and moorings, new bridges, informal and formal recreation space and alterations to access arrangements) to allow revisions to basement structures over Spending Beach and West Quay with associated landscaping and engineering works to accommodate revised car parking layout. Total number of car parking spaces and main access point to remain unchanged.
- 4.16. The application was approved in May 2013 subject to a S106 DoV
- 4.17. BH2014/02883 - Application for variation of condition 1 of application BH2012/04048, as amended by applications BH2013/00799, BH2013/03432 and BH2014/01970 (original permission – major mixed use development comprising new engineered basement structure to create platform on Spending Beach and West Quay, 853 residential units in 11 buildings ranging from 6 to 40

storeys, Class A, S1, D2 and B1 uses, Lifeboat Station, 496 parking spaces, alterations to pontoons and moorings, new bridges, informal and formal recreation space and alterations to access arrangements) to allow for revisions to the approved scheme including reconfiguring the type and quantum of uses within blocks F1 and F2 incorporating alterations to shopfronts, revised landscaping, relocation of the bus waiting room and changes to the RNLI station. Total number of residential units and car parking spaces to remain unchanged (amended description).

- 4.18. The application was approved in June 2015 subject to a S106 DoV.
- 4.19. BH2015/04435 - Application for variation of conditions 15 and 30 of BH2014/022883 to amend the wording of each condition as follows: Condition 15 to read "The premises for Use Class A (A1, A2, A3, A4 and A5) hereby permitted shall not open for trade except between the hours of 07.00 and 23.30 hours Mondays to Thursdays, and between 07.30 and 00.30 hours on Fridays and Saturdays and between 08.00 and 23.00 hours on Sundays or Bank Holidays". Condition 30 to read "Occupation of the Class A floorspace within the development hereby permitted shall not include more than 600 sqm of floorspace used for Class A4 use".
- 4.20. The application was approved in April 2016 subject to a S106 DoV.
- 4.21. In addition to the planning history outlined above, the application has been subject to extensive pre-application discussions with the LPA. The various pre-application responses are set out within the appendix of this report.

5. REPRESENTATIONS

- 5.1. In response to consultation, 93 responses were received, of which 81 objected to the application, ten were in support and two made observations.
- 5.2. The material planning considerations raised within the objections can be summarised as follows:
- Architecture/design of the scheme is inadequate
 - The scheme represents overdevelopment
 - The height of the development is excessive
 - Development would harm views from listed terrace and Kemp Town Conservation Area
 - Homes will not be affordable for local people
 - The height of the development would exceed cliff height, contrary to Brighton Marina Act

- Additional traffic generation exacerbating existing issues, particularly at weekends.
- Inadequate levels of residential parking.
- Inadequate levels of affordable housing being provided
- Flooding of basement car parks
- Development could result in additional ASBO, through unlawful moped access, drug dealing etc
- The construction of the development would result in excessive noise, dust and pollution; prolonged over several years.
- The development would suffer from adverse microclimatic conditions in terms of wind, wave over-topping. Conditions would be worsened due to climate change
- The development makes no provision for services such as GP/Dentist/Schools.
- The development would compromise the safety of navigation within the harbour.
- The development would provide inadequate access for emergency vehicles
- The proposed commercial units are likely to be unattractive to prospective occupiers as is the case within Phase 1.

5.3. The main material planning considerations raised in support and observations were:

- The development would increase housing and reinvigorate the Marina;
- The development would increase business, improve pedestrian and waterfront access and create jobs;
- This development will further improve local career opportunities, as well as provide much needed homes for local residents, including affordable housing. It will also help bring in a further community to help self-generate the commercial areas of the Brighton Marina and help reduce the costs associated with current residents that live in Brighton Marina.
- The tower and crescent buildings would be of a high design quality and the scheme incorporates landscaped garden space;
- The development would enhance selective local views, and draw the eye away from the Asda rooftop;
- The development would provide much needed homes for local people;
- The redevelopment of this part of the Marina would act as a catalyst for development on the neglected eastern side of the city.

6. CONSULTATIONS

6.1. The following comments were received from internal and external consultees.

6.2. External
Building Research Establishment (BRE)

The Building Research Establishment (BRE) were consulted on the application in respect of the daylight/sunlight and microclimate impacts. Comments received from BRE can be summarised as follows.

Daylight / Sunlight

- 6.3. The nearest existing dwellings are flats in Phase 1 of the Outer Harbour development. There would be a moderate adverse impact on daylight to these flats. Although there are big relative losses of light to a large number of rooms, these are partly due to the design of Phase 1, in particular the balconies above many of the windows.
- 6.4. The main windows in Phase 1 that would face the new development all face north of due west. They would therefore not be covered by the BRE sunlight guidelines. There are some secondary windows with a southerly orientation; loss of sunlight to all these windows would be within the BRE guidelines. The impact on sunlight would be assessed as minor adverse because the flats, particularly those in the northern part of Phase 1, would still lose sun.
- 6.5. Avison Young have analysed daylight provision in the whole development. They predict that 92% of the living/kitchen/diners would meet the recommended 2% ADF for a kitchen, and 97% the recommended 1.5% ADF for a living room. 92.5% of the bedrooms would meet the recommended 1% for a bedroom. These figures are likely to be overestimates, because they assumed an unusually high wall reflectance and, in some areas, glass transmission.
- 6.6. Daylight provision is not uniform and there are some problem areas in the development. Within the detailed Phase 2 scheme these are mainly in the gaps around Block 2, a tall building awkwardly situated in the relatively narrow gap between Blocks 1 and 3. In the illustrative Phase 3 scheme the north sides of blocks 6 and 9 are heavily obstructed by the other blocks.
- 6.7. Most of the development would be reasonably well sunlit; this is to be expected, given the complete lack of obstructions to the south. There are some areas of poor sunlight provision, especially Block 1; the proximity of Block 2 limits the sunlight received by its south façade. Block 8 would also be shadowed by Block 9 and by the existing Phase 1 development.
- 6.8. For Phase 3 only an illustrative scheme has been analysed and it is possible that the final development might have quite different daylight and sunlight provision. If planning permission is given for the outline scheme, one possibility would be to impose a condition about this.
- 6.9. The Environmental Statement has analysed one existing open space to the north of Phase 1, which would meet the BRE guidelines, retaining two hours

sunlight on March 21st over more than half its area. There are no other existing open spaces that should have been analysed.

- 6.10. Sunlight provision in the proposed open spaces is mixed. Areas near the sea would be well sunlit. The courtyard garden to Block A, and the areas in between the blocks in the Phase 3 illustrative scheme, would not meet the guidelines. These spaces would be seen as inadequately sunlit.

Microclimate (Submission Scheme)

- 6.11. The wind microclimate assessment carried out by Arup was for the Brighton Marina Outer Harbour Development. The wind microclimate assessment carried out by Arup was included within the wind microclimate chapter of the Environment Statement. The chapter reviewed has the following reference: “BH2019 00964 ENVIRONMENTAL STATEMENT VOLUME I CHAPTER 15 WIND MICROCLIMATE 15376416”
- 6.12. Arup is a reputable company within the wind engineering community and their wind microclimate assessments are generally undertaken with appropriate practices and methodology. The Arup wind microclimate assessment for this project has been carried out in the form of a wind tunnel study, which is widely considered the best practice approach. The Arup wind microclimate assessment also utilises the Lawson Criteria, which are routinely adopted criteria for assessing the wind microclimate in the built environment of the United Kingdom.
- 6.13. Notwithstanding the opinions provided above, there are several areas of concern within the Arup wind microclimate assessment that require attention. The main body of this report identifies these areas of concern and provides specific examples.
- 6.14. The primary area of concern is that the Arup report shows locations around the proposed development where the wind conditions exceed the distress/safety criteria despite the implementation of mitigation measures. There are also locations around the proposed development where the wind conditions are shown to be unsuitable for the intended usage despite the implementation of mitigation measures.
- 6.15. The Arup wind microclimate assessment states that further mitigation measures will be incorporated into the final design and then tested in a final wind tunnel test, subject to a planning condition. The wind microclimate assessment also states that following the implementation of further mitigation measures, “all residual effects are predicted to be negligible and not significant”. The wind microclimate assessment classified the significance of the wind effects around the proposed development as being major adverse.

- 6.16. Considering the major adverse classification and having reviewed the results from the wind tunnel study with mitigation measures in place, it seems an unrealistic expectation that all the residual effects will be “negligible and not significant” following the implementation of further mitigation.
- 6.17. To amplify further this concern, it is stated in the Arup wind microclimate assessment that the “likely mitigation required” for a major adverse effect is “substantial mitigation, for example possibly including alteration of building massing, may be required to reduce levels of windiness within acceptable limits”.
- 6.18. The extent of the issues with the wind microclimate suggests that the desired wind microclimate may not be achievable with the current massing of the proposed development. This seems likely to be the case particularly when many areas around the proposed development are intended for wind sensitive usage, such as outdoor seating areas and play areas for children.

Microclimate (Further Submission)

- 6.19. Following the aforementioned response from BRE, the applicant provided additional detail, clarification and carried out additional testing in line with the comments. BRE were commissioned to do a further review and subsequently provided the following response (summarised).
- 6.20. As explained in the initial BRE peer review, the information presented in the ES Chapter raised particular wind-related issues that were of immediate concern. Many of those issues are being resolved by the implementation of a closure management strategy. In this second peer review, I have drawn your attention to secondary matters of concern which were not detailed in the first BRE review, because they were regarded then as being less critical.
- 6.21. Bearing in mind the likelihood that further wind tunnel testing will be undertaken by the applicant, I feel it is now important to highlight the secondary issues of concern, so that they might be addressed by RWDI and Arup, and be taken into account within subsequent information provided by the applicant to BHCC. At this point I would like it to be recorded that many of Arup’s responses to the secondary concerns raised by BRE are neither adequate nor satisfactory.
- 6.22. To repeat a point earlier, given the findings of the ES Chapter and the responses in the Arup Response, I believe that that a planning condition should be imposed. This condition will require the applicant to undertake a further wind tunnel testing to demonstrate the suitability of the test locations for their intended pedestrian activities.
(NB – in respect of the “secondary issues of concern” outlined in the response, these are addressed within the main body of the report)

- 6.23. DVS (Viability) – Comment
Given that the application is accompanied by a financial viability review (FVA), DVS were instructed by the Council to undertake a review of the FVA. The conclusion of the DVS is as follows:
- 6.24. (based on the initial review of 15% Shared Ownership) - my opinion of the proposed mixed use residential and commercial development scheme is that it is not viable as at the date of this report taking into account the Benchmark Land Value and developers profit allowance.
- 6.25. In accordance with my instructions from Brighton and Hove City Council I have also undertaken sensitivity analysis and testing on the following bases;
- Basis A
 - Proposed development scheme taking into account all the S106 Contributions and 10% affordable housing (comprising 48% shared ownership units, and 52% social rented tenure units).
 - The scheme tested is viable taking into account the Benchmark Land Value and a developer’s profit allowance as a surplus of approximately £12,611,722 is available when land acquisition and finance costs are taken into account.
 - Basis B
 - Proposed development scheme taking into account all the S106 Contributions and 10% affordable housing/shared ownership units (Phase 2), and 15% affordable housing/social rent tenure units (Phase 3).
 - The scheme tested is viable taking into account the Benchmark Land Value and a developer’s profit allowance as a surplus of approximately £3,051,057 is available when land acquisition and finance costs are taken into account.
- 6.26. The subject land is situated adjacent to Brighton Marina and comprises part of the operational outer harbour of Brighton Marina and the Western Breakwater. The Outer Harbour is situated beyond the southern wave wall, and the proposed development is to be constructed on top of land adjacent to the existing cofferdam.
- 6.27. Since my initial draft report dated 1 October 2019 was issued, the outbreak of the Novel Coronavirus (COVID-19) has been declared by the World Health Organisation as a “Global Pandemic” on 11 March 2020, and has impacted global financial markets. Travel restrictions have been implemented by many countries.
- 6.28. Market activity is being impacted in many sectors. As at the viability assessment date, we consider that we can attach less weight to previous market evidence

for comparison purposes, to inform opinions of value. Indeed the current response to COVID-19 means that we are faced with an unprecedented set of circumstances on which to base a judgement.

- 6.29. Our viability assessment is therefore reported on the basis of 'material valuation uncertainty' as per VPS 3 and VPGA 10 of the RICS Red Book Global. Consequently, less certainty – and a higher degree of caution – should be attached to our viability assessment that would normally be the case. Given the unknown future impact that COVID-19 might have on the real estate market, we recommend that you keep the viability of the proposed mixed use residential and commercial development scheme under frequent review.
- 6.30. Brighton and Hove City Council should be aware that we have been provided with a number of abnormal and development costs by the planning applicant.
- 6.31. It should be noted that some of these abnormal and development costs are based on estimates and could change. Accordingly, the local authority is strongly advised to monitor the costs, as cost savings could be made, which could help achieve a viable development scheme.
- 6.32. In accordance with my instructions from Brighton and Hove City Council the affordable housing is based on a 60% social rent tenure and 40% shared ownership tenure basis. The Local Authority should be aware that if the affordable housing units and tenure split were to change then my conclusions would be different to those currently stated in this report.
- 6.33. It should be noted that when the Basis B mixed use scheme is tested it is viable taking into account the Benchmark Land Value and a developer's profit allowance as a surplus of approximately £3,051,057 is available when land acquisition and finance costs are taken into account.
- 6.34. However the Local Authority should be aware that if leasehold reform legislation is introduced by the Government in the future, and ground rents are abolished, then this surplus will not be available.
- 6.35. It is my understanding that the Local Authority is minded to proceed under the Basis B mixed use scheme as tested above (Option 1 as proposed by the planning applicant) and therefore the Council is strongly advised to take into account the following matters:
- Agree a 40% target maximum affordable housing provision under Option 1 when retesting development viability;
 - Ensure that the Benchmark Land Value (BLV) is apportioned between the Phase 2 and 3 schemes and incorporated into the S106 agreement for benchmarking purposes when the scheme is retested. Whilst the BLV can

be fixed in the S106 Agreement, any relevant future proposed abnormal scheme costs should also be deductible from the BLV.

- Obtain the planning applicants agreement that on any reassessment of the Phase 2 / 3 scheme that ground rents are taken into account, subject to any leasehold reform legislation that may / may not be in place as the relevant time.

- 6.36. The Local Authority is strongly recommended to agree regular development viability reviews and appropriate trigger points in addition to ensuring that it takes legal advice prior to proceeding in this matter.
- 6.37. The planning applicant has previously confirmed that there will not be any car parking spaces available for purchase or rent to the purchasers of the residential flats. Accordingly no car parking rents or sales values have been taken into account. If it is subsequently agreed with the Local Authority that car parking spaces are to be provided the matter should be referred back to me for further consideration.
- 6.38. In relation to the Phase 3 development scheme I have assumed that construction of this phase will not commence until the Phase 2 construction program has completed based on the development scheme information provided by the planning applicant's agent.
- 6.39. The local authority is advised to monitor the development programme, because if the Phases 2 and 3 development schemes were to be developed consecutively then there would be cost / finance savings that could help achieve a viable scheme.
- 6.40. As stated above allowances for service charge payments of £700,000 and loan interest for the breakwater at £104,500 have been adopted based on information provided by the planning applicant's agents. If these costs are not required to be paid then the matter should be referred back to me for further consideration
- 6.41. The assessment has been made by comparing the residual land value of the proposed mixed-use development scheme with an appropriate benchmark figure having regard to the National Planning Policy Framework and the published RICS Guidance Note Financial Viability in Planning.
- 6.42. The government announced in late 2017 that they would crackdown on unfair leasehold practices in respect of ground rents. However since no legislation has been enacted the policy of DVS is to include ground rents at this stage. If this changes it could affect this assessment.

- 6.43. It should be noted that the sales values / construction costs for Phase 3 are based on average unit sizes, as no detailed information has been provided by the planning applicant. If the adopted mix, number and type of units were to change in the future then the matter should be referred back to me for further consideration.
- 6.44. This viability assessment has been carried out in a period where residential and commercial property values have fallen and where there are consequential effects on development viability. It is likely that the current market conditions/downturn in the residential and commercial property market and economy will change over a reasonable period of time, and I would recommend that this assessment should be reviewed, if any planning consent has not been substantially commenced within one year of being granted, or if the development was to be constructed in phases.
- 6.45. The Local Authority is also advised that consideration should also be had to adopting an out-turn approach. The Local Authority is also strongly advised that a review mechanism or overage provision should be incorporated into the S106 agreement.
- 6.46. At the present time, the planning applicant appears willing to proceed with the proposed development scheme, obviously subject to the Section 106 contributions and affordable housing provision.
- 6.47. Whilst I cannot provide any professional advice to the planning applicant, it is ultimately up to them to decide how they wish to proceed in this matter. I have had regard to comparable evidence in the surrounding Brighton and East Sussex areas. The transactions have been considered adjusting for date, state of the market and location.
- 6.48. East Sussex County Archaeology – Comment
Although this application is situated within an Archaeological Notification Area, based on the information supplied, I do not believe that any significant archaeological remains are likely to be affected by these proposals. For this reason I have no further recommendations to make in this instance.
- Natural England
- 6.49. **Nature Conservation** - No Objection
Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on marine designations and has no objection.
- 6.50. **Landscape** – No Comment

Natural England does not wish to provide detailed comment on impacts on the South Downs National Park, however, this should not be taken as implying that there are no impacts. We recommend taking the advice of the South Downs National Park Authority as they will have more detailed knowledge of the site and its wider setting. Natural England's advice on other natural environment issues is set out below.

- 6.51. Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.
- 6.52. Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.
- 6.53. The landscape advisor/planner for the National Park will be best placed to provide you with detailed advice about this development proposal. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the park's management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.
- 6.54. The statutory purposes of the National Park are to conserve and enhance the natural beauty, wildlife and cultural heritage of the park; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm those statutory purposes. Relevant to this is the duty on public bodies to 'have regard' for those statutory purposes in carrying out their functions (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended)). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.
- 6.55. **Environment Agency – Comment**
Initial Response
From the plans submitted it appears the proposal will cause a direct loss of Intertidal Habitat (muddy shingle). There is currently no detailed information in relation to this and no proposal to compensate for this impact. Therefore we currently object to the proposed development as submitted.
- Reasons
- 6.56. This is in accordance with Paragraph 175 of the National Planning Policy Framework (NPPF) which states that if significant harm resulting from a

development cannot be avoided adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

- 6.57. Intertidal muddy gravels are a priority habitat in the Government's UK Biodiversity Action Plan (UK BAP). One of the main objectives is to maintain at least its present extent and regional distribution. Although the area of habitat to be affected by the proposed works is outside designated nature conservation areas, it is still considered to be a valued wildlife asset.
- 6.58. Foreshore and inter-tidal areas which exist between low and high water mark, represent ecologically rich habitats.
- 6.59. As set out in Paragraph 007 of the Planning Practice Guidance, Section 41 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by Government in its Biodiversity 2020 strategy.
- 6.60. We therefore recommend that planning permission be refused on this basis and will maintain our objection until the applicant has supplied information to demonstrate that the risks posed by the development can be satisfactorily addressed.

Subsequent Response

- 6.61. Following on from the response outlined above, the applicant submitted additional information addressing the points raised. The EA subsequently withdrew their objection subject to a suggested condition.
- 6.62. **Sussex Police** - Comment
The National Planning Policy Framework demonstrates the government's aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. With the level of crime and anti-social behaviour in Brighton & Hove district being below average when compared with the rest of Sussex, I have no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends should be considered.
- 6.63. This mixed use development will be constructed in an area which has a high footfall of visitors as well as the local residents, potential work force, and as such security will be an important factor for all.

(NB – the response goes on to make detailed comments in relation to the various aspects of the development which are not listed in the interests of brevity. Such matters would be addressed through condition if permission were to be granted. In addition to the response outlined, further representation was received requesting a S106 contribution be secured to mitigate the additional police resource required to accommodate the development)

6.64. **Southern Water – Comment**

Please find attached a plan of Southern Water records showing the approximate position of a surface water sewer and water main in the access of the site. The exact position of the surface water sewer and water main must be determined on site by the applicant before the layout of the proposed development is finalised.

- No development or new tree planting should be located within 3 metres either side of the external edge of the public sewer.
- No development or new tree planting should be located within 6 metres either side of the external edge of the water main without Southern Water consent.
- No new soakaways should be located within 5m of a public sewer.
- All existing infrastructure should be protected during the course of construction works.

6.65. Furthermore, due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

6.66. Our initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

6.67. We request that should this application receive planning approval, the following informative is attached to the consent:

Drainage Systems (SUDS)

6.68. We request that should this application receive planning approval, the following condition is attached to the consent: “Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.” Following initial investigations, Southern Water can provide a water supply to the site.

- 6.69. **Historic England** - Comment
Immediately to the east of the site sits the Kemp Town Conservation Area, which is predominantly formed of grade I listed buildings and the grade II listed registered park and garden, the Kemp Town Enclosures. The Conservation Area was designated in 1970 and is a fine example of elegant Regency architecture.
- 6.70. Commissioned by Thomas Read Kemp, a member of a wealthy and influential Lewes family and one of the lords of the manor, his vision was to create a planned separate 'town' from Brighton with larger houses for the fashionable upper-class society who were increasingly visiting Brighton. The area was designed by the local architectural partnership of Charles Augustin Busby and Amon Henry Wilds, their role being limited to the layout of the estate and the general design of the facades of buildings.
- 6.71. The Conservation Area is designated for having special architectural and historic interest as an impressive example of Regency town planning and speculative building, deriving its impact from its bold scale and proportions, with the vast span of Lewes Crescent being particularly striking.
- 6.72. The grade II registered park and garden, the Kemp Town Enclosures, is the land forming the gardens of the estate. This land was enclosed by Kemp with cast iron railings in 1823 and planted in 1828 to a scheme devised by local botanist and landscape gardener Henry Phillips. The gardens have since been replanted and reorganised in 1878 and were occupied by the War Department during the Second World War. The gardens form the focus of the Regency planned estate, and they provide aesthetic and communal qualities to the estate. Their immediate setting of significance is that of the enclosing Regency architecture and coastal location, their relationship to the sea and the topography.
- 6.73. Bordering Kemp Town Conservation Area to the east sits the 'at Risk' East Cliff Conservation Area, which contains many designated heritage assets. Beyond this Brighton boasts many other designated heritage assets that give the city its historic significance and identity.
- 6.74. In 1983 a wreck site was designated to the west of Brighton Marina under the Protection of Wrecks Act 1973 in recognition of its national importance. It was believed that the remains of a fifteenth or sixteenth century shipwreck lay here from which bronze and wrought-iron guns had been recovered. It was believed at this time that from reviewing the orientation of the debris that the ship was driven aground from west to east and the final resting place of the ship was likely to be within the area now occupied by the Marina.
- 6.75. The Brighton Marina Wreck was de-listed by DCMS on Historic England's advice on 18th August 2017. This decision was reached following further research by a

Historic England contractor who established that the remains at the protected location had all been removed by salvage and subsequent changes to the Marina frontage. It is believed there are no surviving remains related to the wreck on the seaward side and the restrictions of the Protections of Wrecks Act have therefore been removed.

- 6.76. We understand that this application is a hybrid planning application for the development of Brighton Marina Outer Harbour, Phases Two and Three. Full planning permission is being sought for Phase Two of the development which comprises 480 residential units in three buildings ranging from 9-28 storeys, as well as other works which include undercroft car and cycle parking and harbour wall works. Additionally outline planning permission is being sought for Phase Three of the development which comprises 520 residential units in six buildings ranging from 8-19 storeys, as well as works which include the construction of an engineered basement structure to create a raised podium deck over Spending Beach and installation of Navigation Piles.
- 6.77. The Outer Harbour lies immediately to the south of the principal leisure buildings, and to the west of the Outer Harbour Phase 1 development which was built following planning permission being granted to the 2006 scheme. The proposed development will be located adjacent to the existing cofferdam, on a new platform which is to be constructed over the Spending Beach.
- 6.78. There are no designated heritage assets located within the site's boundary or within the immediate surroundings. The Townscape, Landscape, Heritage and Visual Impact Assessment considers the setting of nearby designated heritage assets including those in Kemp Town and East Cliff Conservation Areas whose setting may potentially be affected. In our view the most sensitive listed buildings and structures are considered; namely those in close proximity to the site and those further afield whose setting is sensitive due to high grading or historic importance.
- 6.79. We agree with conclusions reached that the proposed development including tall buildings will be seen from surrounding listed buildings, registered park and gardens and conservation areas. The predominately horizontal coast line will be punctuated by new vertical elements which will be visible as part of the coastal panorama. In our view whilst the proposed development will be visible from nearby designated heritage assets and change their setting, this will only have a limited impact on their significance and will not prevent them from being understood and appreciated.
- 6.80. We note Brighton and Hove City Council's Supplementary Planning Guidance Note no.20: Brighton Marina and Planning Advice Note 04: Brighton Marina

Masterplan. Importantly we also note policy DA2 of the City Plan Part One (March 2016) and the allocation of 1,940 homes, 2,000 sq m of employment space and 5,000 sq m of retail space. We support the council in seeking to enhance the Marina and the long term aspiration to address the deficiencies of the Marina and the wider area to facilitate the creation of a mixed use area of the city. We note that this should be achieved through the generation of a sustainable high quality marina environment which creates easier and more attractive access for residents and visitors, extends the promenade environment up to and around the Marina and creates stronger pedestrian and visual links with the sea from the Marina. We note your advice that development should secure a high quality of building design that takes account of the cliff height issues in and around the Marina, townscape and public realm while recognising the potential for higher density mixed development in accordance with the aims of the Spatial Strategy to optimise development on brownfield sites.

- 6.81. We note the content and conclusions of the Environmental Statement (volume 3) appendix 2B: Archaeology desk based assessment. We recommend that you consult your Archaeology Officer or the County Archaeologist in relation to this.
- 6.82. Government policy as set out in the National Planning Policy Framework (NPPF) has a clear commitment to achieving sustainable development which in its environmental role includes contributing to protecting and enhancing the natural, built and historic environment (NPPF paragraph 8c). Heritage assets are an irreplaceable resource and the approach set out in the NPPF requires local planning authorities to take account of the particular significance of any heritage asset that may be affected by a proposal (including development affecting the setting). The NPPF advises that planning authorities should look to avoid or minimise any conflict between the conservation of a heritage asset and any aspect of a proposal (NPPF para 190).
- 6.83. The Townscape, Landscape, Heritage and Visual Impact Assessment is helpful in demonstrating the proposal's visual effects and it is clear that the scheme will create an imposing landmark to the eastern approaches. Despite the developments visibility, in our view this will not cause a high level of harm to the significance of the nearby listed buildings, conservation areas and registered park and garden through changes to their setting. In our view this scheme is likely to cause less than substantial harm.
- 6.84. The National Planning Policy Framework paragraph 196 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing it optimum viable use. This weighing should only be carried out once you are satisfied that harm has been avoided or minimised to the greatest extent possible by the design of

the development. It is this remaining harm after such a process that should be weighed against the public benefits of the proposal. Local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably (NPPF para 200).

Recommendation

- 6.85. Historic England has no objection to the application on heritage grounds. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Additionally section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 6.86. **UK Power Network** – Comment
Plans were provided showing the location of extra high voltage equipment.
- 6.87. **South Downs National Park** – Comment
The response of the South Downs National Park Authority is given in the context of the following: 'The Environment Act 1995 sets out the two statutory purposes for National Parks in England and Wales: Conserve and enhance the natural beauty, wildlife and cultural heritage Promote opportunities for the understanding and enjoyment of the special qualities of National Parks by the Public which relevant authorities (which includes local authorities) must have regard to in exercising their functions. National Parks Authorities have the duty to: 'Seek to foster the economic and social well being of local communities within the National Parks'. in pursuit of the twin purposes above. Following is the formal consultation response of the South Downs National Park Authority (SDNPA) on the above application.
- 6.88. The site is located approximately 5 - 600m from the nearest boundary of the South Downs National Park, north east of the site. It is noted that the Environmental Statement submitted with the application includes a landscape and visual impact analysis in both daylight and also covering the night time effects. Having considered the impact of the proposed development on the setting of the designated National Park, the SDNPA recognise the visual receptors from which the assessment has taken place. Notwithstanding this work, the SDNPA have concerns about the 28 storey building element, in particular. It is clear that at approximately 94m high, the 28 storey element would be considerably visible from various key public view points within the National

Park. Notwithstanding the wider visual context and the visible 162m high i360 tower, as shown in views from some of these receptor points, the introduction of a 28 storey building would by nature of its height, scale and size, be intrusive on and above the skyline looking south, SE and SW from the receptor points.

- 6.89. In this marina location, the 28 story element would be somewhat detached from the main taller building and urban city context of Brighton, including the i360. Views looking south from the National Park would be interrupted by the proposed 28 storey urban structure. The SDNPA are not convinced that the visual impact of this tall building element would not be harmful to the setting and special qualities of the South Downs National Park. It would therefore be appropriate for a more detailed assessment be carried out, possibly in conjunction with the SDNPA to establish a more detailed landscape and visual impact assessment on the effects of the development, particularly the tall building element, on the National Park. In connection with the above, the internal, and any external lighting, required in connection with this proposal, including the elevational windows of the proposed buildings, and lighting for the requisite infrastructure of the overall development, has the potential (particularly the 28 storey element) to have significant effects on the dark skies of the National Park. In May 2016 the South Downs National Park became the world's newest International Dark Sky Reserve (IDSR). Therefore it would be appropriate that the development should include and be accompanied by a full appraisal of both internal and any external lighting, to consider what impact it may have on the dark skies reserve status and wildlife of the South Downs National Park and of Lighting Professionals (ILP) for this zone, given the setting of the nearby National Park.

Internal Responses

- 6.90. **Economic Development – Comment**
City Regeneration has some adverse comments and recommendations regarding this application. City Regeneration is aware that the application is a hybrid application, phasing the scheme. Phase 2 of the development comprises of 480 residential units (Use Class C3) in 3 buildings ranging from 9 – 28 storeys; 761 sqm (GIA) of flexible commercial floor space (Use Class A1-A4, B1, C3 Ancillary, D1/D2), and phase 3 of the development will include up to 520 residential units (Use Class C3) in 6 buildings ranging from 8 – 19 storeys; up to 800 sqm (GIA) of flexible commercial floor space (Use Class A1-A4, B1, C3 Ancillary, D1/D2). This will be a total of up to 1,561sqm (GIA) of flexible commercial space (Use Class A1-A4, B1, C3 Ancillary, D1/D2).
- 6.91. There are a number of concerns with the scheme from an economic development view, mainly that the commercial space could potentially be dead space if it is not marketed locally with affordable rents.

6.92. Both phase 2 and 3 mention C3 Ancillary use as part of the flexible commercial floor space. We would request that this be removed as potentially this space could be used for residential space only e.g. a private gym, which would not benefit the wider community.

6.93. Based on the 'anticipated' uses for each unit, the Unit Location Anticipated Potential Use GIA (sqm) outlines the following:

NW Corner of Block One (incl. First Floor) Flexible Office Workspace 236.5sqm:

6.94. According to OffPAT Employment Density Guide, based on 12/13 FTEs per square metre this space should provide 20 FTEs. There has been an influx of worker incubators within the city over the last 5 years, and whilst there has been a demand in the city centre, demand may not be replicated at the Marina. The incubator space appeals to those that prefer city centre locations for easy access, good travel links and are close to amenities. We would not recommend this use unless a clear plan is outlined showing that a sector has been identified and can be grown in this area. This could include using the SW corner of block one as an anchor to entice the growth in this sector.

SW Corner of Block One (incl. First Floor) Fixed Office 236.5sqm:

6.95. A fixed office will provide 20 FTEs. There is a concern that the office space could remain empty unless there is a proactive campaign promoting this area and that rents are reflective of the marina rather than city centre. Currently the number 7 bus services the link between the marina, city centre and train station. The lack of transport into the area may put employers off; we would urge the developers to work closely with Brighton & Hove buses to improve links.

Base of Block Three (Tower) Café and/or Cocktail Bar 288sqm:

6.96. As A3 space this should employ 19 FTEs.

Phase Three - Outline Component (Illustrative)

6.97. East of Block Six Independent High-Street Uses (A1-A4) or community/Leisure Uses (D1/D2) c. 200sqm; West of Block Six Café or Restaurant c. 200sqm; East of Block Nine Café or Restaurant c. 200 sqm; West of Block Nine Independent High-Street Uses (A1-A4) or Community/Leisure Uses (D1/D2) c. 200sqm:

6.98. At 800 sqm OffPAT employment density guide recommends that this should deliver 53 FTE. There are a number of retail units in the marina that are currently empty and this must be considered when looking at the retail offer in this development. Again there could be a risk that the development does not attract enough businesses into the area without a well thought out marketing strategy.

6.99. A viable mix of all uses will attract workers and offer a leisure use to the area. City Regeneration is encouraged to see that the flexibility of the units has been

taken into consideration as described in the Planning Application Spec Document 4.10 'The proposed development will deliver active commercial frontages along the western end of Block 1 (Phase Two), at the base of Block 3 (Phase Two), and at the east and western ends of both of the crescent blocks (Phase Three) with frontages onto the Waterfront Promenade. These units have the potential to be subdivided should the market demand, and are intended to be of such a size that attracts an independent end user'. There is the potential for independents but rents need to be affordable and footfall to the area is encouraged. The Planning App spec Document refers to 4.13 'The Full Permission relating to Phase Two the size and location of units will be controlled by the Development Schedule and plans, respectively. The end user of these units is not yet known at this stage, and will be determined following completion of the individual unit.

- 6.100. The Outline Permission relating to Phase Three overall quantum of commercial space (GIA) will be controlled by the description of development, and the Development Schedule. Final details will be agreed at Reserved Matters Stage'. City Regeneration would like to be kept informed of these developments.

S106 Agreement – Employment and Training

- 6.101. City Regeneration welcomes the prospect of construction-related employment and training opportunities during the life of the development.
- 6.102. As this proposal is categorised as a major development, the council will utilise the S106 agreement to include obligations with regards to construction-related employment and training opportunities for local people.
- 6.103. The S106 agreement will include a requirement for an Employment and Training Strategy to be submitted for approval no less than one month before site commencement. Where any substantial demolition is involved, a separate strategy will also be required.
- 6.104. The strategy should demonstrate how the Developer or the main contractor and / or their subcontractors will source local labour and provide training opportunities during the life of the project. How they will work with the Council's Local Employment Scheme Co-ordinator and organisations operating in the city to encourage employment of local construction workers during the demolition (if applicable) and construction phases of the Proposed Development, with a target that at least 20% of the temporary and permanent job opportunities created by the construction of the Proposed Development are provided for local people (residents living within the city postcodes).
- 6.105. Early contact with the council's Local Employment Scheme Co-ordinator is recommended in order to access advice, guidance and support with regards to

local partnerships and organisations that the contractor may wish to engage with; the production and submission of the strategy if required, to be informed of the monitoring process regarding the workforce and for early negotiation regarding training opportunities. Importantly to explore how the developer contributions may be utilised, for the purposes of upskilling the existing workforce and local residents wishing to enter the industry, where the opportunities are linked to the development.

- 6.106. As this is a phased development, the strategy would be expected to be reviewed and refreshed prior to commencement of Phase 3, if necessary, to reflect any best practice identified or other modifications to be negotiated with the Local Employment Scheme Coordinator on behalf of the Planning Authority.
- 6.107. The S106 agreement will also include a requirement for developer contributions to be made in line with the Planning Authority's Technical Guidance for Developer Contributions, which provides the tariff / formulae applied to all major developments, in respect of residential and non-residential elements of the development. The contribution is payable prior to formal site commencement.
- 6.108. Developer Contributions for this project will fall into 2 categories – residential (C3) non-residential / commercial (A1-A4, B1, D1/D2). Calculations for the residential element are based on the size and number of dwellings and a tariff is applied which is included in the Technical Guidance. The sum requested is in respect of the full hybrid application however, based on the information provided, the breakdown of the contributions have been presented for each phase, as follows :

Recommendation: Approve with adverse comments

- 6.109. The marina currently has a lot of empty/available retail outlets and restaurants. In order to ensure that this does not continue into the new development, a good marketing strategy to attract a growth sector into the area would be required.
- 6.110. Affordable rents to entice independent retailers and small medium enterprises (SMEs) would be encouraged in order to ensure that the units are not left empty leaving the area to feel like a ghost town.
- 6.111. Good signage within the marina, directing footfall to this area would be essential, especially from the car park and bus stops. City Regeneration would encourage the developers to work closely with the transport providers to increase public transport links.
- 6.112. Under the current application we strongly disagree that a proportion of the commercial space in phase 2 and 3 be C3 Ancillary.

6.113. **Education** – Comment

In this instance we will not be seeking a contribution in respect of primary education places as there are sufficient primary places in this part of the city and the city overall. The calculation of the developer contribution shows that we will be seeking a contribution of £790,599.20 towards the cost of secondary provision if this development was to proceed.

6.114. With regard to the secondary provision, the development is in the catchment area for Longhill High School. At the present time there is no surplus capacity in this catchment area. Secondary pupil numbers in the city are currently rising and it is anticipated that all secondary schools will be full in a few years' time, any funding secured for secondary education in the city will be spent at Longhill High School.

6.115. For the purposes of this calculation I have used the housing numbers within the application form for Phase 2. I have then assumed the same split of units by size and tenure for phase 3 which is submitted for outline consent as part of this application. This gives the total shown in the attached spreadsheets. In the event that the split of units for phase 3 is different to this the contribution will have to be re-visited as the actual contribution is a function of the type and size of unit.

6.116. **Sustainability** – Comment

Documents submitted include:

- Response to Sustainability – September 2019
- Environment Agency letter re abstraction of seawater for heat pump
- Energy Strategy
- Undercroft Plant Block Plan Layout
- Seawater Source Heat Pump Schematic
- Heating Zeroth running costs
- Brighton Marina BREEAM Note
- Brighton Marina Domestic Overheating report

6.117. Comments from May 2019 requested further information on the Salt water heat pump, the BREEAM requirements and Overheating.

Salt Water Heat Pump

6.118. Further information about the salt water heat pump is provided which satisfies our previous requests. The schematic for the heating distribution system is satisfactory and will provide both heating and hot water. The innovative low carbon technology is welcomed.

BREEAM

6.119. The BREEAM Note explains that the commercial parts of the development will target a 'Very Good' BREEAM standard, instead of the 'Excellent' standard laid down in Planning Policy CP8. This is considered acceptable, given that some

BREEAM credits cannot be achieved because of the flood risk, and because the commercial units will be built 'Shell only', while the eventual tenants will fit out the units. This again limits the BREEAM credits that are achievable.

- 6.120. The proposal to complete the shell to 'very good' standard and set targets for energy and water in line with the 'Excellent' criteria is considered acceptable.

Overheating

- 6.121. We are referred back to the March 2019 Energy Statement section 6 on Cooling and overheating and in addition a new Domestic Overheating report is supplied which is in line with CIBSE TM59 as requested in our May 2019 sustainability comments the results show that all living rooms and bedrooms pass the overheating design criteria. Additional measures to mitigate overheating of apartments include curtains. In addition, the communal corridors were at risk of overheating, as the heating pipes run along them. Additional ventilation will be provided to ensure overheating does not occur. This satisfies the overheating requirements and the proposed condition in our previous comments. Recommendation: I recommend this application for approval.

- 6.122. **Planning Policy** – Comment

The strategy for the development area is to secure the long term regeneration opportunities and create an attractive and sustainable residential led Marina development.

Housing Issues:

- 6.123. In the context of Brighton & Hove, this is a very large residential development proposal. The provision of 480 residential units in Phase 2 and 520 in Phase 3 (outline application at the moment) represents almost two years' annual housing supply based on the city's housing delivery target of 13,200 as set out in City Plan Policy CP1. In this respect the proposal could make a valuable contribution to the city's housing supply and this is welcomed in principle.
- 6.124. There is no objection to the proposed development given the principle has been established already with the 2006 application, which led to the delivery of Phase 1 of the scheme. This application relates to the Phase 2 and Phase 3 and represents a hybrid application with Phase 3 going for outline application. Both phases are intricately linked and can be read as one whole, although changes in the Phase 3 will be subject to assessments at reserved matters application.
- 6.125. The accommodation is significantly skewed towards smaller dwellings with studios and one bedroom and two bed apartments comprising 93% of the total, and only 9% of units being of three or more bedrooms across both phases. The high proportion of one and two bedroom apartments is a particular concern.

Ideally, the council would wish to see, as a minimum, a much better balance between the one and two bedroom units and larger family units.

- 6.126. The application proposes onsite provision of 15% affordable units. This offer is based on a viability appraisal which has been submitted alongside the application. As it stands, this level of affordable housing proposed falls well short of the requirements set in Policy CP20. In accordance with the Council's Viability Assessment Checklist, an independent review of viability should be sought from the District Valuer.
- 6.127. Local Plan Policy HO5 requires the provision of private useable amenity space in new residential development where appropriate to the scale of the development. It is considered that the provision is extremely low and has not been adequately justified. The applicant should consider incorporating a greater number of balconies where possible.
- 6.128. Retail The proposed scheme includes flexible retail floorspaces. The draft allocation through CPP2 Policy SSA4 has a requirement for ancillary retail and food and drink outlets and no concerns are therefore raised in this regard.

Community Facilities

- 6.129. Community facilities are limited and comprise flexible non-residential spaces that could be used either as retail or community facilities.
- 6.130. Open Space The proposed development would generate a significant demand for all public open space typologies. Some on-site provision has been made, in the form of some green areas and play areas however it is unclear what precise form these open spaces take. This should be clarified in order to better understand the usability of the provision and its contribution towards the overall requirement. At present there is significant concern regarding the size, and therefore the usability, of the areas provided.

Main Comment:

Context

- 6.131. The site is located within the Brighton Marina, Gas Works and Black Rock Development Area (DA2) (a strategic allocation in the City Plan Part 1), an area based policy.
- 6.132. The Marina Outer harbour is located within the DA2 Area in the adopted City Plan Part One. The aim of the Development Area policy is to revitalise the area by creating a sustainable high quality marina environment attractive for both residents and visitors. The Policy sets out wide ranging principles that will govern any redevelopment proposal coming forward. The policy DA2 sets out wide ranging requirements for the entire DA2 area within which this site falls. These

requirements range from housing, employment and retail floorspace and community uses. The expectation was that a majority of these requirements would be delivered through implementation of 2006 application. The Phase 1 from the 2006 application, which is now delivered, has achieved some of the policy requirements already. This needs to be taken into account when setting out requirements from the rest of the development.

- 6.133. There are significant aspirations attached to the redevelopment of the site, as especially, the implementation of the 2006 application is supported by the policy in City Plan Part 1.
- 6.134. *Policy DA2 Priorities:* The strategy for the development area is to facilitate the creation of Brighton Marina and the wider area as a sustainable mixed use area of the city, through the creation of a high quality marina environment. It is important that redevelopment proposals for such a large site are in broad conformity with the priorities for Brighton Marina, Gas Works and Black Rock Area set out in Policy DA2. The aim of this site in particular is to secure the creation of a high-quality housing around a marina and promote the efficient use of land through the creation of a destination along the seafront. A number of priorities have been listed in the policy, which apply to all sites within the DA2 area. Some of the priorities relevant to Outer Harbour site are:
- Protecting and enhancing areas of marine character and the role for marine-related leisure, recreation and employment opportunities. (priority 3)
 - Improvements of public realm and townscape and connectivity (priority 4).
 - Housing mix to cater for a range of housing requirements in the city (priority 7)
- 6.135. The principle of the development has already been established through the 2006 planning application (BH2006/01124). The policy DA2 supports the general mix of uses proposed through this. It recognises that residential uses assist with viability of and have positive impact on the regeneration of the wider area. However it is important to ensure that
- there are reliable commercial and financial viability evidences why the 2006 scheme is unlikely to be coming forward, and
 - there are strong planning benefits for changes proposed.

Residential Provision

- 6.136. *Scale of Development:* In the context of Brighton & Hove, this is a very large scale C3 residential development proposal. The provision of 480 C3 residential units in Phase 2 plus a further 520 units in the Phase 3. Each phase constitutes roughly an annual housing supply based on the city's housing delivery target of 13,200 as set out in City Plan Policy CP1. In this respect the proposal could make a valuable contribution to the city's housing supply and this is welcomed in principle. The proposed amount of C3 development exceeds the previously

approved figure, which is referenced in the Policy DA2 (at 843 units). Increase in the number of dwelling units from the previously approved application may be acceptable provided that other policies and priorities in the development plan can be satisfied.

- 6.137. The increase as such is in line with Criteria 8 of the policy DA2 which suggests maximising opportunities to ensure the efficient, effective and sustainable use of previously developed land. It is recognised that the emerging City Plan Part 2 does not identify sufficient sites to meet all the forecast demand for housing. The council therefore needs to ensure that housing allocation sites identified in City Plan Part 1 come forward and deliver.
- 6.138. The council gives high priority to the importance of achieving a good housing mix that responds to the city's assessed local housing needs and which will contribute to mixed and balanced communities. This is reflected in adopted CPP1 Policies SA6.8 and CP19.
- 6.139. City Plan Policy SA6 'Sustainable Neighbourhoods' sets out a requirement to "create and maintain sustainable neighbourhoods", with one of the priorities of the policy being to "deliver balanced communities through the requirement for new residential development to provide an appropriate amount of affordable housing, mix of dwelling sizes and tenure types". City Plan Policy CP19 (Housing Mix) states that proposals will be "required to demonstrate that proposals have had regard to housing mix considerations and have been informed by local assessments of housing demand and need." The policy includes size, type and tenure as housing mix considerations.
- 6.140. These policy objectives have been carried through to more detailed policies in the draft City Plan Part Two. Policy DM1 indicates that the Council "will seek the delivery of a wide choice of high quality homes which will contribute to the creation of mixed, balanced, inclusive and sustainable communities" through requiring proposals for residential development to "incorporate a range of dwelling types, tenures and sizes that reflect and respond to the city's identified housing needs" and to "make provision for a range and mix of housing /accommodation formats subject to the character, location and context of the site".
- 6.141. The housing mix of the proposed 480 C3 residential units for Phase 2 is as follows:
- Studios: 21 (2.1%)
 - One bed: 161 (16.1%)
 - Two bed: 268 (26.8%)
 - Three bed: 30 (3%)

- 6.142. Housing mix for Phase 3 although illustrative at this stage demonstrates 286 One Bedroom Units, 202 Two Bedroom Units and 32 Three Bedroom Units.
- One bed: 286 (28.6%)
 - Two bed: 202 (20.2%)
 - Three bed: 32 (6%)
- 6.143. It is clear that in both phases the accommodation is significantly skewed towards smaller dwellings with studios and one bedroom apartments comprising 61% of the total, and only 6% of units being of three or more bedrooms. This is against the thrust of Policy CP 19. Paragraph 4.213 gives an indication of demand/ need for homes in the city over the plan period. An estimated 65% of the overall need/demand (for both market and affordable homes) will be for two and three bedroom properties (34% and 31% respectively); 24% for 1 bedroom properties and 11% for four-plus bedroom properties. These are however citywide targets and some variations in individual sites will be accepted. In applying these to individual development sites, regard should be had to the nature of the development site and character of the area, and to up-to-date evidence of need as well as the existing mix and turnover of properties at the local level. The views of the Council's Housing Officers should be sought on the suitability of the proposed size mix.

Affordable Housing

- 6.144. Due to the substantial need for affordable housing in Brighton & Hove, draft the Council seeks a higher proportion of 40% in accordance with the requirements of City Plan Part 1 Policy CP20.
- 6.145. The application proposes onsite provision of 15% affordable units comprising intermediate (shared ownership) in Phase 2 which is repeated in Phase 3. This offer is based on a viability appraisal which has been submitted alongside the application. The Applicant is seeking an Affordable Housing Review Mechanism to be incorporated into the S106 Agreement to form part of a subsequent Reserved Matters Application at which point the final quantum of affordable housing would be agreed with the Council.
- 6.146. The site is subjected to Policy CP20 that sets affordable housing requirement for this site at 40%. In terms of housing mix the policy requires one and two bedroom homes (30% and 45% respectively), which is subject to site-based variations.
- 6.147. The affordable housing units are provided in Block 1 spread across different levels and a mix (studio – 8; 1 Bed -14 and 2 bed – 50) comprising 72 units (15% of total of 480 units in Phase 1). The provision shows studio and one bed (30%) and two bed (70%). No three bed affordable housing units have been provided. These provisions represent a significant departure from the Plan, although

unique characteristics of the site are recognised. Nonetheless, this mix should be assessed alongside the overall under provision through viability negotiations. Distribution in the Phase 3 is not available at this stage.

- 6.148. As it stands, this level of affordable housing proposed falls well short of the requirements set in Policy CP20. Applicant has submitted Financial Viability Assessment report. However, in accordance with the Council's Viability Assessment Checklist, an independent review of viability should be sought from the District Valuer, with the applicant required to pay the costs of this process. It would be appropriate to test the viability of a range of different scenarios in terms of the numbers, size applied. Input should be sought from the Council's Housing Officers on what scenarios should be tested.
- 6.149. If following independent assessment, it is accepted that the scheme cannot meet the Council's affordable housing requirements in full, should the scheme be approved, affordable housing will be a missed opportunity.

Space and Accessibility Standards

- 6.150. Dwelling sizes comply with Nationally Described space standards. Up to 10% of units (48 Units) within Phase 2 and 10% of units (up to 52) within Phase 3 will be provided as Wheelchair Accessible Homes and comply with Building Regulation M4(3) and is in accordance with Policy DM1 in the emerging City Plan Part 2. This is welcomed.

Dwelling Density

- 6.151. The proposals have a site wide residential density of 283 dph; based on a site area of 3.54Ha and up to 1,000 residential units. This can be broken down within phases; Phase 2 (Full Details) has a residential density of 307 dph (480 units within 1.56Ha), whilst Phase 3 (Outline) has a residential density of up to 263 dph (up to 520 Units within 1.97Ha). City Plan Policy CP14 relates to density and expects a minimum density level of 100 dwellings per hectare on major development sites within the identified Development Areas. The proposed development far exceeds this minimum level by a significant margin, and will need to be considered alongside detailed design considerations such as public realm, orientation, view etc including internal layout and movement and other policy considerations.

Private Amenity Space

- 6.152. Local Plan Policy HO5 requires the provision of private useable amenity space in new residential development where appropriate to the scale of the development. Planning Statement suggests all units have been provided with Juliet balconies of 250mm, with a reveal of between 350-700mm, accessed off a main living space. Apart from light and outlook, 'Juliet' balconies will not contribute to the provision for balconies, therefore lack of private amenity is

highlighted. In the applicant's own admission, balconies up to 2m could be provided in Phase 3. It is not clear if the ground floor units have any outdoor private amenity space.

- 6.153. The applicant's Planning Statement suggests private amenity space is compensated by the shared outdoor amenity in the form of 'Courtyard Gardens' comprising 2,129 sq m of usable communal space. Overall, it is considered that under provision private amenity space has not been adequately justified and the applicant should consider incorporating a greater number of balconies where possible.
- 6.154. In summary, development at the Marina presents a significant development opportunity in a city that is constrained and where there are limited opportunities for larger scale development to help meet city wide needs. It is acknowledged that the housing would make a significant contribution to housing supply. However, as set out above, there remain a number of policy concerns regarding the proposed housing mix specifically in terms of tenure, unit size mix and affordable housing provision and also the lack of private amenity space.

Non-Residential Floorspace

- 6.155. In total, the proposals will provide up to 1,561sqm (GIA) of flexible commercial floorspace with 761sqm within Phase 1 (Use Classes A1-A4, B1, C3 Ancillary, D1/D2), and up to 800sqm in outline within Phase 2 (Use Classes A1-A4, B1, C3 Ancillary, D1/D2). There is no specific requirement for commercial floorspace to be provided other than to cater for the demand arising from the occupiers of this development and the visitors.

Retail

- 6.156. One of the strategic aims of policy DA2 is to 'secure a more balanced mix of retail, including support for independent retailers, and non-retail uses such as leisure, tourism and commercial uses'. Up to 5,000 sq m of net A1-A5 floorspace is allocated for the inner harbour in policy DA2. Any retail/commercial space for the outer harbour would be considered ancillary to any residential units proposed.
- 6.157. Phase 2 is seeking full permission for 761 sqm of retail floorspace of which only Block 3 is likely to comprise retail uses. The precise commercial mix of Phase 3 will be determined at Reserved Matters stage. Whilst the proportion of retail space proposed appears to sit comfortably with the Marina's current status of being de-designated as a District Centre in the retail hierarchy, the provision appears low for the potential demand generated by the residents as well as retail needed to cater to the visitors including the retail that is needed to support the pedestrian activities.

Community Facilities

- 6.158. One of the strategic aims of Policy DA2 requires the wider Marina area to provide over 10,000 sq m of leisure provision. A significant part of it will be provided by Black Rock sites. This development presents opportunity to provide new leisure space in line with maritime character and become a visitor attraction. The flexible non-residential space would satisfy part of that aspiration, however, if the application is approved that will be a missed opportunity. In the approved scheme a number of community related uses such as a crèche, health centre and internal space for older children were incorporated. There is no justification as to why they have been excluded.

Open Space/Sports Provision

- 6.159. The Planning Statement suggests a total of 11,420sqm of Publicly Accessible Open Space is to be provided across the scheme, with 4,762sqm within Phase 2 and approximately 6,658sqm within Phase 3. The total quantum of Public Realm, which excludes Playspace and Communal Gardens, to be provided across the scheme is 8,849sqm with 3,600sqm in Phase 2 and approximately 5,249sqm within Phase 3.
- 6.160. Open Space provision can be found in the Design and Access Statement (BMOHD15).
- 6.161. City Plan Policy CP16 (part 2) states that “new development will be required to contribute to the provision of and improve the quality, quantity, variety and accessibility of public open space to meet the needs it generates”. Policy CP17 (part 5) sets a similar requirement for sport provision, stating that there is a requirement for new development to contribute to the provision and improvement of the quality, quantity and accessibility of sports services, facilities and spaces to meet the needs it generates.
- 6.162. The proposed development would generate a significant demand for all public open space typologies. The ready reckoner (attached) indicates a substantial requirement of 8.86ha of open space. The requirement is broken down as follows:
- Children and young people play space – 0.11ha
 - Amenity green space – 1.21 ha
 - Outdoor sports facilities – 0.97ha
 - Parks and gardens – 1.91ha
 - Natural and semi-natural open space – 5.83ha
 - Allotments – 0.47ha
- 6.163. Some on-site provision has been made, in the form of some green areas and play areas. The applicant has provided a breakdown on the on-site provision and the Design and Access Statement shows how some of these open spaces

are distributed on site. This should be clarified in order to better understand the usability of the provision and its contribution towards the overall requirement. Each open space typology needs to fulfil its functional purpose through a formal and organised provision. For example not all spaces between the buildings would be judged to fulfil the Parks and Gardens function. It would also be useful to understand the split between Phase 2 and Phase 3. There is an inconsistency in terms of quantum of Parks and Gardens (shows 10980 sq m in Open Space perimeter Plan).

- 6.164. The concern is regarding the size, and therefore the usability, of the areas provided. Phase 2 provides just one private play area and Phase 3 has a few more. It unclear what quality/quantity of equipment would be included and what their capacity would be – this should be clarified. For a development of this size consideration should be given to the inclusion a larger play area or Multi-Use Games Area. All areas that are outside the building footprint are shown as Parks and Gardens spaces (public and private). There needs to be more clarity in terms of how much of those spaces can be classed as Parks and Gardens. Most of these areas are shown with hard landscape.
- 6.165. It is understood that the reduction in the dwelling numbers in the approved scheme was done to allow increase in public and private amenity space within the development. With the increased units in the proposed scheme, the open space under-provision becomes even more concerning.
- 6.166. Some provision could be provided in the form of roof terraces provided they are publicly accessible, secure, landscaped and provided with greenery, wind breaks and shading where appropriate to maximise their attractiveness and safety for potential users.

Biodiversity

- 6.167. Provision of biodiverse roofs and more than 40 nest boxes is welcomed intended for terrestrial invertebrates, starlings, house sparrow and peregrine falcon. The scheme also makes provision for brown roofs that mimic the form and species assemblage of the rare coastal vegetated shingle habitat.

Tall Buildings

- 6.168. Policy CP12 Urban design has identified Brighton Marina as a potential location with the potential for taller developments, defined as 18 metres or more in height (approximately 6 storeys). Nearly all buildings in the proposed scheme are considered to exceed the tall building threshold. The tallest building is a 28 storey tower in Phase 2.

Waste Management

- 6.169. Policy WMP3d of the Waste and Minerals Plan requires development proposals to minimise and manage waste produced during construction demolition and excavation. A development of scale will produce significant quantities of construction, demolition and excavation waste, and a comprehensive Site Waste Management Plan should be required by condition. Paragraph 49 of the National Planning Practice Guidance provides guidance on what could be covered in the SWMP in order to meet the requirements of the policy¹. Policy WMP3d also requires applicants to demonstrate how the durability of the construction has been maximised.
- 6.170. Policy WMP3e of the WMP requires proposals for new development to identify the location and provision of facilities intended to allow for the efficient management of waste, e.g. location of bin stores and recycling facilities. The location of recycling facilities is indicated on the submitted plans and no concerns are raised with regard to this policy.

Recommendation

- 6.171. The proposal for a comprehensive redevelopment of this large strategic site is welcomed in principle. It is acknowledged that the proposed development will make a significant contribution towards the City Plan housing target. The proposal is broadly in compliance with the priorities listed in Policy DA2. However, there are a number of policy concerns regarding the following issues:
- Whilst it is acknowledged that the development would lead to an increase housing units inadequate provision / contribution towards the open space and outdoor sport needs that will be generated by the proposed scheme;
 - Housing mix considerations including unit size mix; mono-tenure and lack of affordable housing;
 - Lack of private amenity space.
- 6.172. **Conservation and Heritage – Comment**
Statement of Significance
Brighton Marina was formed in the 1970s and includes reclaimed land. This proposal concerns the prominent south-westernmost element of the Brighton Marina site, protruding far beyond the established built city-scape into the sea. The site sits immediately to the East of the Kemptown Conservation Area within which are the Grade I listed properties of Lewes Crescent and Sussex Square, and from this point westwards, most of the seafront and the band of urban development fronting onto it is designated conservation areas containing the bulk of Brighton and Hove’s listed buildings.
- 6.173. To the immediate north of the site is existing low grade Marina development within a poor public realm dominated by vehicular traffic. Beyond this is the locally listed Marine Gate, and further East 40&40a White Lodge The Cliff which are also locally listed. The grade II listed Roedean School lies to the east, and The Ovingdean and Rottingdean Conservation Areas are beyond. This is

therefore a prominent site in a sensitive location. The Heritage Team considers that the details of any proposed new development are extremely important in a situation such as this and is therefore concerned that an outline application is not appropriate in this instance. The principle of development including tall buildings is established with the existing approval BH2006/01124.

Relevant Design and Conservation Policies and Documents

- Planning (Listed Building and Conservation Areas) Act 1990
- National Planning Policy Framework Planning Practice Guidance
- Historic England Good Practice Advice Notes
- Local Plan policies HE3, HE6 City Plan part 1 policy DA2, CP12, CP15
- Planning Advice Note 04 SPG BH15 SPG BH20

The Proposal and Potential Impacts

- 6.174. The proposed development is a significant revision of the approved scheme BH2006/01124 for phases 2 and 3 of the Outer Harbour Development. The building form is more formal, lower in height but more dense. The application follows a preapplication process of advice and amendments which included input from the Design Review Panel.
- 6.175. The densification of the development that follows from the lowering of building heights impacts on visual permeability of the development, and views from the north through to the sea would be severely limited. Views East into the Marina would not be available at all.
- 6.176. The architectural language proposed for blocks 1, 2 and 3 in Phase 2 is based on a detailed study of the Regency style buildings of Brighton and Hove. This is a very constrained architectural form, and following encouragement from council officers and the Design Review Panel the development of the proposals through the preapplication process has resulted in the introduction of detailing that provides some variation between the blocks although the amount to which this will be apparent from a distance is doubtful and the degree of change achieved is disappointing. The concepts for Phase 3 indicate architecture and site layout more in line with the relaxed, playful approach encouraged by the Design Review Panel and it is considered that this responds more successfully to the marina setting.
- 6.177. The height of the approved tower was previously considered acceptable due to its 'attractive slender silhouette' which tapered towards the top. The slenderness and sculptural qualities are missing from the blocks in the current application and although lower in height, the angular form of the proposed tower and other blocks, and the closing of spaces between the structures have a very different, and no less significant, impact on the sensitive heritage assets identified above.

The suitability of this location for tall buildings is however already established, and the proposed heights are accepted in principle.

- 6.178. There remains concern that in views from the West the façade of phase 2 is unbroken by glimpses through to phase 3 or the seascape beyond, and there is concern that this will give an imposing and uninviting impression of the site which is not typical of the rest of the proposal. This would be the view from the busiest part of Brighton Seafront and is demonstrated in viewpoints 26, 28, 38 & 39 provided in the Townscape, Landscape, Heritage and Visual Impact Assessment. The North-Western 3 sided square (block 1) will be in the foreground in immediate approaches along Marine Parade and Madeira Drive and it is disappointing that the original courtyard concept offered at the earliest stage in the process has been retained for block 1.

Detailing

- 6.179. Doors and windows are set within deep reveals providing texture, shading and visual interest, and the profiles of the full height reconstituted stone columns change in plan and profile from broad on the lower levels to increasingly more slender at higher levels, and these profiles vary between the 3 buildings. In close proximity this will provide interest and some variety.
- 6.180. The choice of durable materials is supported, and gradation in the texture of the reconstituted stone as the buildings extend upwards is welcomed. The variation in colour tones between the blocks in phase 1 is also encouraged, however this is not readily apparent in the images provided, particularly at a distance, and assurance is required that this will be effective. Potentially, further development of this would be welcomed as a means of differentiating between the blocks, as only very subtle variations in detailing have so far been employed and concern remains that due to the lack of breaks in the façade this development will continue to appear monolithic and oppressive in views from the west and north west.
- 6.181. The 'beacon' element of block 3 has not been fully explained. It is a double storey height element with a smaller central enclosure for plant equipment. Images indicate that there will be planting within the space between the plant enclosure and the outer face of the tower, however this is not shown on the 'plant level' floor plan. It is considered that this feature has an over-dominant, heavy appearance due to its height and the close spacing of the masonry columns. This does not appear to follow the 'erosion' concept and is not considered to enhance the scheme in its current form.
- 6.182. Realistic images of the appearance of the tidal lagoons at low and high tide are required. There is concern that at low tides in particular these will be unattractive

areas and the current representation on the plans as blue pools could be misleading.

- 6.183. The Townscape, Landscape, Heritage and Visual Impact Assessment document includes detailed analysis of the significance of the identified heritage assets and provides an assessment of the impact the proposed scheme would have on them.
- 6.184. In considering the Kemp Town and East Cliff Conservation Areas the document states that the marina is part of their wider setting and that while the seaside setting contributes to the significance of the conservation areas, the marina itself does not. It goes on to state that the proposal will make the Marina development more visible, however the visible sea and sky will be reduced by a negligible amount and it considers that the proposal would have no impact on the setting of the conservation areas.
- 6.185. In considering the contribution of the parts of the conservation areas south of the A259 to the heritage significance of the conservation areas, the document states 'The sea beyond is part of its wider setting, together with the Madeira Terrace, Madeira Drive and the leisure activities which take place there. These do not, however, contribute to the conservation area's heritage significance' however Heritage Team would argue that this part of the conservation area reflects the origins of the urbanisation of this part of the city due to the fashion for promenading and should be considered. The conclusion that there would be no impact on the setting of the conservation area south of Marine Parade is never-the-less accepted.

Consideration of the impact on setting and heritage significance of the listed buildings:

- 6.186. Regarding the listed buildings in the Kemp Town Estate, the document states: 'The sea and coastal features beyond its boundary, including the Black Rock site and the marina are part of the wider setting. While the seaside setting is part of the group's significance, the latter features are not ...it goes on to state that ..[it will] 'make a positive contribution to this wider setting. There will be no effect on the heritage significance of the listed buildings or the ability to appreciate it.
- 6.187. The document goes on to conclude that there will be no effect on any of the assets or their heritage significance or the ability to appreciate them or their setting, in some instances due to the already compromised nature of the setting from the existing Marina development.
- 6.188. However the Heritage Team has concerns regarding the potential heritage impact on the following assets as demonstrated by viewpoints 26, 30 and 33 provided in this document.

Madeira Lift

- 6.189. Regarding Madeira Terrace, Madeira Walk, Lift Tower and related buildings the document states 'The significance of this structure arises from its role in the urbanising of the cliff, its engineering achievement, its intended use for leisure, its impressive unbroken length and its architectural detail. With regards to its setting, the elements that contribute to its significance are the two environments it mediates: the upper edge of the urban city of Marine Parade and the lower levels of the coast at Madeira Drive, Volk's Railway and the beach. It is a linear setting, its west and east ends gently transforming into urban and parkland settings, respectively. The wider setting, both of the city beyond Marine Parade and further away along the beach to the west and east, do not make any special contribution to its significance.'
- 6.190. This assessment is made of the structure when seen as a whole from beach level. The Heritage Team considers that the presence of the lift tower rising above the level of the Marine Parade roadway also has significance in the tower's connecting function between the upper and lower levels of the urban and beach environments respectively, and the relative isolation of the tower at this upper level is enhanced by the openness of the view of the seascape beyond.
- 6.191. With regard to Viewpoint 26, the statement identifies a moderate impact from the proposed development and assesses that this would be beneficial. The Heritage Team considers that the reduction in the openness of the view beyond this structure would cause harm which is less than substantial, however it is acknowledged that this view is generally experienced in a dynamic way and the relationship of the proposal to the tower will change and therefore its impact will not always be harmful.

Lewes Crescent

- 6.192. The document states 'The significance of this group is of the highest level,The essential setting of the Kemp Town terraces is: (i) its full embedding in the tight grain of the townscape on its east, north and west sides; and (ii) its openness to, and visibility from, the coast. Further, the landscaped slopes and architectural artefacts south of Marine Parade, though divorced by the busy coastal road, are also part of its setting and are included within its boundaries' With regard to viewpoint 30, the statement identifies a major impact from the proposed development, and that this would be beneficial.
- 6.193. The Heritage Team considers that the phase 2 structures would affect the openness of the views across the wide central open space across to the sea and horizon beyond and must therefore be considered harmful. The harm would be less than substantial.

- 6.194. With regard to viewpoint 33, the statement identifies a large change with a major impact & from the proposed development, and that this would be beneficial. The Heritage Team considers that this is a very sensitive view affecting Lewes Crescent which due to the loss of the visual contrast between the end of the terrace and the openness of the gardens to the West and seascape to the South, would have a harmful impact which is increased by the lack of definition between the dominant materials and the architectural influence of the proposal relative to the historic terrace.

Conclusion

- 6.195. The Heritage Team has concerns over the densification of the development that has resulted in a scheme without visible breaks between blocks, the formality of the architectural approach, and the impact this form of development would have on selected heritage assets.
- 6.196. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the local authority shall have special regard to the desirability of preserving a listed building or its setting when considering an application for Planning Permission. 'Preserving' means doing no harm. There is therefore a statutory presumption, and a strong one, against granting permission for any development which would cause harm to a listed building or its setting. This presumption can be outweighed by material considerations powerful enough to do so. Where the identified harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation of the listed building and its setting. Section 193 of the National Planning Policy Framework states 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance' Section 196 states. 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'
- 6.197. The aspirations of the local authority for the future of the Eastern Seafront include measures to encourage visitors to Madeira Drive, partly in connection with the need to invest in the restoration of Madeira Terrace. Destination points along the route and at its far end are seen as essential elements of this strategy, and connectivity and improved public realm will also be integral to the success of this. The potential of the further development of the Marina to be part of this is acknowledged and therefore the role that this could play in providing an attractive incentive for activities and movement along Madeira Drive could potentially be considered an indirect public benefit to be balanced against

identified harm to a heritage asset. It is however considered that the current form of the proposed development does not minimise the identified harm that would be caused, and until this point is reached these indirect benefits cannot be weighed against the harm.

- 6.198. For these reasons the Heritage Team cannot give full support to the proposal. *(following review of the comments from the Heritage and Conservation team, some revisions were made to the scheme and the Heritage and Conservation scheme issued the following additional comments)*

Additional Comments

- 6.199. This document sets out the changes to the proposal that have been made in response to concerns raised over the initial scheme in relation to the impact of the proposal on the identified heritage assets.
- 6.200. As stated in the submission the changes that have been made are subtle and there are no alterations to the proposed massing or height of the proposed development. The changes that have been made relate to slight increases in the depth of colour for each of the blocks, and additionally some amendments have been made to the detailing of the perimeter at the top of the tower and the addition of lighting to this element.
- 6.201. As a result the densification of the development (relative to the approved scheme) would continue to impact on visual permeability of the development, with views from the north through to the sea severely limited and views East into the Marina not available at all. There therefore remains concern that without glimpses through to phase 3 or the seascape beyond the development would appear imposing from the busiest part of the Brighton seafront.
- 6.202. It is however considered that the enhancement of the contrast in colours between the blocks does serve to provide some articulation to the scheme as viewed from a distance thereby reducing the monolithic appearance, and although this is a very limited change it is welcomed.
- 6.203. The changes to the colonnade around the top of Block 3 reduces the density of this element and the planting appears to have been deleted, however it is disappointing that no reduction in its height has been made and that the design retains elongated proportions which contrast with the storey heights of the rest of the development. There would be no objection to subtle lighting being added to this element if further steps were made to reduce the height and/or better reflect the storey heights below.
- 6.204. In relation to the impact on identified heritage receptors, these alterations are not so significant as to result in changes to the Heritage Impact Assessment that

accompanies this application, and it is stated that 'The alterations to the detailed and outline components of the proposed development are relatively minor in heritage terms and will result in no changes to the residual and cumulative effects on the heritage receptors' and that the 'HIA remain unchanged and valid'.

- 6.205. As a result of the limited changes, the harm to the significance of the heritage assets identified in the original Heritage Team comments is largely unchanged. For clarity (2as stated in the previous response) the elements of significance that are considered to be compromised are as follows.

Madeira Lift:

- 6.206. In addition to the significance stated in the HIA, the Heritage Team identifies the presence of the lift tower rising above the level of the Marine Parade roadway as having significance in the tower's connecting function between the upper and lower levels of the urban and beach environments respectively, and that the relative isolation of the tower at this upper level is enhanced by the openness of the view of the seascape beyond. The Heritage Team considers that the reduction in the openness of the view beyond this structure is unchanged by the amendments and would continue to cause harm which is less than substantial, however it is acknowledged that this view is generally experienced in a dynamic way and the relationship of the proposal to the tower will change and therefore its impact will not always be harmful.

Lewes Crescent:

- 6.207. The Heritage Team concurs with the HIA assessment of significance which states 'The significance of this group is of the highest level,The essential setting of the Kemp Town terraces is: (i) its full embedding in the tight grain of the townscape on its east, north and west sides; and (ii) its openness to, and visibility from, the coast. Due to the changes to the scheme being limited to subtle deepening in the colour variation between facades, and the unaltered scale and massing of the proposal, the harm to the setting from the phase 2 structures would still be considered to affect the openness of the views across the wide central open space across to the sea and horizon beyond, and must therefore be considered harmful. The harm would be less than substantial.
- 6.208. The Heritage Team considers that Viewpoint 33 is a very sensitive view affecting Lewes Crescent, which due to the loss of the visual contrast between the end of the terrace and the openness of the gardens to the West and seascape to the South, would have a harmful impact.
- 6.209. The previously identified lack of definition between the dominant materials of the proposal and the historic terrace has been altered slightly by the added variation in colours, however the impact on the openness to the coast remains a concern.

- 6.210. Additions to the Design and Access Statement includes views of phase 3 at high and low tide however it does not appear to include realistic images of the tidal lagoons as requested, therefore reassurance is still sought that at low tides in particular these will not be unattractive areas.

Conclusion

- 6.211. It is disappointing that no amendments have been made to the proposed scale and massing of the development, and the lack of visual permeability through the site from external viewpoints as identified in the original comments remains unchanged. As a result it is considered that the identified harm has still not been minimised, and therefore whilst subtle improvements to the scheme are acknowledged, the Heritage Team cannot give full support to the proposal.

- 6.212. **Urban Design – Objection**

Initial Comment:

The proposals are for Phases 2 & 3 of the Outer Harbour site at Brighton Marina. Phase 1 is already complete. Phase 2 proposals form a Full Planning Application, whereas Phase 3 proposals form an Outline Application. The proposals are predominantly residential though include some retail at ground floor level. They are of high density and include tall buildings ranging from 7 to 28 storeys in height.

- 6.213. The Outer Harbour site will be developed over the existing Spending Beach. The site presents significant challenges in connectivity to adjacent and wider city context, as well as exposure to severe weather conditions. Key nearby development sites include Black Rock, Brighton Marina Inner Harbour and the Gasworks.

- 6.214. Key policy objectives outlined in Brighton & Hove City Plan Part 1 Policy DA2 include:

- Secure a high quality of building design that takes account of the cliff height issues in and around the Marina, townscape and public realm while recognising the potential for higher density mixed development
- Improved legibility, permeability and connectivity for pedestrians
- Conserving and enhancing the biodiversity and geodiversity of the area through the implementation of an ecological master plan which ensures wildlife habitats are integrated throughout
- Enhance the transport infrastructure at the Marina
- Maximise opportunities to support the city's sustainability objectives
- Deliver a substantial amount of additional residential units including affordable housing

- 6.215. The proposals have progressed through three Design Review Panel (DRP) sessions, the reports from which shall be referred to in the following urban design comments.

- 6.216. Whilst the proposals have responded to some of the DRP recommendations, many have not been addressed and significant concerns remain in relation to the following.
- 6.217. Narrative, Site Strategy and Concept: Whilst the Design and Access Statement outlines some clear development ambitions, it is considered that these do not wholly address council policy, nor wholly consider matters of character and identity as set out in PAN04. No site strategy has been presented which responds to contextual analysis and environmental conditions, and it is considered that the early concept of coastal erosion, whilst interesting, does not translate successfully into proposals. These concerns are significant because these matters are fundamental to early stage design development and have implications on all subsequent design decisions. Please see detailed comments below for suggested improvements and ways forward:
- 6.218. Site layout and landscape: The general design approach appears to have been buildings-led, rather than landscape-led, which has generated a contrived and regimented site layout that does not respond well to environmental factors or conceptual drivers, nor generate cohesive community or identity. As Phase 2 is a Full Planning Application, there is no opportunity for modifications to site layout here, though the design approach to landscape could be improved (see detailed comments below). However, Phase 3 can be significantly improved leading to a Reserved Matters Application.
- 6.219. Connectivity, contextual integration and boundary treatments: The DRP consistently raised concerns with regard to northern connectivity, offering constructive feedback and suggested solutions which do not appear to have been explored. These issues are critical to the success of the scheme and can be addressed if a comprehensive redesign of Phase 3 is considered.
- 6.220. Biodiversity and geodiversity: Aligned with comment above, the council's ambition for an ecological masterplan has not been addressed. The beach shingle coastal environment is rare and unique and presents something to be celebrated in the development of the Marina. This opportunity has been missed in current proposals. This should be readdressed in line with redevelopment of Phase 3 proposals, as well as Phase 2 landscape design.
- 6.221. Scale and massing: Visual permeability is a concern which has also been raised by the heritage officer. These concerns are closely aligned with those on site layout, as the regimented arrangement and cuboidal blocks present as a composite from afar. There is additional concern with regard to spacing between blocks in Phase 2 at only 12-15m. This is not considered to be acceptable due to the detrimental impact on the quality of internal space within blocks, and external space between them. This is not easily addressed in Phase 2 without

fundamental design changes which cannot be accommodated during this application. However, these matters can be addressed in the redevelopment of Phase 3 proposals.

- 6.222. Sustainable Buildings: The proposals demonstrate the potential for 39% reduction against Part L regulations. However, proposals could be more ambitious with regard to circular economy considerations.
- 6.223. Provision of private residential amenity: Phase 2 proposals include a 0% provision of private external amenity for residents in the form of balconies. This is considered to be unacceptable and every effort should be made to improve upon this. As this would require modifications to internal layouts, it is not easily achieved during the course of this application and so remains a significant objection.
- 6.224. Architectural form and elevational composition: It is considered that the Georgian-inspired architectural form and composition is incongruous with the uniqueness of the Marina site and that a contemporary architectural response would be more appropriate for this high profile and impactful site. Whilst architectural form will be difficult to modify in Phase 2 during this application, elevational and material composition can be more easily addressed. Again, Phase three proposals can be redeveloped to address these concerns.
- 6.225. In assessing the current proposals, the response is to object on design grounds. Should the officer and the committee be minded to grant, the recommendation is to heavily condition landscape design (to include a public realm strategy and biodiversity/geodiversity gains strategy), matters of sustainability and circular economy, and pedestrian / cycle infrastructure improvements in both Phases 2 and 3, and to ensure comprehensive redevelopment of all reserved matters in Phase 3 proposals by means of condition or otherwise. Outline parameter plans for Phase 3 should not seek to fix site layout and should allow as much flexibility in design development as possible.

Further Response

- 6.226. Following the initial comments, a design response on some of the concerns expressed was issued by the applicant subsequent to which a further response was issued as set out below.
- 6.227. The proposals are for Phases 2 & 3 of the Outer Harbour site at Brighton Marina. Phase 1 is already complete. Phase 2 proposals form a Full Planning Application, whereas Phase 3 proposals form an Outline Application. The proposals are predominantly residential though include some retail at ground floor level. They are of high density and include tall buildings ranging from 7 to 28 storeys in height. The Outer Harbour site will be developed over the existing Spending Beach. The site presents significant challenges in connectivity to

adjacent and wider city context, as well as exposure to severe weather conditions. Key nearby development sites include Black Rock, Brighton Marina Inner Harbour and the Gasworks.

6.228. Key policy objectives outlined in Brighton & Hove City Plan Part 1 Policy DA2 include:

- Secure a high quality of building design that takes account of the cliff height issues in and around the Marina, townscape and public realm while recognising the potential for higher density mixed development
- Improved legibility, permeability and connectivity for pedestrians
- Conserving and enhancing the biodiversity and geodiversity of the area through the implementation of an ecological master plan which ensures wildlife habitats are integrated throughout □ Enhance the transport infrastructure at the Marina
- Maximise opportunities to support the city's sustainability objectives
- Deliver a substantial amount of additional residential units including affordable housing

6.229. The proposals have progressed through three Design Review Panel (DRP) sessions, the reports from which shall be referred to in the following urban design comments.

6.230. Whilst the proposals have responded to some of the DRP recommendations, many have not been addressed and significant concerns remain. As noted above, the recommendation is to object on design grounds. Reasons for objection include:

- The development vision does not wholly address local policy (especially with regard to biodiversity, geodiversity and social infrastructure), does not consider matters of character and identity as set out in PAN04, does not wholly address the recommendations of the National Design Guide, and does not address the OPL principles affectively.
- No site strategy has been presented which responds to contextual analysis and environmental conditions, implicating detrimentally on proposed site layout and landscape design.
- The early concept of coastal erosion, whilst interesting, does not translate successfully into proposals, implicating detrimentally on-site layout, architectural form and the character and identity of proposals.
- The site layout appears as contrived and regimented and does not respond well to environmental factors or conceptual drivers, results in poorly defined external areas, and does not generate cohesive community or identity.
- Biodiversity and geodiversity have not been successfully integrated into proposals and the LPA's ambition for an ecological masterplan has not been addressed. The beach shingle coastal environment (geodiversity) is rare and unique and presents something to be celebrated in the development of the Marina. This opportunity has been missed in current proposals;
- Connectivity, contextual integration and boundary treatments have not been successfully addressed, particularly to the north site boundary which

presents as hard and impermeable and does not integrate well with the inner harbour site opposite;

- Site layout and public realm strategy do not enjoy a positive relationship with the environmental conditions of the site, with priority public realm areas being closed at times of inclement weather conditions;
- Visual permeability is a concern which has also been raised by the heritage officer. These concerns are closely aligned with those on site layout, as the regimented arrangement and cuboidal blocks present as a composite from afar;
- Spacing between blocks in Phase 2 is extremely tight at only 12-15m. This is not considered to be acceptable due to the detrimental impact on the quality of internal space within blocks, and external space between them;
- Phase 2 proposals include a 0% provision of private external amenity for residents in the form of balconies or terraces. This is considered to be unacceptable;
- It is considered that the Georgian-inspired architectural form and composition is incongruous with the uniqueness of the Marina environment, that proposals do not present a positive landmark development, and that a contemporary architectural response would be more appropriate for this high profile and impactful site.

6.231. Environmental Health – Comment

No objection subject to conditions being secured if permission were granted.

6.232. Transport and Highways – Objection

An initial assessment was undertaken by the Council's Transport and Highways officers which can be summarised as below.

6.233. There remain a significant number of matters where the submitted information still does not provide a sufficient basis to assess the likely impacts of the proposed development. Key instances include the following:

- Baseline traffic surveys are inadequate.
- Analysis periods for traffic forecasting purposes have not yet been demonstrated to reflect peak conditions. Currently these consider conventional peak hours for weekdays only.
- Routing proposals for the distribution of vehicle trips remain unverifiable whilst there are obvious issues with these that are likely to have a bearing on the wider traffic forecasting exercise.
- We remain unable to verify trip generation proposals for the commercial uses as TRICS® output reports again haven't been attached.
- Forecasts of total daily (24hr) trips by all modes remain outstanding.
- We remain unable to verify the method used to generate AADT/AAWT traffic figures due to an ongoing lack of calculations.
- Committed development at Preston Barracks still needs to be considered in the traffic forecasting assessment. Whilst the applicant has briefly set out reasons for not doing this, we are currently unable to accept these.
- Proposed access routes for pedestrians and cyclists through the Marina has been revised. These would now provide the only means of direct

access to phase 2 for cyclists. However, some parts of the revised routes are not covered by previous PERS/CERS surveys and require additional assessment.

- Verifiable forecasts of delivery and servicing trips remain outstanding, as does a capacity analysis to demonstrate that proposed phase 2 infrastructure can cope with peak demand. Details are also needed of proposals to ensure safe access for pedestrians in the phase 1 'gap' which will continue to serve as a loading area for phase 1 uses.
- Whilst additional information about personal injury collisions have been provided for roads outside the Marina, information remains outstanding about incidents within the Marina itself.
- Whilst a stage 1 road safety audit has been submitted, this does not comply with the terms it is said to follow and is therefore rejected. A new stage 1 audit must be undertaken. The Brief and Audit Team must be agreed with us in advance. Notwithstanding, we note that the rejected Audit Report raises significant concerns about proposed pedestrian and cyclists access to the site within the Marina.
- Information remains outstanding to demonstrate the feasibility in principle of demolition/construction activities occurring alongside other operational access requirements within the Marina. Amongst other things, given that demolition/construction traffic will presumably need to use the service road we have particular concerns about how this will impact existing bus services and access to the Phase 2 site for pedestrians and cyclists once it is operational (recalling that it is no longer proposed to provide any access for cyclists via the outer harbour wall).
- In view of this and NPPF para 111 requirements, it would not currently appear possible to determine the application (other than for refusal). We encourage the applicant to submit additional information and will wish to be re-consulted should they do so. In view of the Planning Performance Agreement for this application we will also be happy to meet them to discuss requirements and potential resolutions.
- On other matters we do now have enough information to assess likely impacts. However, this assessment raises a number of significant concerns – some of which we consider to be potential reasons for objection and refusal. We recommend that the applicant review these carefully and submit alternative proposals and additional information, as appropriate. Key instances include the following.
- Whilst we agree that TRICS® SAM survey results for the existing phase 1 development suggest an unrealistically low level of trips, the alternative residential trip rates proposed using other sites in the TRICS® database remain unacceptable due to lack of representativeness (noting also that these is the same set of sites that we previously rejected). However, we note that some of the site selection criteria used by the applicant appear overly restrictive. By relaxing these appropriately we were able to find a suitable set. We therefore await revised proposals and remind the applicant of the need to present supporting evidence alongside these, including details of cross-test variance %s.
- The travel forecasting exercise also needs to take account of the likely reduction in vehicle trips from phase 1 as spaces in the phase 1 car park are reallocated to phases 2 and 3.

- A sensitivity test has been submitted to support land-use assumptions for forecasting the trips that the proposed commercial uses may generate. However, TRICS® output reports haven't been submitted to evidence this and allow us to verify the conclusions. We therefore remain unable to accept the proposed rates at this time.
- The above means that we remain unable to agree the applicant's traffic forecasts at this time.
- Proposals for pedestrian and cycle access to the site have been revised. Whilst the introduction of an external lift in phase 2 is positive, significant concerns remain and in some respects the proposals are retrograde. In particular, access for cyclists to phase 2 along the outer harbour wall has now been deleted. All access is now proposed through the Marina via the existing service road. Pedestrians will also need to rely on this for the minority of days when access along the harbour wall would need to be restricted due to poor weather. However, access via the marina for both user groups is very poor (and in some proposed areas, non-existent). Meanwhile a submitted road safety audit has also raised safety concerns. Moreover, it continues to be proposed that cyclists would have no access within the site, which is a retrograde step from the extant scheme which provided a route across it from the harbour wall. We currently consider these to be potential reasons for objection and refusal.
- Related to the above, there are further issues with pedestrian access within the site. Notwithstanding our previous comments, levels and gradients and other matters still don't comply with BS 8300.
- The proposals also appear to prejudice the delivery of the committed bus Rapid Transport System link to the Marina via Black Rock. This is because they rely on pedestrians having access along a narrow stretch of the sea wall which could not also then accommodate the RTS. In the extant permission this was avoided by the proposed introduction of a bridge over Black Rock beach which avoided the restricted section. However, the applicant has removed this from the current scheme. We currently consider this to be a potential reason for objection and refusal.
- Proposals for emergency vehicle access to the site are also retrograde from the extant permission. Whilst DA2 and PAN04 require an additional emergency vehicle access to the Marina to be provided with any further development (recalling that this proposal includes an increase in development over the extant permission), this application does not provide any and instead deletes the route that the extant permission proposed along the outer harbour wall. We currently consider this to be a potential reason for objection and refusal.
- Proposed arrangements for accommodating deliveries and servicing within the phase 1 undercroft remain unclear. Revised plans also raise questions about whether through access will be available to the phase 2 undercroft and – if not – whether additional vehicle accesses from the service road will be necessary.
- Cycle parking proposals have improved, with all long-stay spaces for phase 2 now being located in stores. However, many of these are too small for the spaces to be accessible and the level of supply falls short of SPD14 requirements (amongst other issues). It is also not clear how disabled cyclists would gain access. We do not accept the applicant's suggestion

that space has been maximised and that a compromise is necessary accepting a lower level of provision. Amongst other things, this may indicate over development and a need to reduce the number of proposed spaces. Proposals for visitor cycle parking also remain unacceptable due both to a shortfall and the lack of access routes to these. We currently consider this to be a potential reason for objection and refusal.

- As we are still unable to agree the submitted travel forecasts, we continue to reserve our position in respect to the need to model impacts at junctions. However, Technical Notes submitted to support modelling work already undertaken raises a number of issues that need to be addressed.

6.234. Following a review of the initial comments and the provision of some of the requested additional information, the Council commissioned an external review by a Transport specialist.

6.235. Their subsequent response maintained objections to the application in respect of cycle parking, breakwater access, car parking and expressed concern at pedestrian access from the north. The comments are set out in full along with commentary in the relevant section of this report.

7. MATERIAL CONSIDERATIONS

7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.

The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013)
- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

7.2. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. POLICIES

8.1. The following policies are relevant to consideration of the application.
The National Planning Policy Framework (NPPF)

The National Design Guide

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications and is currently undergoing consultation under Regulation 19 to 30 October 2020.

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
SA6	Sustainable Neighbourhoods
DA2	Brighton Marina, Gas Works and Black Rock Area
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment land
CP4	Retail provision
CP5	Culture and tourism
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP15	Heritage
CP16	Open space
CP17	Sports provision
CP18	Healthy city
CP19	Housing mix
CP20	Affordable housing

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

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD25	External lighting

QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HO21	Provision of community facilities in residential and mixed use schemes
SR5	Town and district shopping centres
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE10	Buildings of local interest
HE12	Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Guidance:

SPGBH15	Tall Buildings
SPGBH 20	Brighton Marina "An Urban Design Analysis"
SPGBH 20	Brighton Marina "Development Brief"

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPD16	Sustainable Drainage

Planning Advice Notes (PAN)

PAN 04:	Brighton Marina masterplan
PAN 05:	Design Guidance for the Storage and Collection of Recyclable Materials and Waste
PAN 06:	Food Growing and Development

Further Guidance:

Affordable Housing Brief (December 2016)

Developer Contributions Technical Guidance (March 2017).

9. ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 9.1. The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 ('the EIA Regulations') requires that for certain planning applications, an Environmental Impact Assessment (EIA) must be undertaken.

- 9.2. The term EIA is used to describe the procedure that must be followed to assess the impact of certain projects to determine whether planning permission can be granted.
- 9.3. The process ensures that the importance of the predicted effects, and the scope for reducing them, are properly understood by the public and the local planning authority before it makes its decision. This allows environmental factors to be given due weight when assessing and determining planning applications.
- 9.4. The development the subject of the application is considered to fall within part 10b of Schedule 2 to the EIA Regulations, and exceeds the relevant thresholds by virtue of being more than 5ha in area or 150 residential units. It therefore has the potential for significant environmental effects within the meaning of the EIA Regulations, so is considered an 'EIA development'.

Screening and Scoping for EIA development

- 9.5. Given the nature and scale of the development, it was common ground with the applicant that the proposal requires EIA. On this basis no Screening Opinion was sought from the LPA.
- 9.6. A Scoping Opinion was provided by the LPA on 31 January 2019, setting out the topics the authority considered needed to be addressed in the EIA, and those which could be 'scoped out'. The following topics were 'scoped in' to the EIA:
- Air Quality;
 - Climate Change;
 - Daylight, Sunlight and Overshadowing;
 - Ecology;
 - Marine and Coastal Environment;
 - Noise and Vibration;
 - Socio-Economics;
 - Traffic and Transport;
 - Water Resources and Flood Risk;
 - Wind Microclimate; and
 - Heritage, Townscape, Landscape and Visual Impact Assessment.
- 9.7. The following topics were 'scoped out' of the EIA:
- Archaeology;
 - Ground Conditions and Land Contamination;
 - Interference to Radio and Television Reception;
 - Waste and Materials;
 - Major Accidents and Disasters;
 - Human Health; and
 - Energy and Sustainability.

10. CONSIDERATIONS & ASSESSMENT

- 10.1. The main considerations in the determination of this application relate to the following:
- Principle of Development (including affordable housing, housing mix/density, standard of residential accommodation, amenity space)
 - Open space, outdoor recreation and sport
 - Design, Scale, Appearance and Townscape (including heritage)
 - Sustainable transport
 - Impact on Amenity
 - Sustainability
 - Ecology, Nature Conservation and Biodiversity
 - Flood Risk / SUDS
 - Marine and Coastal Environment
 - Crime Prevention
 - Socio-Economic Impacts

Principle of Development:

- 10.2. The principle of the development of the site has already been established through the approval of the 2006 application (ref. BH2006/04307, which amended planning permission BN2006/04307). The permission was to be delivered on a phased basis, with Phase 1 of the consent having been delivered and in situ.
- 10.3. The current application represents a 'drop-in' application which would supersede Phases 2 and 3 of the extant consent.
- 10.4. The scheme is fundamentally different to the approved scheme in terms of height, scale, massing and layout. With regards to height, the extant permission ranges from six storeys in height to a 40-storey tower which is slender in form. The current application ranges from eight storeys in height to a maximum of 28 storeys. Further, the extant permission allows 853 units across Phases 1, 2 and 3 (of which 195 units have already been built), while the current application seeks permission for up to 1,000 dwellings across both Phases 2 and 3 (i.e. with the dwellings already built in Phase 1, a total of some 1,195 dwellings across all phases). If permitted, the current application would therefore result in an additional 342 dwellings compared with the extant permission, though it should be noted that full permission is sought for 480 dwellings in Phase 2, and outline permission for up to 520 dwellings in Phase 3, so there may be some discrepancy in the final figure.
- 10.5. The application site is part of a Strategic Site Allocation in City Plan Part 1 known as 'Brighton Marina, Gas Works and Black Rock Development Area', which is the subject of Development Area policy DA2. Policy DA2 aims to revitalise the area by creating a sustainable, high-quality marina environment attractive for

both residents and visitors. The policy sets out wide-ranging principles that govern any redevelopment proposal coming forward, from housing, employment, retail floorspace and community uses. As set out in the comments from the Council's Planning Policy officers, some of these objectives have already been achieved through the delivered Phase 1.

- 10.6. The aim of this allocation in particular is to secure the creation of a high-quality housing around a marina and promote the efficient use of land through the creation of a destination along the seafront.
- 10.7. It is considered that the principle of the proposal is acceptable as it is in general accordance with Policy DA2 which supports the proposed mix of uses (primarily commercial and residential), and consistent with the approved 2006 scheme.
- 10.8. However, while the principle of a mixed-use residential development of the site is acceptable, the acceptability of this particular scheme must be assessed. In doing so, it must be acknowledged that there is an extant permission, so the principle of developing the site within the approved parameters has already been accepted.
- 10.9. The following considers each of the uses in turn.

Residential Provision

- 10.10. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five-year housing land supply position is assessed annually.
- 10.11. The Council's most recent housing land supply position published in the SHLAA Update 2019 shows a five-year housing supply shortfall of 1,200 (equivalent to 4.0 years of housing supply). As the Council is currently unable to demonstrate a five-year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 10.12. The application scheme would deliver up to 1,000 new homes in the city as part of a mixed-use development. In this regard, the level of housing delivered by the scheme should weigh heavily in favour of the application, including accounting for the fact that it would deliver up to 342 more dwellings than the approved scheme.

Affordable Housing

- 10.13. City Plan Policy CP20 requires housing development of over 15 units to provide 40% affordable housing, though this may be applied more flexibly where the Council considers this to be justified, considering in particular how this would impact on the financial viability of the development.
- 10.14. In the original application submission, the applicant proposed 15% affordable housing across both Phases 2 and 3, all comprising Shared Ownership units.
- 10.15. Given that the affordable housing provision proposed fell below the CP20 target of 40%, a Financial Viability Assessment (FVA) was submitted as part of the application. The FVA concluded that the maximum amount of affordable housing that the scheme could provide was 6% (all shared ownership). Whilst it is clear that the originally proposed affordable housing level was above the purported viability position, the applicant recognised the commercial and planning benefits of providing additional affordable housing.
- 10.16. The Council engaged the District Valuer Service (DVS) to undertake a formal review of the FVA, following which revisions were made to the affordable housing offer in order to ensure that they better reflected the Council's housing needs.
- 10.17. The revised affordable housing offer sought to provide 10% affordable housing within Phase 2 (48 units), all consisting of Shared Ownership units, and a minimum of 15% in Phase 3, all consisting of Social Rented (S/R) units, a total of 78 units. The DVS confirmed that in their view, this offer, of 12.5% across both phases, was the maximum viable amount of affordable housing provision.
- 10.18. Whilst 12.5% affordable housing provision clearly falls below the CP20 policy target of 40%, it is considered that there are numerous, genuine reasons why the scheme cannot achieve the policy target. Most important of these factors is the unique and significant enabling works required for the development of the Outer Marina which have a significant cost attached, including the basement works, remedial works, construction of a temporary boardwalk and the formation of a podium deck/promenade. The abnormal costs have been subject to specific scrutiny by a professional Quantity Surveyor who considers that the estimates are reasonable.
- 10.19. It is noted that the DVS response identified a surplus of over £3m in "Basis A" which may suggest that additional affordable housing could be provided. However, this derives from the DVS adopting inputs associated with open market / affordable housing sales values, developers' profit, and contingency costs which differ from the applicant's inputs. It is also important to note that this surplus is inclusive of ground rent income which is likely to be discounted once future legislation in respect of leasehold practices.

- 10.20. At the time of the review being undertaken, market conditions were relatively strong. Since that time, the current Covid 19 pandemic has had a significant impact on market conditions. If the viability were to be reassessed at this stage, it is likely that sales values would be decreased and costs would increase, reflective of the current market conditions. Should such further review be undertaken under current market conditions then DVS have advised the Council that the surplus would disappear, and that the amount of deliverable affordable housing could reduce beneath that which has currently been assessed under Basis A.
- 10.21. Based on the above, and in order to ensure that the Council secures the maximum level of affordable housing is delivered through this scheme, DVS clearly advised the Council that the existing Basis A proposal should be agreed, with the caveat that a viability review be secured. Furthermore, in order to protect the Council' position in terms of the future viability review, it was recommended that some of variables such as benchmark land viability, ground rent and target profit were agreed through the S106.
- 10.22. Notwithstanding the discourse above, at the time of this report being reported to committee, members will note that the Council will be adopting a Community Infrastructure Levy (CIL) on 5 October 2020. As part of the adopted CIL regime, the application site is identified as being nil-rated for CIL meaning that no CIL payment would be liable for the development as proposed. With the adoption of CIL, the mitigation funding to be received through the Section 106 would not be able to be secured:
- Education Facilities Contribution - £790,599;
 - Public Realm and Environmental Improvements, incl. provision of an artistic component - £168,720;
 - £25,000 and £15,000 for Volks Railway and East Brighton Park respectively;
 - Open Space and Recreation Contribution of £1,942,352.
 - Total: £2,941,671
- 10.23. Given that these monies could not be secured by CIL, the figure would represent a surplus, benefiting the developer and altering the viability position considered by DVS. At the time of this report being presented to committee, the LPA do not have an up to date Financial Viability Assessment which takes account of the new CIL framework and updated financial position due to Covid. As such the LPA does not have sufficient information to be able to reach a robust conclusion on whether the proposed affordable housing provision is reasonable.
- 10.24. Whilst a balanced view may have been taken by officers in respect of the £3m surplus identified under Basis A, an additional surplus of over £2.9m provides a

cumulative surplus of nearly £6m which has not been accounted for within the viability position. Even if Covid-related market conditions were taken into account, officers consider that a viability reassessment inclusive of the £6m would be highly likely to be able to require additional affordable housing on site. No such viability reassessment has been undertaken.

- 10.25. Therefore, in the absence of an updated FVA stating otherwise, officers must conclude that the current affordable housing offer does not represent the maximum reasonable level of affordable housing. The application is therefore contrary to City Plan 1 Policy CP20.

Housing Density and Mix:

- 10.26. National and local planning policies seek to secure the delivery of a wide choice of high-quality homes which will contribute to the creation of mixed, balanced, inclusive and sustainable communities.
- 10.27. Paragraph 65 of the National Design Guide highlights the importance of an appropriate density: “Built form is determined by good urban design principles that combine layout, form and scale in a way that responds positively to the context. The appropriate density will result from the context, accessibility, the proposed building types, form and character of the development.”
- 10.28. Policy CP14 of City Plan Part 1 states that residential development should be of a density that is appropriate to the identified positive character of the neighbourhood and be determined on a case by case basis. It states development will be permitted at higher densities than those typically found in the locality where it can be adequately demonstrated that the proposal:
1. Would be of a high standard of design and would help to maintain or create a coherent townscape;
 2. Would respect, reinforce or repair the character of the neighbourhood and contribute positively to its sense of place;
 3. Would include a mix of dwelling types, tenures and sizes that reflect identified local needs;
 4. Is easily accessible by sustainable transport or has the potential to be easily accessible;
 5. Is well served by local services and community facilities; and
 6. Provides for outdoor recreation space appropriate to the demand it would generate and contributes towards the ‘green network’ where an identified gap exists.
- 10.29. Policy CP14 states that to make full, efficient and sustainable use of the land available, new residential development within the allocated Development Areas, which include the application site (DA2), the density of new residential development will be expected to achieve a minimum of 100 dwellings per hectare (dph) on major development sites, provided that all of the aforementioned criteria can be satisfactorily met.

- 10.30. Based on a site area of 3.54ha and the quantum of up to 1,000 residential units, the present proposal would result in a site-wide residential density of 283 dph. In assessing this density against the policy context set out, it is clear that the density is in excess of the minimum density of 100 dph as required by CP14.
- 10.31. It is important to note that CP14 does not prescribe a specific maximum density threshold. In purely density terms, the baseline for consideration should be the 240 dph that was approved with the consented scheme. The key consideration is therefore whether the currently proposed density of 283 dph represents an acceptable increase over and above the consented density, and whether that density is appropriate, with reference to the six policy criteria
- 10.32. Notwithstanding in principle support for a high-density scheme, in the following sections of this report, officers will set out concerns in respect of massing, townscape, and placemaking (contrary to Policy CP14, criterion 1); connectivity (contrary to Policy CP14, criterion 4); and open space (contrary to Policy CP14, criterion 6)
- 10.33. Given that the scheme fails to comply with three of the six criteria, it is not considered that the higher density of the development is appropriate to the identified positive character of the neighbourhood, and is therefore contrary to Policy CP14.

Standard of Residential Accommodation

- 10.34. In terms of the standard of the residential accommodation provided, the applicant has ensured that all units meet or exceed Nationally Described Space Standards (NDSS), and in emerging policy DM1. Further, ten percent of the residential units across both phases would be provided as wheelchair accessible which is considered acceptable given policy HO13 and emerging policy DM1, which seek 5% provision overall and 10% within the affordable housing element. The provision of these wheelchair units could be secured by condition if permission were granted.
- 10.35. With regards to the residential mix, the Council gives high priority to the importance of housing that responds to the city's assessed local housing needs in terms of dwellings sizes and tenure types, and which will contribute to mixed and balanced communities. This is reflected in adopted City Plan Part 1 Policies SA6 (criterion 8) CP19, and Policy CP14 (criterion 3). It is also reflected in Policy DM1 of the emerging City Plan Part Two indicates that the Council "will seek the delivery of a wide choice of high quality homes which will contribute to the creation of mixed, balanced, inclusive and sustainable communities".

- 10.36. The proposed housing mix of Phase 2 of the development, comprising 480 units would be as follows:
- Studios: 21 (4.4%)
 - One bed: 161 (33.5%)
 - Two bed: 268 (55.8%)
 - Three bed: 30 (6.3%)
- 10.37. Whilst it is noted that the Council's Planning Policy officers raised some concern at the proposed mix, it is clear from the above that over 60% of the proposed units would comprise larger two and three bed roomed units. Policy CP 19. Paragraph 4.213 of the City Plan Part 1 gives an indication of demand need for homes in the city over the plan period and sets out that an estimated 65% of the overall need/demand (for both market and affordable homes) will be for two- and three-bedroom properties; 24% for one-bedroom properties, and 11% for four-plus bedroom properties. Whilst the proposed mix is not exactly in accordance with these target mixes, the scheme would deliver 60% of the units as two and three bed roomed units which is broadly in line with the policy aspiration of 65%.
- 10.38. The applicant has submitted illustrative details of the Phase 3 residential mix which has been factored into the analysis by the Council's Policy officers, however it should be noted that these details are solely for illustrative purposes. Phase 3 is submitted in outline with all matters reserved other than access and as such the residential mix would be subject to assessment through reserved matters applications. Thus, the pertinent assessment is that of the residential mix of the detailed phase which is set out above.
- 10.39. It should also be noted that that the policy aspirations reflect citywide targets and some variations in individual sites will be accepted. In applying these to individual development sites, regard should be had to the nature of the development site and character of the area, and to up-to-date evidence of need as well as the existing mix and turnover of properties at the local level.
- 10.40. In this respect, and notwithstanding other concerns with the scheme, officers consider that the proposed residential in itself mix is appropriate for the site.

Private Amenity Space

- 10.41. Saved Policy HO5 requires the provision of private useable amenity space appropriate to the scale and character of the development. PAN04 also states that the provision of private amenity space will also be expected for all new units, in the form of a garden, balcony or roof terrace.
- 10.42. The application submission states that all units within Phase 2 have been provided with Juliet balconies of 250mm, with a reveal of between 350-700mm, accessed off a main living space.

- 10.43. As set out within the comments from the Council's Planning Policy Officers and the Urban Design Officer, whilst providing a good level of natural daylighting and outlook, the proposed 'Juliet' balconies would not provide a usable external space. These comments reflected concerns raised by the Design Review Panel in both their October 2018 and February 2019 responses.
- 10.44. The applicant states that balconies have been excluded from Phase 2 because of the need to minimise risk to future occupiers from prevailing south-westerly wind conditions, and concerns that the usability of the balconies would be significantly diminished due to the exposed nature of the elevations.
- 10.45. Whilst wind conditions are clearly an issue in this location, the applicant has provided no evidence to demonstrate that balconies are unfeasible, particularly when the extant scheme included private balconies of varying scales, along with private terraces/patios. Further, prevailing winds are from the south-west and so it is unclear why the northern and eastern elevations within Phase 2 do not include balconies. Balconies are prevalent on blocks of flats throughout the City and along the south coast so it is unclear why they could not be included in this part of the development. Further, despite concerns being raised by officers, no proposals have been put forward to mitigate the risk associated with wind conditions, and no alternative private amenity space have been included, such as winter gardens.
- 10.46. 9.46 With this in mind, Officers consider that the lack of balconies or other private external amenity space from Phase 2 would be unacceptably detrimental to the living conditions of future occupiers, and that there has been insufficient information provided to justify its omission from this part of the development.
- 10.47. 9.47 With regards to communal space, the development would provide communal, ground level amenity space of 1,109sqm in Phase Two, and approximately 1,020sqm within Phase Three. Whilst officers acknowledge that communal external amenity offers many social benefits, it does not offer the same user experience as private external spaces, and the two should not be considered to be mutually exclusive.
- 10.48. 9.48 Policy H2 of the National Design Guide identifies the important differences between communal and private external spaces, and illustrates how a combination of both results in the greatest benefit to residents.
- 10.49. Emerging local policy CPP2 DM1 (Housing Quality, Choice and Mix) sets the direction of policy travel with regard to private external amenity by stating that "all new residential development will be required to provide useable private outdoor amenity space appropriate to the scale and character of the development". This emerging policy goes further to say "Private amenity space

can make an important contribution in improving the health, well-being and general quality of life of the city's residents and has the potential to support and enhance local biodiversity. The provision of space for seating, play, drying and storage space is part of securing good design and a good standard of residential development in the city... In considering the type and amount of useable private amenity space the council will have regard to the type, scale, location and context of residential development... Appropriate forms of provision include gardens, balconies, patios, roof terraces and shared amenity spaces in flatted forms of development. Factors such as access to the amenity space, its orientation, scope for privacy, size and usability will be key considerations”.

- 10.50. A fair interpretation of this emerging policy is that communal amenity spaces, though encouraged in flatted developments, should not negate the requirement for private external space; and that private external space should only be omitted where it is not possible to provide it, and if communal amenity areas are able to offer adequate scope for privacy for all residents as well as are easily accessible for all residents. In accordance with existing and emerging policy, is not considered that communal amenity areas provide sufficient compensation for a lack of any private external amenity space.
- 10.51. Furthermore, as set out below, even if private amenity space could not be provided, which officers do not agree is the case, because of the lack of sunlight, the communal amenity space is not considered to be of high enough quality to compensate for the lack of private amenity space.
- 10.52. Phase 3 is submitted in outline with design matters reserved and as such there would be scope for Phase 3 to incorporate private external amenity space through Reserved Matters if permission were to be granted. Nevertheless, the potential provision of private amenity space in Phase 3 would not outweigh the harm arising from the lack of provision in Phase 2 and the detrimental impact this would have upon the living conditions of future occupiers.
- 10.53. In this regard, the application is considered to be contrary to Policies HO5 (Saved Policy), PAN04 (City Plan 1), DM1 (City Plan 2) and H2 (National Design Guide).

Non-Residential Uses

- 10.54. With specific regard to non-residential uses, Policy DA2 supports the development of retail and employment floorspace within the Marina to meet the needs of local communities. Furthermore, Policy PAN04 expects major schemes at the Marina to be genuinely 'mixed-use', including leisure, residential, retail, commercial and community uses. PAN04 also goes on to state that ground and pedestrian floor levels within residential blocks will have animated frontages, which will incorporate commercial uses.

Retail Uses

- 10.55. It is noted within the application submission that whilst the proposed development could potentially deliver up to 1,561sqm of retail space, given the flexible use nature of the site it is likely that approximately 1,000 sqm would come forward as Use Class A1-A4 floorspace as part of the completed development. In this regard, Phase Two is seeking full permission for 761 sqm of retail floorspace of which only Block 3 is likely to comprise retail uses whilst the exact mix of uses within Phase Three would be determined at Reserved Matters stage.
- 10.56. It is clear that there is planning policy support for the delivery of retail uses within the Marina, with Policy DA2 of City Plan Part 1 supporting a 'more balanced mix' of retail at the Marina, and Policy PAN04 noting the expectation that major developments in the Marina come forward with some 'A' (retail) uses. It is considered that the commercial units proposed are suitable within this location and given the evidence base underpinning these policies, it can be considered that the provision of the proposed retail uses would not adversely impact on existing centres.
- 10.57. In commenting on the application, the Council's Economic Development officer expressed some concern that the retail spaces proposed could become 'dead space' if it is not marketed locally at affordable rents. In this regard, a S106 obligation is included which would require the applicant to agree a marketing strategy for the commercial space with the Council. This would allow the Council to ensure that the space is marketed appropriately at a local level.
- 10.58. However, with specific regard to affordable rents, it is important to note the viability position of the application (which is discussed fully within the relevant section of this report). Any obligation reducing the rent of the commercial space would impact negatively on the yield of the floorspace, which in turn would further reduce the viability of the scheme and the level of affordable housing.
- 10.59. It is important to note that commercial space is being provided as part of a mixed-use development, along with up to 1000 residential units. The residential component of the development would increase the critical mass of population within the Marina and create significant additional footfall, promoting the attractiveness of the commercial floorspace for potential occupiers and reducing the likelihood of it becoming 'dead space'. Furthermore, the flexible use units have been designed to enable sub-division if necessary, which would allow for the spaces to be of a size to attract independent retailers. On this basis, the retail component of the development is considered acceptable.

Employment Uses

- 10.60. The application seeks permission for the commercial floorspace to be occupied on a flexible use basis, but details are included within the submission relating to the anticipated use of each of the units. The anticipated use of each of the units

within Phase 2 would generate up to 69 full time employment (FTE) opportunities; with an estimated 53 to follow in Phase 3.

- 10.61. This accords with Employment Policy CP3 of the City Plan Part One which endeavours to bring forward a mix of employment floorspace, while Policy DA2, relating to the Marina, seeks the provision of 2,000sqm of employment floorspace by 2030, to be focused on the Gas Works site. Nevertheless, PAN04 acknowledges that leisure and retail uses provide employment opportunities and are dominant in the Marina, but that other employment generating uses will be encouraged.
- 10.62. While the exact number of FTEs generated would be contingent on the exact occupier of the flexible use units, the broad numbers of jobs that would be generated through the non-residential uses should be considered as a benefit weighing in favour of the scheme.

Community Uses

- 10.63. As set out within the comments from the Council's Planning Policy officers, one of the strategic aims of Policy DA2 requires the wider Marina area to provide over 10,000 sqm of leisure provision. Whilst it is noted that a significant part of it could be provided by Black Rock sites, once they come forward for development, the Marina site provides opportunity to provide additional floorspace towards meeting this requirement.
- 10.64. To this end, the approved scheme incorporated a number of community related uses such as a crèche, health centre and internal space for older children and were secured through the Section 106 Agreement. It is important to note that the community facilities proposed as part of the overall Marina development have already been provided within Phase 1. On this basis, officers consider it acceptable that no specific provision is proposed within Phases 2 and 3.
- 10.65. Notwithstanding the lack of any specific provision, the flexible use nature of the commercial floorspace allows the opportunity for some extent of this floorspace to come forward as a community use.

Open Space, Outdoor Recreation And Sport

- 10.66. City Plan Policy CP16 (part 2) states that "new development will be required to contribute to the provision of and improve the quality, quantity, variety and accessibility of public open space to meet the needs it generates". Policy CP17 (part 5) sets a similar requirement for sport provision, stating that there is a requirement for new development to contribute to the provision and improvement of the quality, quantity and accessibility of sports services, facilities and spaces to meet the needs it generates.

- 10.67. The proposed development would generate a significant demand for all public open space typologies.
- 10.68. In responding to the application consultation, the Council's Planning Policy officers have outlined that the development would generate a requirement of 8.86ha (80,860 sqm) broken down as follows (Policy CP16):
- Children and young people play space – 0.11ha (1100 sqm)
 - Amenity green space – 1.21 ha (12,100 sqm)
 - Outdoor sports facilities – 0.97ha (9700 sqm)
 - Parks and gardens – 1.91ha (19,100 sqm)
 - Natural and semi-natural open space – 5.83ha (58,300 sqm)
 - Allotments – 0.47ha (4700 sqm)
- 10.69. The Planning Statement submitted in support of the application sets out that the development would provide a total of 11,420sqm of Publicly Accessible Open Space across the scheme, with 4,762sqm within Phase Two and approximately 6,658sqm within Phase Three. The total quantum of Public Realm, which excludes playspace and communal gardens, to be provided across the scheme is 8,849sqm with 3,600sqm in Phase Two and approximately 5,249sqm within Phase Three
- 10.70. In assessing the suitability of the open space and recreation provision, it is noted that the site lies in close proximity to Brighton beach which provides a large area of natural public open space, whilst the Yacht Club within the marina represents existing recreation provision. Nevertheless, Planning Policy Officers have raised concern at the lack of open space and particularly amenity space provided as part of the development. The concern is primarily based upon the size, and therefore the usability, of the areas provided.
- 10.71. In terms of playspace, Phase 2 provides just one small private area of playspace whilst Phase 3 would provide 2 further small areas of playspace. For a development of this size consideration should be given to the inclusion a larger play area or Multi-Use Games Area. This is particularly important given that the closest off-site children's play areas (Peter Pan playground and East Brighton Park) are more than 1km from the site, and not easily accessible, particularly with children. The proposed provision does not compare favourably to the extant consent which incorporates a children's play area, a multi-use games area, a bowling green and boules area. In addition, the extant consent provides a financial contribution towards upgrading the seafront walkway link to the Peter Pan playground, which is not included in the current proposals.
- 10.72. Whilst further details of the playspace could be secured by condition to ensure their quality, officers consider that any increased quality would not mitigate the

inadequate quantity of the space proposed. This is compounded by the lack of off-site improvements that are proposed to improve connectivity to existing playspaces.

- 10.73. Prior to the introduction of CIL in October 2020, the development would have provided a S106 contribution of £1,942,351.92 to spent on open space and recreation in the vicinity of the site. After October 2020 and the adoption of CIL, such a contribution could not be secured through the Section 106 nor would any CIL monies to available given the nil-CIL rating of the site.
- 10.74. Taking a balanced view of the open space provision, officers are conscious that in terms of open space and recreation there is existing provision in the form of Brighton Beach and the Yacht Club respectively. It was noted and agreed at pre-application stage that both of these existing elements are recognised as existing open space and recreation provision.
- 10.75. Whilst these constitute existing off-site provision and notwithstanding any quantitative assessment, officers consider on balance that in combination with the on-site general open space, residential occupiers would not have inadequate access to open space and recreation.
- 10.76. Nevertheless, in specific regard to children's playspace it is evident that the development is significantly inadequate, and in this regard, officers consider that it is contrary to Policy CP16 of City Plan Part 1.

Design, Scale, Appearance And Townscape

Tall Building Assessment

- 10.77. In respect of tall buildings, Policy CP12 of the City Plan identifies Brighton Marina as a location with the potential for taller developments, defined as 18 metres or more in height (approximately 6 storeys) (Tall Buildings SPG 2004).
- 10.78. PAN04 reiterates the policies set out within the City Plan and Tall Buildings SPG however notes that there are certain areas of the Marina which are better able to tolerate taller buildings than others; noting that the western, more commercial areas of the Marina, where the Site is located, are more suitable for taller buildings. The PAN also notes that development in close proximity to the Black Rock Cliffs must generally conform to or be lower than the existing cliff height.
- 10.79. The application proposes the following building heights:
- Phase 2:

- Block 1 – part 9, part 12 storeys
- Block 2 – 16 storeys
- Block 3 – 28 storeys
- Phase 3 (Indicative Parameters)
 - Block 4 – 14 storeys
 - Block 5 – 19 storeys
 - Block 6 – 8 storeys
 - Block 7 – 17 storeys
 - Block 8 – 8 storeys
 - Block 9 – 8 storeys

10.80. As is clear above, all of the nine blocks proposed as part of the development would exceed the threshold for tall buildings as set out in CP12. Given that the policy identifies the site as being potentially suitable for tall buildings, the overarching principle of tall buildings on this site is acceptable. Furthermore, whilst the current application is a drop-in application to be assessed on its own merits, the principle of tall buildings on the site has been established through the extant consent, which granted permission for a tower of 40 storeys in height.

10.81. Notwithstanding the above, it is necessary to undertake further assessment of the impact of these tall buildings in terms of townscape, heritage and detailed design.

Townscape and Heritage Impact

10.82. National and local policies seek to secure good quality design which respects townscape and the setting of heritage assets.

10.83. The design rationale set out by the applicant is for the proposed development to create a bookmark to the eastern extent of Brighton, consistent with the nature of Brighton Marina as a strategic destination within the city.

10.84. The site itself does not contain any heritage assets, but due to the height and scale of the proposals, and their highly prominent location, extending beyond the coastline, there are potential impacts on the settings of some designated and non-designated heritage assets and these impacts are required to be assessed in accordance with national and local planning policy and in accordance with the relevant Acts of Parliament. At national level this is the National Planning Policy Framework (NPPF) and locally under policy CP12 of CPP1 and policies HE3, HE6 and HE10 of the saved Local Plan.

10.85. In considering whether to grant planning permission which affects a listed building or its setting the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 10.86. Case law has held that the desirability of preserving a listed building or its setting must be given “considerable importance and weight”. It must also be noted that Paragraph 196 of the NPPF sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 10.87. Furthermore, it is pertinent to set out that paragraph 197 of the Framework sets out that there is a lower level of protection for non-designated heritage assets stating: “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”
- 10.88. From a heritage perspective, the application site sits immediately to the East of the Kempton Conservation Area within which are the Grade I listed properties of Lewes Crescent and Sussex Square, and from this point westwards, most of the seafront and the band of urban development fronting onto it is designated conservation areas containing the bulk of Brighton and Hove’s listed buildings. The grade II listed Madeira lift lies to the west of the site on the seafront opposite Marine Square.
- 10.89. To the immediate north of the site is existing low-grade Marina development within a poor public realm dominated by vehicular traffic. Beyond this is the locally listed Marine Gate, and further East 40 and 40a White Lodge The Cliff which are also locally listed. The Grade II Listed Roedean School lies to the east, and The Ovingdean and Rottingdean Conservation Areas are beyond.
- 10.90. The Council’s Heritage Officers carried out an assessment of the application initially set out some concerns at the densification of the scheme over and above that of the extant permission. Whilst it is noted that the principle of development including tall buildings is established through the extant consent, Heritage Officers raised concern that the reduced slenderness of the tower and the increased scale and massing of the other buildings within Phase 2 would reduce visual permeability through the site. Specific assessment of the impact of the development on the relevant heritage assets is set out below.

Madeira Lift

- 10.91. In relation to Madeira Terrace, Madeira Walk, Lift Tower and related buildings Council’s Heritage team considers that the reduction in the openness of the view beyond Madeira Lift would cause harm which is less than substantial. The Heritage team do acknowledge that this view is from a fixed point whereas in reality it would be generally experienced in a dynamic way and the relationship

of the proposal to the tower will change and therefore its impact will not always be harmful.

- 10.92. Given that less than substantial harm has been identified, Paragraph 196 of the NPPF is relevant which states that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”
- 10.93. In this case, officers recognise the less than substantial harm which would arise and recognise, in line with Paragraph 193 of the NPPF, that “great weight should be given to the asset’s conservation”. However, officers also recognise that this view would be largely experienced in transient manner which would reduce the extent to which the harm would be readily apparent. Added to this, officers consider that the separation distance between the heritage asset and the development would go some way to offset the harm. Weighed against this less than substantial harm is the benefits that would arise from the development, the most important of which is the significant additional housing delivery in the context of the City being unable to demonstrate a five-year housing land supply. Thus, in making a balanced judgement on the basis of heritage impact in isolation, officers are of the view that the public benefits of the scheme would outweigh the less than substantial harm.

Lewes Crescent

- 10.94. Lewes Crescent lies within the Kemptown Conservation Area and incorporates a row of Grade I Listed buildings.
- 10.95. The Council’s Heritage Team initially considered that views from Lewes Crescent were very sensitive, with a harmful impact due to the loss of the visual contrast between the end of the terrace and the openness of the gardens to the West and seascape to the South, increased by the lack of definition between the dominant materials and the architectural influence of the proposal relative to the historic terrace.
- 10.96. This view was maintained following a slight revision of the scheme which solely amounted to a more varied colour tone to the buildings within Phase 2. The previously identified lack of definition between the dominant materials of the proposal and the historic terrace has been altered slightly by the added variation in colours, however the impact on the openness to the coast remains a concern. Nevertheless, this harm is considered to be less than substantial.
- 10.97. Paragraph 196 of the NPPF is therefore again relevant in that the harm must be outweighed by the public benefit arising from the scheme. In this case, given the

Grade 1 listed status of the buildings, significant weight must be attached to the preservation of the assets value in accordance with Paragraph 193 of the NPPF.

- 10.98. It is clear that the proposed development would present prominently at the southern end of the terrace however it is important to note that there is precedent for a tall building in this location with the extant consent. Whilst there is precedent for a tall building in this location, the extant consent incorporated a taller, more slender tower. As has been identified by Heritage Officers in their assessment, the current proposals comprise of a lower, denser and bulkier development which presents as a singular mass in this particular view. Whilst a wider assessment of the scale and massing of the development is set out in a subsequent section of this report, for the purposes of Paragraph 196 the assessment is solely in relation to the impact on the heritage asset.
- 10.99. Again, weighed against the less than substantial harm is the benefits that would arise from the development, the most important of which is the significant additional housing delivery in the context of the City being unable to demonstrate a five-year housing land supply. Thus, in making a balanced judgement, officers are again of the view that the public benefits of the scheme would outweigh the less than substantial harm.

Conclusion

- 10.100. Having regard to the above, whilst the Council's Heritage Team cannot give full support to the proposal, officers consider on balance that the scheme is acceptable from a heritage perspective in isolation. On balance, it is considered that the benefits of the scheme in terms of housing provision would outweigh the less than substantial harm to heritage features, in accordance with Paragraph 196 of the NPPF. On this basis, it is not considered that the scheme could properly be refused solely due to its impact on heritage features, but that the concerns raised by Heritage Officers add some weight to the planning balance against the design of the scheme.

Height, Scale and Massing

- 10.101. In respect of the height, scale and massing of the scheme as previously outlined the principle of a tall building in this location is accepted and has been established through the extant consent.
- 10.102. The maximum height of the development would be 28 storeys within Block 3 of Phase 2 which would also incorporate a part-nine, part-twelve storey building (Block 1) and a 16-storey building (Block 2). This compares with the 40 storey, slender tower in the approved scheme.
- 10.103. Concerns have been raised in the response from the Urban Design Officer, and in Desig R2review Panel (DRP) comments, as well as in public responses over

the 'densification' of the scheme, compared with the extant development. It is of note that concerns over the scale and massing of the development, given the height of the building, were outlined to the applicant at pre-application stage.

10.104. In the DRP Report dated 13th February 2019 sets out that "the clear differentiation of the tower was one of the positive aspects of the original Wilkinson Eyre scheme, particularly concerning long distance views. However, this concept has been gradually eroded as the scheme has developed." The panel go further to suggest that the reduced differentiation of the tower and increased height of neighbouring blocks "could lead to the scheme being viewed as a composite, increasing the monolithic effect in longer distance views."

10.105. In assessing the current application, officers consider that the aforementioned concerns have not been adequately addressed or overcome. In responding to the consultation, the Council's Urban Design Officer reinforces the concerns expressed in the DRP report and states that Phase 2 appears as homogenous and impermeable due to the increased density, bulk and massing of the development.

10.106. Whilst Policy CP12 identifies Brighton Marina as being suitable in principle for the location of tall buildings, the policy goes on to set out criteria to which all development within the city should adhere which are set out below:

1. Raise the standard of architecture and design in the city;
2. Establish a strong sense of place by respecting the diverse character and urban grain of the city's identified neighbourhoods;
3. Achieve excellence in sustainable building design and construction;
4. Conserve or enhance the city's built and archaeological heritage and its settings;
5. Have regard to impact on the purposes of the National Park, where within the setting of the National Park;
6. Protect or enhance strategic views into, out of and within the city;
7. Be inclusive, adaptable and accessible;
8. Ensure that the design of the external spaces is an integral element of the overall design approach, in a manner which provides a legible distinction between public and private realm; and
9. Incorporate design features which deter crime or disorder and the fear of crime.

10.107. Criteria 2, 5 and 6 are of particular relevance to the height, scale and massing of the present proposal. In respect of criterion 2, it is considered that the tight spacing resulting in a homogenous mass in long views fails to establish a sufficiently legible and permeable form of development and fails to establish a strong sense of place as required by this criterion. The supporting text to Policy CP12 identifies Brighton Marina as a node and defines a node as "a place where activity and routes are concentrated". In this case the development fails to

provide a sufficiently legible form of development to identify and enhance the status of the marina as a node.

- 10.108. In terms of criterion 5, the Block 3 of the development would be present in long views from the southern edge of the South Downs National Park. Whilst there is precedent for a tall building in this location with the extant scheme, again in long views from the National Park this would have been viewed as a slender, singular tower which officers consider would have less of an adverse impact on views and the landscape. Criterion 5 requires development to have regard to the purposes of the National Park where located within its setting, and in this case the increased height of Phase 3 would result in a cumulative effect with Phase 2. Again, officers consider that this would present a bulky and homogenous form of development that would have an adverse impact on the setting of the National Park.
- 10.109. In terms of assessment of criterion 6, the original concept of development was to establish a 'bookmark' to the eastern end of the city, and it is considered that the lower, bulkier form of development has eroded this concept. In key long views from the west, Phase 2 would appear as a homogenous and singular mass which would not protect or enhance views along the coast or from within the built part of the city.
- 10.110. Officers are cognisant of the strategic nature of the site and that it is allocated in Policy DA2 with the objective to "facilitate the creation of Brighton Marina and the wider area as a sustainable mixed use area of the city, through the generation of a high quality marina environment" which inter alia "Secure a high quality of building design that takes account of the cliff height issues in and around the Marina, townscape and public realm while recognising the potential for higher density mixed development in accordance with the aims of the Spatial Strategy to optimise development on brownfield sites". The policy goes on to state that the Council will achieve this by "securing improved legibility, permeability and connectivity for pedestrians within and to the Marina and the surrounding areas through high quality building design, townscape and public realm".
- 10.111. In this case it is considered that the development would fail to secure a high quality of building design, would impact negatively on the surrounding townscape and would also fail to provide a form of development that would improve legibility, permeability and connectivity for pedestrians within and to the Marina and the surrounding areas. Officers are therefore of the view that the application fails to comply with Policy DA2.
- 10.112. In respect of Phase 3, the Urban Design Officer has expressed similar concern at the impermeable nature of the development. Whilst Phase 3 is submitted in

outline, parameter plans showing the layout and building heights were submitted, so if approved, would form the envelope within which the development could come forward.

10.113. On this basis, in terms of the height, scale and massing of the scheme, officers consider it is contrary to both Policy CP12 and DA2. Whilst both policies set out a range of objectives and/or criteria to which developments should adhere, on balance it is considered that in assessing the application against both policies as a whole, the level of non-compliance results in the application failing both policies when read as a whole.

Appearance

10.114. Policy CP12 states that all new development will be expected to raise the standard of architecture and design in the city, establishing a strong sense of place and respecting the diverse character of existing neighbourhoods.

10.115. The proposed architecture of the development draws inspiration from the Georgian Regency style architecture and seeks to reflect this in its style, pallet and detailing.

10.116. In assessing the scheme, the Council's Urban Design Officer considered that the presented material and cladding details were an interesting combination of coastal, chalky textures in the reconstituted stone cladding, and a contemporary interpretation of Georgian inspired architectural profiles and features. However, the Urban Design Officer also drew attention to the failure of the scheme to respond to comments on the design presented in the pre-application Design Review Panel. Comments from the Council's Heritage Consultant also suggest the "beacon" element to the proposed tower does not enhance the building in its current form but appears as heavy and over-dominant. They go further to state that elevational composition and architectural detailing distinguishes each block within Phase 2 on close inspection, but not successfully from afar.

10.117. The DRP report dated 26th October 2018 encouraged the design team to consider a contemporary architectural response in favour of Georgian-influenced styles as more appropriate to the nature of the site. The Panel commented on the "institutional" feel of the proposals and encouraged a more playful design. The DRP report dated 13th December 2018 considered that the general quality and character of the architecture had improved in that it appeared as less corporate. Though the panel encouraged distinguishing the tower from neighbouring blocks and elevating its iconic presence by means of special architectural treatment, increased height, and a more prominent position in plan relative to neighbouring blocks. The DRP report dated 13th February 2019 considered that the ambitions to distinguish the tower from neighbouring blocks had not been met and that a "simple but well detailed extruded form for the tower

may have further potential”. The panel sited an “over-reliance on roof level cornices and intermediate storey bands implying two or three storey ‘bases’ and ‘capitals’” as emphasising a “rather ‘commercial’, neo-classical aesthetic”. Being a residential-led development, this character is considered to be inappropriate and does not successfully address National Design Guide policy I3 (Create character and identity).

- 10.118. It is noted that whilst some effort has been made to develop the elevational articulation into a more contemporary aesthetic, the general principles of architectural form, composition and fenestration have not been significantly altered through the pre-application and design review process and thus remain visibly influenced by Georgian blocks, appearing as incongruous with the nature of the Marina site and failing to respond to the panels suggestion that a contemporary architectural response would be more appropriate.
- 10.119. The Urban Design Officer goes on to state that the Marina is a gateway to the city from the east and the outer harbour scheme has the potential for impactful presence in this location. It is considered that the homogeny and Georgian inspired architectural response of the current proposals fails to achieve such presence on the site.
- 10.120. Design matters must be considered in the context of paragraph 130 of the NPPF which states that “permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.”
- 10.121. As such, the development plan does not impose a particular architectural style on the site but requires that development raises the standard of architecture and design in the city and establishes a strong sense of place. It is not considered that building design is of an acceptable quality, nor one that would enhance the Marina environment. It is therefore considered to be contrary to Policies CP12 and DA2 of City Plan Part 1, as well as the National Design Guide.

Layout

- 10.122. In terms of layout, the Design & Access Statement describes the “Key Urban Drivers” behind the proposals as follows:
- Improving connectivity, experience and setting
 - Creating a new urban language for Brighton Marina whilst drawing on references back to the heritage of Brighton’s squares and crescents
 - Providing meaningful and sustainable public realm

- Improving the experience and interaction with the sea by the creation of a new waterfront promenade
- Consider local and wider views of the development and its relationship with the existing townscape
- Reducing podium level vehicular movement
- Design a scheme which integrates with potential future development to the north of the site.
- Creating a new square for Brighton These ambitions are based on contextual analysis which focuses mainly on existing movement networks and historic urban grain of Brighton & Hove's seafront.

10.123. The Urban Design Officer considers that the items outlined offer creative possibilities in the form of the "new square" and "promenade"; and they go some way to addressing policies C1 and C2 (Context) of the National Design Guide. However, at a local level officers consider that they do not sufficiently address requirements of PAN04 (Brighton Marina Masterplan).

10.124. PAN04 outlines clear and detailed Masterplan and Development Objectives for the Marina. Masterplan objectives are categorised into Regeneration, Transport, Land Use, Ecological, Environmental and Linkages. Development Objectives are largely aligned with City Plan Policy DA2, but also include reference to social infrastructure for cohesive communities, as well as character areas identified within the document as "Cliff Park", "Urban" and "Seafront". These character areas are explored in some detail and include precedent images to "illustrate the qualities the LPA will be looking for in development proposals coming forward".

10.125. The relevant character area to the Outer Harbour site is "Seafront" which is described as follows: "The public realm within this area should be outward looking and should take advantage of views of the sea and harbour areas. ...Typical characteristics of this area include: boardwalks, seafront promenade, sitting out areas, viewing platforms, play areas, active frontages, effective lighting for the water's edge, public art etc."

10.126. The development addresses some of these ambitions by including a seafront promenade and new public square. However, it is considered that the proposed development is not adequately "outward looking". It is also considered that the development fails to address the qualities of a coastal setting and thus the character and identity of this high-profile site. Brighton Marina is a unique marine-centric environment, even within the context of Brighton & Hove. Whilst the precedent of sea-facing public squares offers many positive attributes, it is considered that the focus on Georgian heritage and "grand squares and crescents" is incongruous with the character of the Marina which is distinguished from these Georgian frontages by the Urban Characterisation Study (Blackrock Neighbourhood) and thus National Design Guide policies I1 and I3 (Identity) have not been addressed.

- 10.127. Furthermore, CPP1 Policy CP13 (Urban Design) states that “Innovative contemporary architecture, which enhances the reputation of the city... will be actively encouraged”; and it is considered that the focus on Georgian heritage has limited the potential for innovative and contemporary proposals relative to context. Importantly, the PAN04 Masterplan consistently refers to conserving and enhancing the ecological environment of the Marina; and CPP1 Policy DA2 outlines the local priority of “Conserving and enhancing the biodiversity and geodiversity of the area through the implementation of an ecological master plan which ensures wildlife habitats are integrated throughout”.
- 10.128. The ‘Building Better, Building Beautiful Commission report, Living with Beauty’, states “The greening of the city should involve a systematic weaving of the natural world into the built world and with it a concern for the biodiversity of the entire area”. In order to achieve an “ecological masterplan” and a “systematic weaving of the natural world”, considerations of biodiversity and geodiversity should be fundamental aspects of the development vision, informing site layout and landscape design from the beginning. These considerations do not appear as fundamental to the proposed development strategy and this has been detrimental to the success of design proposals.
- 10.129. Aligned with comment above regarding the overarching site vision, it is not considered that the proposed masterplan proposals respond well to their context and do not appear to have been landscape-led. It is considered that the impact and dynamism of coastal environments is not successfully translated into the proposals. The site layout and building forms present as static and contrived and, particularly block 1 of Phase 2, appear not to have “eroded” as significantly as the “Erosion Part Diagrams” in the Design & Access Statement suggest.
- 10.130. The DRP had previously encouraged a more playful, relaxed design approach and, despite the introduction of a crescent frontage within Phase 3 which the DRP stated was “sympathetic to Brighton”; this does not appear to have been explored to great success. The coastal erosion concept could have informed greater irregularity in site layout and building form, resulting in a more innovative and impactful ecological masterplan appropriate to this high-profile site and to context, generating an improved character. As such, the proposed masterplan does not successfully address National Design Guide policies on Identity, Built Form or Nature.
- 10.131. The DRP report dated 26th October 2018 reads “The Western Harbour development in Malmo, Sweden could be a useful case study as a site in a similarly exposed environment that was informed by a landscape-led strategy from the outset. More exposed public spaces with sea views and a mix of uses contrast with sheltered residential spaces, and the transition between these is

handled successfully. Narrow openings are used strategically to create shelter from the elements, and this kind of consideration could help inform the approach to Brighton Marina to create a development that functions throughout the year”.

10.132. The suggested precedent of Malmo Western Harbour utilises tightly grouped blocks which are formatted into a courtyard typology, overcoming issues of poor daylight and outlook, sheltering residential amenity from inclement weather conditions, and creating clearly identifiable function and purpose to the open spaces between blocks. These clusters of built form are interwoven with large open spaces which benefit from exposure and sea views, creating a legible rhythm of density and relief on the site which both invites in and shelters from the exposed coastal setting successfully.

10.133. Conversely, the current proposals present singular and regimentally spaced residential blocks which result in poorly defined external spaces and do not offer sheltered communal amenity areas, thus struggle to foster community spirit and do not respond well to the exposed context. The proposed crescent frontage disengages the “Exotic Gardens” from the coastal setting and as such these and the residential blocks to the north of Phase 3 are not considered to be “outward looking” (a priority of the PAN04 Seafront Character Area) nor to invite in the coastal setting. Whilst sheltered outdoor space is greatly important to this development, such a large portion of the site area should benefit from a more open outlook and sheltered spaces should be more intimate in scale and more clearly defined. Further, the current strategy is to close the “Sunset Square” area on the south western corner of the site during inclement weather conditions and possible wave overtopping, which presents a dysfunctional relationship between proposals and their exposed setting.

10.134. National Design Guide Policy B2 (appropriate building types and forms) states that “The built form of well-designed places relates well to:

- the site, its context and the opportunities they present;
- the proposed identity and character for the development in the wider place;
- the lifestyles of occupants and other users; and
- resource efficiency, climate change mitigation and adaptation.

10.135. The site layout as currently proposed does not successfully address this policy. It is considered that a similarly varied relationship to the coastal setting as presented by the Malmo Harbour development would align more closely with the concept of natural coastal erosion and could generate a holistic and comprehensive strategy for outward looking open space combined with high density residential typologies, generating clearly defined and adequately sheltered residential amenity; as well as biodiversity & geodiversity enhancement throughout the site; thus successfully addressing key policy

objectives of the PAN04 masterplan and CPP1, as well as the recommendations of the National Design Guide.

- 10.136. A landscape-led strategy such as this could also positively address the issue of overtopping waves and severe wind conditions on the south west of the site by utilising nature-based and climate resilient landscape design in place of manicured lawn and hard surfaced areas. Consideration of closely grouped residential typologies could also inform a strategy for social infrastructure and sustainable, healthy community; a key objective of the PAN04 Masterplan document.
- 10.137. The DRP raised concern with regard to connectivity between the proposed development site westward to Black Rock, northward to potential future development, and eastward to the Phase 1 development. Whilst integration with Phase 1 development has been partially addressed by aligning the east-west corridor in Phase 3 with the gap between Phase 1 blocks; integration with future development to the north could be better achieved by addressing this east-west street on the northern site boundary more positively. The DRP report dated 13th February 2019 reads: “As the site is accessed from the north, the way it interacts at ground level along the northern boundary will be significant to people’s experience of the scheme. It is vital that it is perceived as an integrated city street rather than a service road in the final proposal.
- 10.138. It is considered that the current proposal for largely solid basement façade screening parking and plant creates an inactive, hard, impermeable and uninviting frontage which would reinforce the current status of the road as a service road and, as such, jeopardizes the success of the proposed development and future development of the Inner Harbour site.
- 10.139. Western connection to Black Rock has been addressed by creating a new, step-free access point from the existing western breakwater onto the new Phase 2 podium deck. The deck in turn offers a direct, step free connection to the existing Phase 1 promenade and access to the Inner Harbour, greatly improving general access for pedestrians and cyclists to Brighton Marina. Nevertheless, commentary on accessibility across the breakwater is set out in the transport section of this report.
- 10.140. Addressing the east-west street on the northern site boundary and how this interacts with the Western Breakwater and The Boardwalk to the east in Phase 1 is critical to optimising permeability and establishing a well-connected public realm. National Design Guide policy M2 (Movement) states that “Well-designed streets create attractive public spaces with character, through their layout, landscape, including street trees, lighting, street furniture and materials”. As

currently proposed, the design does not address this policy, or National Design Guide policies on Nature or Public Spaces

- 10.141. In terms of the layout of the public realm, the DRP report dated 26th October 2018 reads “The inclusion of a fully public boardwalk is a positive development since the previous proposal. The ambition to attract people from the wider area with kiosks and mix of uses is encouraging, but the challenge of attracting a sufficient amount of people to this relatively isolated location should not be underestimated... Appropriate landscape treatment for this highly exposed environment must be explored. The garden shown beneath the tower is unlikely to be enough of a draw in itself to attract people away from more accessible beaches in the wider area”. This was a recurring theme in subsequent DRP reports.
- 10.142. Notwithstanding the positive comments above, the scale of the boardwalk and “Sunset Square” has been reduced since the originally presented scheme. Added to this, the anticipated closure of “Sunset Square” during inclement weather conditions illustrates that the public realm strategy does not enjoy a positive relationship with the environmental conditions of the site which officers consider symptomatic of an ill-conceived layout.
- 10.143. Having regard to all of the above, officers consider that the application does not sufficiently address the policy requirements of PAN04, DA2 or CP13 and also fails to adhere to National Design Guidance.

Sustainable Transport

- 10.144. City Plan Part 1 Policy CP9 seeks to promote sustainable modes of transport and cycling and walking in particular, to reduce reliance on the private car. Local plan policy TR4 promotes the use of Travel Plans. Policy TR7 seeks to ensure highway safety. Development is expected to meet vehicular and cycle parking standards set out in SPD14.

Impact on Highway Capacity

- 10.145. Data provided with the application indicates that several arms of the Black Rock tunnels junction, closest to the Marina site are over capacity with development traffic so a contribution of £125,000 is proposed to be secured by a S106 agreement to upgrade the traffic signal junction with the MOVA (vehicle-activated/smart) system. Other junctions would remain under capacity with the proposed development so no further mitigation works would be required.

Emergency Vehicle Access and Routing

- 10.146. Initial concerns regarding an additional emergency service vehicle access to the Marina were raised and in response the access and circulation diagrams now confirm that emergency vehicle access will be via the Breakwater. Some issues remain in terms of the access being via the narrow upper tier, which is about 3.3 metres wide between walls. Should an incident occur there could be concerns about where pedestrians and cyclists using the route will move to should vehicles need to use this route. In such exceptional circumstances when an emergency vehicle may require access, it will be essential to ensure that the area is cleared of people to prevent conflict, or further access by pedestrians and cyclists prevented, by some form of management plan for emergency vehicle access which should be secured by condition.
- 10.147. The need for an additional access, as sought by the 2008 PAN, is addressed by the applicant by stating that there is already an additional access to/from the Marina available via the existing Black Rock site. An egress to this exists from the Marina up ramp, and Marina traffic has a right of access over this in emergencies. Also, it reiterates that a further connection that will act as an emergency service access to the Marina is proposed within planning application BH2020/00042 for enabling works surrounding the Black Rock site. This is an application being made by the council. Although it is still to be determined, its design provides a clear indication of the intended route as part of the detailed design of these works. Also, the applicant has confirmed that East Sussex Fire & Rescue Service's views have been sought on the plans and it has not objected to the proposals.
- 10.148. The applicant has provided some illustrative plans in order to secure sufficient width along the Phase 3 Promenade to enable it to be used an emergency vehicle access route. It indicates a 4.75 metre width should be sufficient, made up of a 2.75 metre access zone for a heavy vehicle and a further 2.0 metres beside this for pedestrians to move into. It recommended that the zone is increased to 5.0m and if acceptable, then subject to some adjustments to the wording on the parameter plan (e.g. to confirm that this area is to be level and to remain unobstructed at all times by tables and chairs and any other temporary or permanent street furniture or planting) then this would be considered satisfactory. Details of the emergency access route along the Phase Three Promenade could be conditioned if permission were granted.

Car Parking

- 10.149. The development mix for Phase Two is 450 x studio, 1 bed, 2 bed and 30 x 3 bed. The maximum number of spaces in accordance with the standard is 255 excluding visitors. For Phase Three, the mix is to be confirmed and further details will be required to confirm the ratio. The existing Phase One parking includes 350 spaces, of which 190 are leased to residents of the 195 units. 40 spaces within the 350 are designed for blue badge holders, and 30 of these are

leased. There are also 30 motorcycle spaces. The parking is not allocated to individual phases and therefore the remaining car parking spaces can be made available for Phase Two and Phase Three residents upon application.

10.150. Within Phase Two, 44 out of 48 car parking spaces are designed with appropriate dimensions to be accessible to disabled people, while for Phase Three, 53 out of 108 spaces are designed to this standard. This level of provision for disabled people remains below the minimum standard expected for a development of this size, which should be 72 and 78 spaces respectively. In addition, the parking provision should include at least 5% of the maximum total car parking standard for motorcycles. Given the level of shortfall against policy TR14/SPD14 outlined above, this provides grounds for objection. However, the applicant has stated that the observed utilisation of parking spaces within Phase One, and the existing provision which also includes spaces that can be used by occupants of Phases Two and Three, provides a justification that the overall level of provision is adequate. The allocation of spaces within the development is also reviewed on an annual basis and therefore the applicant would be prepared to provide a Car Parking Management Plan to ensure that parking is provided to a suitable level for all users.

10.151. It has also been noted that the plans for the undercroft car park indicate that access to blue-badge holder space 39 would be obstructed by a pier. This presumably serves a structural purpose and cannot be easily moved. This bay should therefore be removed, and the design of spaces reviewed.

10.152. Notwithstanding the above, if permission is granted a robust Car Parking Management Plan could be submitted as a condition which details a revised parking layout plan to ensure that the overall parking provision and design is adequate, especially for the minimum number of disabled person's spaces that will be included at the start of the scheme.

10.153. There is no visitor parking provided but the Marina multi-storey car park is owned and managed by Land Securities and the Outer Harbour lease allows for the use of this car park by visitors to the wider Marina site, including Phases Two and Three.

10.154. Ten percent of the proposed car parking spaces will have active provision for electric vehicle charging, with passive provision for a further 10%, which is in compliance with the council's parking standards above. Therefore, the proposed development will provide up to a total of 16 spaces with active provision for electric vehicles and passive provision for a further 16 spaces. For Phase Two there would be eight spaces with active provision for charging and a further eight with passive provision. For Phase Three the provision would be as per Phase Two with eight spaces with active provision and another eight spaces with

passive provision. Details of the electric vehicle charging spaces will need to be conditioned.

- 10.155. The quantum of non-residential development includes up to 1,561 sqm of A1-A4 (retail and bars/restaurants), B1 (office space), C3 Ancillary Residential and D1/D2 (non-residential institutions), which will be allocated flexibly. The parking standards for the size of space would therefore vary between 16-78 however there is no provision made within the proposal. Disabled driver spaces would be a percentage of total spaces, if no spaces are provided there is still a requirement of at least two disabled spaces as a minimum. Phase One has 30,000 sqm of commercial space and no parking provision, on the basis that there are available spaces within the Marina's multi-storey car park.

Travel Plans

- 10.156. As agreed at the scoping stage, a Residential Travel Plan Framework has been submitted as part of the application and a Workplace Travel Plan would be secured by planning condition. The Travel Plan set out objectives to reduce the use of single occupant cars. The Residential Travel Plan Framework Workplace Travel Plan could be secured via appropriate obligations or conditions if permission were granted.

Pedestrian and Cyclist Access

- 10.157. The existing Marina breakwater is expected to be the sole point of direct access to the site from the seafront for pedestrians and cyclists. The route is approximately 200 metres long and is 7 metres wide for most of its length. A short section (30 metres) of the breakwater access on the upper tier, which provides pedestrian and cycle access to the development, has a reduced width which is only approximately 3.3 metres wide between walls that restricts the ability of it to be shared by pedestrians and cyclists (either segregated or mixed) and therefore this section does not comply with inclusive design guidance. As such this raises safety and inclusion concerns as all access to the Phase Two site therefore will have to pass along the breakwater's narrow southerly upper tier.
- 10.158. In order to provide segregated access for mounted cyclists to and across the site via the Breakwater without generating conflict with pedestrians it was recommended that the breakwater be re-engineered to create a wider, single deck access. However, the applicant has not included these works because this is no longer feasible for reasons of cost. Further iterations of design have included removal of any access for mounted cyclists beyond the existing gates to the narrow section. Cyclists would therefore be expected to push their bikes up the ramp to access the podium as the destination. The applicant's current proposals are to retain access for cyclists along the existing breakwater width without re-engineering/widening it, based on guidelines within the London Cycle

Design Standards (LCDS) that allow cyclists to share space with pedestrians. These state that where cycle flows are lower, sharing can be advisable, although these standards are not adopted by the Council.

10.159. This therefore creates a short section of route where there is potential for conflict that cannot be physically overcome, and this could provide grounds for objection. The applicant has estimated that there will be a total of just over 20 cycle trips in each peak hour from the development and therefore sharing is the appropriate design approach, along similar lines to Undercliff Walk. The only way to minimise such conflict would be to revert to a requirement to remove access for mounted cyclists over this short section of the breakwater, which it is acknowledged would not provide a continuous route into the development via the new Promenade.

10.160. Whilst the relevant section of breakwater is relatively short in length, the incompatibility of it being used for mounted cyclists as well as pedestrians would serve to sever a direct cycling connection to the site from the north and west. Policy DA2 states that one of the key objectives of development in this location is to “enhance the transport infrastructure at the Marina, promote more sustainable forms of transport and maximise opportunities to reduce car ownership”. By failing to provide a segregated cycle access, it is considered that the development would significantly diminish the usability of the route for cyclists and would fail to sufficiently promote sustainable forms of transport. Officers will go on to set out significant concerns regarding the level of cycle parking which exacerbates the lack of provision for cyclists and the failure to sufficiently promote sustainable forms of transport. In this regard officers consider that the application is contrary to policies CP7, CP12, DA2, TR14 and NPPF paragraphs 110-112.

Minimising Access Closures (breakwater)

10.161. The applicant has confirmed that, historically, the breakwater needs to be closed for access for approximately 30 days each year due to safety issue posed by overtopping waves. This would mean pedestrians and cyclists would be unable to use this to gain access to the site from the seafront at those times. They would instead have to rely on the problematic access through the existing Marina. The applicant has confirmed that for those 30 days, the breakwater would not necessarily need to close for the entire day on each occasion, although existing inspection regimes mean that it typically closes for a minimum 12-hour period on each occasion. Therefore, a management plan has been proposed which could be secured by condition or obligation to minimise closures to the shortest period possible.

Pedestrian Access (within Marina)

- 10.162. Transport Officers have also raised concern raised in respect of pedestrian access to the site from within the Marina being proposed along the western end of the service road. The concerns arise from the fact that there is no footway and the applicant has advised that it is not feasible cannot secure improvements because of third party land ownership issues. This matter is considered important because during poor weather it will be necessary to close the other main proposed access point via the breakwater for safety reasons. This is expected to occur for 30 days of each year (though not necessarily for the full day). At such times, pedestrians would be reliant on an alternative, internal route.
- 10.163. The applicant has therefore amended the proposed alternative access and circulation plans within the Marina to enable pedestrian access to the site via the existing zig-zag ramps opposite McDonalds at the eastern end of the service road, with pedestrians progressing into the site via existing development – including the constructed Phase One. When used as the alternative route during breakwater closures, this revised route is not ideal to reach the development as it is indirect and could be difficult to navigate. This could be overcome by the introduction of a simple pedestrian crossing and footway improvements on the corner of the service road to link the existing western footway to the start of the temporary access way between Phase One and Phase Two. However, this cannot be provided due to third party land ownership issues.
- 10.164. It has been noted that this pedestrian route, which uses existing surfaces/routes within the Marina which have been in place for some time to reach the zig-zag ramps, does not comply with inclusive design guidance. Unfortunately, as the applicant has explained that these routes are on third-party land outside their control and without the advance agreement of the third-parties before determination, changes to those areas could not be secured with any decision on this application and it is therefore not possible to recommend any conditions or obligations to mitigate this in this instance. It is expected that future development proposals within the Marina will result in improved routes and connections that are accessible to all.
- 10.165. Original access proposals for cyclists and pedestrians have been amended, although parts of the revised pedestrian access route within the Marina are not covered within the PERS (Pedestrian Environment Review System) assessments that were previously submitted, including proposed access from the service road via the existing Phase One. Given that this will be the only means of pedestrian access to the site when the Breakwater is closed, this additional information should be provided to enable any issues to be fully understood. Routes affected by changes to access and circulation should also be included. It is recommended that a further PERS Audit will be secured by condition. Pedestrian routes should also be marked out within the undercroft car park in order to comply with policies TR7 (safety) and NPPF para 110b

(inclusive access) amongst others. This requires changes to plans to address this and should be conditioned.

- 10.166. The introduction of an external public lift in Phase 2 to provide access between podium level and the service road below is welcomed. It is understood that the proposed lift is sized to accommodate 2 bicycles at the same time. If permission were to be granted additional details on this provision could be secured by condition.

Connectivity with Black Rock

- 10.167. Reference has been made to a footbridge over Black Rock beach to the west of the Marina which formed part of the extant permission. However, this reflected previous designs for the Black Rock site which are now no longer being pursued.

- 10.168. However, the previously agreed secondary route for the proposed Rapid Transport System [RTS] (approved in January 2005) is along the beach (southern) side of the Black Rock site which would be superseded by the recently-approved Black Rock application (BH2020/0042) which proposes a northerly alignment of the RTS. This proposed change is a clear indication that plans for the Black Rock site's redevelopment. The proposed new alignment also enables the creation of a new promenade area along the southern edge of the Black Rock site which will connect to the existing Marina breakwater to provide for walking and cycling connectivity. This being the case, it is not considered that requiring a footbridge link to Black Rock beach would be justified or appropriate. Cycle Parking

- 10.169. The proposal includes up to 477 cycle parking spaces for residents (317 for Phase Two and 160 for Phase Three) and up to 224 cycle parking spaces for visitors (20 for Phase Two and 204 for Phase Three, which includes 30 BTN Bike Share spaces). The quantity and quality of proposed long-stay and short-stay (visitor) cycle parking in Phase Two has been assessed and it has been noted that there is a very significant shortfall against Policy TR14 and SPD14 minimum quantity standards. The council's Parking Standards require a minimum provision of 510 and the applicant is proposing 300.

- 10.170. Policy TR14 requires access to parking to be convenient and readily accessible. Issues include some rather cramped cycle stores and a number of two-tier stands which are not fully accessible. NPPF para 110B also requires the transport needs of people with disabilities and reduced mobility to be addressed and this is not achieved owing to a lack of parking for disabled cyclists' bikes and overreliance on two-tier stands.

- 10.171. The applicant has suggested that the shortfall in Phase Two cycle parking could be addressed by utilising unoccupied cycle parking spaces within the Phase One

parking, as the original permission does not designate spaces to each phase of the development. This could serve to increase the supply ratio somewhat (albeit still significantly below SPD14 levels). The applicant has indicated that the level of under-occupation in Phase One is 37 out of 230 spaces, however it is considered that spaces in Phase One are too distant from Phase Two to be convenient for residents and visitors to utilise. The proposed level of provision is therefore not considered to be in accordance with SPD14.

- 10.172. As part of Phase Three the applicant will fund provision of 20 extra Bike Share cycles, which would require 30 docks to be accommodated within the public realm of the site and this will be a S106 requirement with details of the location and means of access to be provided.
- 10.173. In summary, whilst the applicant may point to a purported lack of occupancy within Phase 1 of the development, even if this were the case cycle parking standards are predicated on catering for both existing and future demand including sustainable modal shifts. In line with Policy DA2, development on this site should promote sustainable forms of transport and through providing such a significant shortfall within Phase 2 of the development the development would fail to adhere to Policies DA2, TR14/SPD14 and NPPF para 110b and para 108c. Given previously mentioned inadequate cycle access to the west of the site, it is considered the cumulative inadequate access and inadequate parking is symptomatic of the development failing to provide a sustainable form of development in transport terms.

Construction and Demolition Environmental Management Plans (CEMP and DEMP)

- 10.174. Consideration of the activities involved in construction and demolition activities requires a workable access solution to be achieved in principle. This is because of the constrained access to the site, the potential impact on bus services to the Marina were the service road to be obstructed (there being no obvious alternative turning area for them within the Marina) and the third-party ownership issues raised by the applicant that will affect the routes that will be used to access the site for demolition and construction.
- 10.175. A review of the information within the Environmental Statement about proposed construction sequencing and access and the roads within the Marina suggests that there is sufficient confidence that the principle of achieving suitable management plans and of meeting necessary planning tests is feasible. A DEMP and CEMP could be secured by condition if permission were granted.

Other Transport Issues

- 10.176. Some changes to the proposed design of the Phase Two undercroft appeared unclear about how a through-connection for vehicles (including potentially

service vehicles) could be achieved into a future Phase 3 undercroft and beyond. This was because the available width for such a connection had reduced owing to changes to the design of the Phase Two access ramp and the introduction of bike stores. An amended plan showing a combined Phase Two and Three undercroft has been provided, although this is illustrative since Phase 3 is an outline application. To assist with interpreting this plan, a swept path analysis should be provided to address this concern. Further details of the Phase Two and Three undercroft could be secured by condition.

- 10.177. Some concerns were raised during the application process over the ability for delivery and service vehicles to access the site, but it is accepted that in principle, this can be provided. It is considered that a Delivery & Service Management Plan should be secured by condition in order to provide assurance that movements to and from the site within the Marina can be managed safely and effectively.
- 10.178. Concerns were raised over access to disabled cycle parking spaces within the Phase Two undercroft, but it is considered details of levels and gradients of all access ramps could be secured by condition if permission were granted, to ensure this could be managed.
- 10.179. The original extant planning permission had an allowance for up to 30 car club spaces being implemented, provided there was sufficient demand to justify that level of provision. Two vehicles are currently provided based on demand. Based on current usage, the applicant is proposing to maintain that allowance, with up to 6 vehicles provided. However, it should be noted that the level of car club provision ultimately depends upon the car club providers' assessment of demand. Further discussions with the Car Club provider could be entered into post-submission, and details could be secured via a planning condition if permission were granted.

Sustainable Transport Contribution

- 10.180. Based on a pre-October 2020 policy framework and based on the council's 2017 Developer Contributions Technical Guidance, the Marina site is considered to be within the intermediate zone (where access to more sustainable forms of transport is less available than the city centre), and therefore there will be a 25% reduction on the maximum level of the calculated financial contribution. The calculated contribution for transport is therefore 11,587 person trips x £200 x 0.75, which amounts to £1,738,050. This
- 10.181. If permission were granted post October 2020, the development would require direct mitigation in the form of the proposed bus-based Rapid Transport System; the delivery of the Valley Gardens Phase 3 scheme; off-site cycling and walking routes and infrastructure linking with the site; measures on the A259 to minimise

congestion; and improvements identified within the council's Bus Network Review on routes to and from the site. Due to the new CIL regime post October 2020 it would not be appropriate for a tariff-based contribution to be secured through the S106 and thus the Council would seek to secured costed schemes of improvement for the abovementioned items if permission were to be granted

Impact On Amenity

10.182. Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health. Policies SU9, SU10 and SU11 of the Local Plan seek to protect amenity and human health from air pollution, noise, nuisance and polluted land and buildings. SPGBH15 Tall Buildings states that proposals will be expected to be well designed and consider their climatic effects on their surroundings including overshadowing and wind speeds, to ensure the environmental quality of the locality.

Daylight, Sunlight, Outlook and Privacy

10.183. Daylight and sunlight provision to the new dwellings has been assessed as part of the application submission within the 'Brighton Marina Outer Harbour: Phases 2 & 3 Internal Daylight, Sunlight and Overshadowing Report'. The Council subsequently instructed BRE to undertake a critical analysis of the Avison Young report.

10.184. For daylight in new dwellings, the main criterion is the average daylight factor (ADF) which measures the amount of daylight within a room, whilst the assessment methodology for sunlight to new dwellings is annual probable sunlight hours (APSH).

10.185. In terms of daylight, the BRE standards recommend the following minimum values for ADF:

- - Bedrooms - 1.0%
- - Living rooms – 1.5%
- - Kitchens – 2.0%

10.186. The submitted assessment states that 92% of the open plan living room/kitchen/diners would achieve the requisite 2% ADF for a kitchen, whilst 97% would achieve the recommended 1.5% ADF for a living room. Furthermore, 92.5% of bedrooms would achieve target of 1% ADF which BRE has confirmed is satisfactory.

- 10.187. However, the BRE review goes on to identify numerous pinch points within the scheme which are centred around Block 2 within Phase 2, because of the narrow separation from Block 1 (12 metres) and Block 3 (8 metres).
- 10.188. As a result, there would be non-compliance with BRE standards in 8% of kitchen/diners and 8% of bedrooms in Block 1; 7% of kitchen/diners and 8% of bedrooms in Block 2; and 8% of bedrooms in Block 3.
- 10.189. Within Phase 3, the northern elevations of Blocks 6 and 9 also have areas of non-compliance, with 6% of kitchen/diners and 14% of bedrooms in Block 6 failing to adhere to the BRE standards, and 6% of kitchen/diners and 12% of bedrooms in Block 9.
- 10.190. Officers recognise that a balanced view must be taken in terms of daylight, and that it is unrealistic to expect that a scheme would deliver 100% compliance. The proportion of non-compliance with BRE standards is not itself a reason for refusal, but weight must be given to the fact that these failures are directly attributable to the inadequate separation distances between buildings within the development, which is symptomatic of the built density of the site.
- 10.191. In terms of sunlight, BRE standards recommend that living rooms receive 25% of annual probable sunlight hours, including 5% in winter. The submitted assessment sets out annual probable sunlight hours for rooms in the new development, which again, has been subject to review from BRE on behalf of the Council.
- 10.192. Across the whole development, the report shows that 56% of the kitchen/diners would meet the sunlight requirements in full; a further 3% would meet the annual recommendation but not the winter one; and 5% the winter recommendation but not the annual one. Eight percent are southerly facing but would not meet either recommendation.
- 10.193. BRE note that there are some areas of poor sunlight provision, particularly in Block 1 where the proximity of Block 2 limits the sunlight received by the south façade, whilst in Phase 3, Block 8 would also cause some overshadowing of Block 9.
- 10.194. Notwithstanding the potential pinchpoints set out above, BRE conclude that because of the coastal location, “most of the proposed development would be reasonably well sunlit, which is to be expected given the complete lack of obstruction to the south.” Whilst this may be the case, officers note that, again, the areas of poor sunlight are attributable to the inadequate separation distances, so that as with daylight, while not in itself a reason for refusal, gives weight to concerns regarding the density of the development.

- 10.195. In terms of outlook and privacy, the same elevations that would experience reduced daylight would also experience loss of privacy, due to their close proximity to each other.
- 10.196. In Blocks 1 and 2, most of the units within the facing elevations would be dual aspect, with the other aspect allowing for a good outlook from the primary living spaces. The only exception to this would be a single column of studio flats to the south elevation of Block 1. In Blocks 2 and 3, similarly, most of the units in the facing elevations with the reduced separation distance would be dual aspect, with the exception of two columns of 1-bedroom units on the southern elevation of Block 2.
- 10.197. Notwithstanding the above, the single aspect columns of units on the southern elevation of Block 2 would contain a total of 30 units which would have the outlook from their primary living area significantly restricted and dominated by their proximity to Block 3, at just 8 metres away. Likewise, the single aspect columns on the southern elevation of Block 1 would comprise a total of 11 units with inadequate outlook due to the 12-metre separation distance. The facing windows for each of the single aspect units would comprise bedroom windows which would also result in an unacceptable risk of mutual overlooking. Again, these impacts are directly attributable to the inadequate separation distances and will be taken into account in the wider assessment of residential quality and the wider planning balance.
- 10.198. In terms of overshadowing of the public open spaces, BRE guidelines recommends that no more than 50% of such an area should be prevented by buildings from receiving 2 hours of sunlight on 21 March. An overshadowing assessment is included submission which considers the access to sunlight of all of the public open spaces across both phases of development.
- 10.199. The assessment shows that most of the areas towards the south of the site, adjacent to the sea frontage, would receive over the 50% threshold on March 21 so would comply with this requirement.
- 10.200. However the assessment concludes that the courtyard garden of Block 1 and the vast majority of the spaces between the blocks in Phase 3 would fall below the requisite 50% threshold. These areas that fail to meet the requisite standard contain all of the development's proposed communal amenity spaces which the applicant proposes in lieu of private amenity space. Given that these would be the only semi-private spaces available to residents, it is especially important that they provide a welcoming and well sunlit space. The fact that the communal gardens would not receive the requisite levels of sunlight would significantly

diminish the quality of the spaces, to the detriment of the living conditions of the residential occupiers.

- 10.201. On this basis, the lack of sunlight to the communal amenity areas is unacceptable in itself, and in considering the overall provision of amenity space in the development, is exacerbated by the zero provision of private amenity space.

Overshadowing of Neighbouring Properties:

- 10.202. BRE has reviewed documents submitted with the application relating to the daylight and outlook for existing neighbouring properties, namely the flats in Phase 1 of the Marina. This concludes that while the development would have a moderate adverse impact on daylight conditions within Phase 1, and that some significant relative losses to a number of rooms, these are largely due to the design of Phase 1 and in particular the overhanging balconies which result in already low levels of daylight.

Air Quality:

- 10.203. NPPF sets out that air quality is a material consideration for the planning process. City Plan Part One states that new development proposals should take account of their impact on local air quality, be consistent with the council's Air Quality Action Plan and minimise or avoid increased exposure to existing poor air quality within the Air Quality Management Area which covers much of the Inner City. Improvements and/or mitigation will be sought wherever possible.
- 10.204. The most significant predicted contribution to local air quality from additional traffic emissions is to Grand Parade (A23) which the EIA determines as being 'major adverse' due to Phase 2, and 'moderate adverse' after Phase 3 is completed, as the annual mean NO₂ concentration against which the impact is measured is forecast to reduce over time. As the contribution from the development is characterised as 'significant', it is appropriate that the applicant has costed the additional emissions as a guide to the level of mitigation required (in accordance with regional and national air quality planning guidance. These costs for both phases are calculated to be almost £815,000 (£415,000 for Phase 2 and £400,000 for Phase 3).
- 10.205. The applicant has explained the on-site mitigation that is providing that it expects will assist in mitigating the air quality impacts of additional traffic from the proposed development including provision for 15 electric vehicle charging points, car club vehicles, a residential travel plan to promote sustainable transport use, and the adoption of a sea water heat pump system to avoid additional gas fired combustion with chimney on site. The applicant will also investigate the viability of measures to ensure commercial vehicles and fleet operations meet emissions standards through appropriate measures. The Air

Quality assessment also highlights the need for off-site mitigation; although this is not specific other than that it should focus on walking and cycling.

10.206. It is considered that the sustainable transport initiatives proposed on-site would be standard good practice requirements without the necessity to mitigate pollution impacts on the AQMA and to meet the planning policy requirements set out in Policy SU9. Whilst these measures are welcome, additional measures are considered necessary to help reduce traffic or mitigate the predicted major adverse impacts of the additional development traffic in the A23 corridor north of Edward Street (especially along Grand Parade) or contribute towards addressing smaller contributions elsewhere.

Wind Microclimate

10.207. As part of the application submission, the applicant commissioned a Wind Microclimate assessment which was submitted as a chapter of the ES. BRE were subsequently instructed by the Council to undertake a review of the relevant chapter.

10.208. The initial BRE review identified several areas of concern which are set out below:

- The assessment identifies several locations around the development where the wind conditions would exceed the distress/safety criteria, even with mitigation;
- The assessment identifies several locations around the development where the wind conditions are shown to be unsuitable for the intended use, even with mitigation;

10.209. A supplementary wind assessment was subsequently provided by the applicant, which included a Brighton Marina Outer Harbour closure management strategy.

10.210. The purpose of the closure strategy is to mitigate unsuitable podium wind conditions by keeping people away from those areas in high wind (and/or high wave) conditions. In high speed winds, pedestrian access to and from the buildings in Phase 2 would be provided by means of the undercroft from which there is core access to each building. BRE are content that from a wind perspective such an approach would be a sensible and pragmatic approach.

10.211. To this end, a robust condition would be attached to any permission securing the details of this closure strategy, mitigation and a monitoring regime to be implemented. Subject to this condition, officers consider that the application is acceptable from a wind microclimate assessment.

Noise, External Lighting and Odour:

10.212. In terms of noise generation during construction, these impacts would be temporary in nature and a robust condition would be attached requiring the

applicant to submit a Construction Management Plan (CEMP) for approval. Subject to the details of the plan, officers are satisfied that noise impacts during the construction phase can be mitigated.

10.213. In terms of the operational development, there are no significant noise generating uses proposed. The flexible use commercial units could come into use as A3 or A4 premises and as such it is considered prudent to attach conditions relating to the number of such units which can come forward (consistent with the consented scheme). It is also considered prudent to attach conditions relating to opening hours. Subject to these conditions and other noise conditions attached, officers are satisfied that the operational development would not result in any unacceptable noise impacts.

10.214. Likewise, in terms of external lighting and potential odour impacts from the final operational development, it is considered that the development does not propose any significantly high risk uses in either regard and as such any impacts are adequately mitigated by the proposed conditions.

Sustainability

10.215. City Plan Policy CP8 expects all new development to incorporate sustainable design features to avoid expansion of the city's ecological footprint, help deliver the principles of the One Planet approach, and seeks radical reductions in greenhouse gas emissions, particularly CO2 emissions. Residential new build is expected to energy and water performance standards as set out in the policy and a commercial office is expected to meet BREEAM 'excellent' standard. Policy DA4 expects development to incorporate infrastructure to support low and zero carbon decentralised energy and in particular heat networks subject to viability. DA4 also seeks to extend and strengthen green infrastructure in the area and secure enhancements to open space and biodiversity. Policy CP10 expects development to conserve and enhance biodiversity.

10.216. In this context, it is considered particularly important for substantial, high density developments to be as sustainable as possible. SPHBH15 states all tall buildings must be integrated into the public realm, be responsive to environmental conditions and embrace principles of sustainability. SPGBH15 requires submission of a sustainability statement outlining how the proposal will apply best sustainable practices.

10.217. The applicant has submitted Energy Strategy and Sustainability Statement in support of the application which has been subject to review by the Council's Sustainability Officers.

- 10.218. The energy strategy for the site proposes to minimise energy demand through the fabric performance and energy efficiency measures; to install a site-wide heat network infrastructure to provide communal space heating and domestic hot water to all flats and non-domestic buildings with significant heat demands; and utilise a sea-water source heat pump to provide an on-site source of renewable energy generation to serve the heat network.
- 10.219. An initial review of the application was undertaken by the Council's Sustainability Officers welcomed the commitment to the fabric performance and the site wide heat network however asked for clarification on the following matters:
- BREEAM
 - Salt-Water Heat Pump
 - Overheating
- 10.220. The applicant subsequently provided a response and additional information in September 2019 for further review of officers.
- 10.221. In respect of BREEAM, the addendum note explains that the commercial parts of the development will target a 'Very Good' BREEAM standard, instead of the 'Excellent' standard laid down in Planning Policy CP8. This is considered acceptable, given that some BREEAM credits cannot be achieved because of the flood risk, and because the commercial units will be built 'Shell only', while the eventual tenants will fit out the units. This again limits the BREEAM credits that are achievable. The proposal to complete the shell to 'very good' standard and set targets for energy and water in line with the 'Excellent' criteria is considered acceptable.
- 10.222. In respect of the salt-water heat pump, further information about the salt-water heat pump was provided through the addendum to the satisfaction of sustainability officers. The schematic for the heating distribution system demonstrates that it is satisfactory and will provide both heating and hot water whilst the innovative low carbon technology is welcomed.
- 10.223. In terms of overheating, Section 6 of the Energy Statement discusses cooling and overheating and in addition a new Domestic Overheating report was supplied through the addendum which was in line with CIBSE TM59 as requested in the initial sustainability review. The results show that all living rooms and bedrooms pass the overheating design criteria. Additional measures to mitigate overheating of apartments include curtains.
- 10.224. In addition, the communal corridors were identified as being at risk of overheating, as the heating pipes run along them. The note sets out that additional ventilation will be provided to ensure overheating does not occur

which satisfies the overheating requirements and concern expressed in the initial sustainability comments.

- 10.225. In addition to the above, the development would provide 15-16 electric car charging points which meets the minimum requirement set out by the Brighton & Hove supplementary planning document 14 (SPD14). The scheme needs to incorporate a further 10% passive provision to allow for conversion at a later date in accordance with SPD14. In this regard, a condition would be attached to ensure a policy compliant level of provision.
- 10.226. Furthermore, officers welcome the inclusion of brown roofs and one green wall is welcomed to enhance biodiversity on the site, help to reduce the heat island effect, moderate internal temperatures and minimise the visual impact of the site. A plan of these would be secured through condition to show the exact position and layout of the brown roofs and green wall.
- 10.227. All of the necessary details pertaining to the sustainability and energy strategy would be secured by condition. Subject to these conditions, officers consider that the development is acceptable from a sustainability perspective.

Climate Change

- 10.228. In order to minimise greenhouse gas (GHG) emissions from the proposed development and in order to promote climate change resilience the following measures would be incorporated into the development:
- Wastewater efficiency measures and design measures to combat internal overheating;
 - Robust pre-cast concrete and marine grade window systems to withstand current and future environmental conditions in this maritime location;
 - A sea water heat pump system with higher energy efficiency and reduced carbon emissions when compared to a conventional energy centre.
- 10.229. As part of the assessment undertaken, no significant effects on climate change (GHG) were identified during the construction or operation of the proposed development, taking into account the mitigation embedded within the development. The assessment goes on to conclude that, given the scale and nature of the proposed development, and its impact on the UK meeting its GHG reduction targets as defined by the five-year UK carbon budgets, the effects on climate change are considered to be minor adverse and hence there are not considered to be any significant residual environmental effects.
- 10.230. In light of the assessment carried out, and consistent with sustainability considerations, officers consider that the conclusions of the assessment are reasonable. No climate change specific mitigation is considered necessary

through condition over and above that already set out within the sustainability section of this report.

Ecology, Nature Conservation And Biodiversity

- 10.231. Given the nature of the development site, above ground ecology matters were scoped out of the ES and the assessment focused on sea floor (benthic) invertebrates.
- 10.232. The assessment identifies sensitive ecological receptors surrounding the site including local aquatic fauna and marine habitats of the Beachy Head West Marine Conservation Zone (MCZ). The assessment goes on to state that overall no likely significant effects related to ecology, including on designated sites, habitats and protected species would be expected to occur as a result of the proposed development.
- 10.233. The Environment Agency (EA) were consulted on the application and in assessing the relevant ES chapter, they raised concern that, in the absence of details to demonstrate otherwise, the development would cause a direct loss of Intertidal Habitat (muddy shingle) and objected to the application on this basis.
- 10.234. Intertidal muddy gravels are a priority habitat in the Government's UK Biodiversity Action Plan (UK BAP). One of the main objectives is to maintain at least its present extent and regional distribution. Although the area of habitat to be affected by the proposed works is outside designated nature conservation areas, the EA consider it to be a valued wildlife asset.
- 10.235. In light of the above, the applicant was requested to provide the requisite additional information regarding intertidal shingle. The additional detail was subsequently provided to the satisfaction of the EA who were able to conclude that the development would not cause a loss of intertidal shingle and thus withdraw their objection.
- 10.236. Whilst above ground ecology was scoped out of the ES assessment, the chapter does identify ecological mitigation and enhancement such as the provision of biodiverse roofs and more than 40 nest boxes intended for terrestrial invertebrates, starlings, house sparrow and peregrine falcon. The scheme also makes provision for brown roofs that mimic the form and species assemblage of the rare coastal vegetated shingle habitat. All of these measures are welcomed and could be secured through condition.

Flood Risk / SUDS

- 10.237. Given the coastal location of the site, flood risk is particularly important to consider and was thus scoped into the ES accordingly. Section 4 of the Flood Risk Assessment (FRA) and Section 14.2 of the ES provides the necessary assessment which has been reviewed by the EA, LLFA and Southern Water.
- 10.238. The application site is located within Flood Zone 3 and is at raised probability of tidal flooding. Therefore, in order for the development to be acceptable it must pass the Sequential and the Exception tests, as set out within the NPPF.
- 10.239. The site is allocated in Brighton and Hove City Plan Development Area DA2. The 'Sequential and Exception Text for Brighton and Hove City Plan Update 2014' confirms that all Development Area allocations have passes the Sequential Test. The Exception Test was also considered in the report and concluded 'the wider sustainability benefits of development' at the Marina outweighs the flood risks. In this regard, the scheme passes both the relevant NPPF tests.
- 10.240. The FRA reviews all current flood risks to the site and considers future flood risks, in the light of possible climate change impacts. It presents proposals to manage surface water associated with the potential developments and identifies the feasibility of measures necessary to reasonably protect the site against flood risk without adversely affecting third party flood risk elsewhere.
- 10.241. Measures have been incorporated into the development to mitigate the flood risk, predicated on the 1 in 200-year flood level with the more vulnerable uses located above this level.
- 10.242. Additional measures to manage flood risk would include a proposed wave-wall alongside the existing western breakwater, including flood protection measures (gates); a separated drainage system to directly drain over-topping waves back into the Outer Harbour; and restricting access to the ground level public realm areas of the proposed development during high winds/waves. flood protection and resilience measures will be implemented across other areas of the site, and a comprehensive flood warning and evacuation plan will be in place.
- 10.243. It is considered prudent to secure the aforementioned measures through condition and such conditions are attached accordingly. Southern Water were consulted on the application and raised no objection, subject to a condition relating to maintenance of the SUDS infrastructure. Such a condition is also attached accordingly. It should also be noted that the EA raised no objection to the application on flood grounds. Subject to the relevant conditions, it is therefore considered that the application is acceptable from a flood risk perspective.

Marine And Coastal Environment

- 10.244. The impact of the development on the marine and coastal environment is considered within Section 9.2 of ES which assesses the effects on coastal processes through alterations to flows and wave climate; the effects on sediment quality during construction; and the effects on underwater sound climate during construction.
- 10.245. The assessment identifies that the main potential impacts to sediment quality would be through accidental spills of polluting substances during construction. The assessment sets out that if no large spills occur during construction, or effective spill containment prevents any polluting substances reaching the marine environment, the impacts would be negligible. On this basis, a CEMP would be secured by condition to ensure that the construction process was well managed and to minimise the risk in of such spills occurring.
- 10.246. In terms of underwater noise, although there is no practicable way to reduce the sound of piling from affecting the marine environment, the ES sets out that any piling would not propagate a significant distance from the site and as such it is concluded that the impacts would be moderate adverse, although temporary and local.
- 10.247. Officers consider that given the coastal location of the site and the nature of the proposed development and construction, it is inexorable that some element of underwater noise was occur, as set out within the ES. Given the minor adverse and temporary nature of the impacts, officers consider this acceptable.

Crime Prevention

- 10.248. In respect of crime prevention, Sussex Police were consulted on the application and raised no objection to the proposal provided prevention measures are incorporated. This is supported by policy and an appropriate condition is recommended. Officers consider the development of the site would help prevent crime as it will help regenerate the area, introduce more active frontages, natural surveillance and more general activity. Appropriate conditions are also attached in respect of the flexible use commercial units to ensure that if the units come forward as A3/A4 uses.

Socio-Economic Impacts

- 10.249. It is considered that the development would have significantly positive effects on meeting housing needs in Brighton and Hove and would also provide up to 96 full time employment opportunities. In terms of health and education impacts, the development has been fully assessed by the Council's officers and S106 contributions commensurate with the assessed impact would be secured.

10.250. Subject to the S106 contributions on health and education which would fully mitigate impacts in these matters, officers consider that the development would have a beneficial impact in terms of socio-economics.

Conclusions & Planning Balance:

10.251. Paragraph 11 of the NPPF makes it clear that planning application decisions should apply a presumption in favour of sustainable development. Furthermore, it sets out that where relevant development policies are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

10.252. As noted previously the Council is currently unable to demonstrate a 5-year housing supply, and as such the relevant planning policies relating to housing delivery are considered to be out-of-date and the 'tilted balance' of paragraph 11 must be applied.

10.253. Therefore, weighing in favour of the application is the housing delivery of 1,000 residential units which would make a significant contribution towards the Council's currently inadequate housing delivery, though it must also be acknowledged that this represents a 342 unit uplift over the consented scheme.

10.254. Also weighing in favour of the application is that it would go some way to achieving the objectives of Policy DA2 and PAN04 in delivering a mixed-use development that would help to boost the local economy. It would provide a good level of building sustainability, would help to preserve the marine coastal environment, and would largely be acceptable from an environmental perspective. Further, it would not impact detrimentally on the residential amenity of any surrounding occupiers.

10.255. However, these benefits must be balanced against the significant concerns over the density and form of the development and its unacceptable design, as well as the cumulative impacts of both phases which would result in unacceptable impacts on the townscape, heritage features, and the setting of the South Downs National Park. Further, it is considered that the lack of private amenity space and poor quality of communal space would unacceptably impact on the amenity of future occupiers, as would the lack of light to parts of the residential blocks, the lack of children's playspace, and the potential for overlooking and loss of privacy.

10.256. In addition, insufficient information has been provided to demonstrate why the affordable housing levels to be provided would not meet the requirements set out in the development plan. Finally, the development does not include sufficient

cycle parking, or access for cyclists across the breakwater to meet the need for sustainable transportation.

10.257. Based on the above and based on the balanced assessment required by Paragraph 11 of the NPPF, officers consider that the benefits arising from the development would be outweighed by the harm. Whilst significant weight is given to the increased housing delivery proposed, officers consider on balance that unacceptability of the development in terms of its layout and design, the amenity space and children's playspace provision, the inadequate standard of accommodation to parts of the development, the lack of affordable housing provision, and insufficient cycling infrastructure would render the proposal unacceptable in planning terms, taking into account the development plan and other material considerations.

11. RECOMMENDATION

11.1. For the reasons set out above, officers recommend that the Committee resolves that had the planning application come before the Committee for determination it would have **REFUSED** planning permission.

12. EQUALITIES

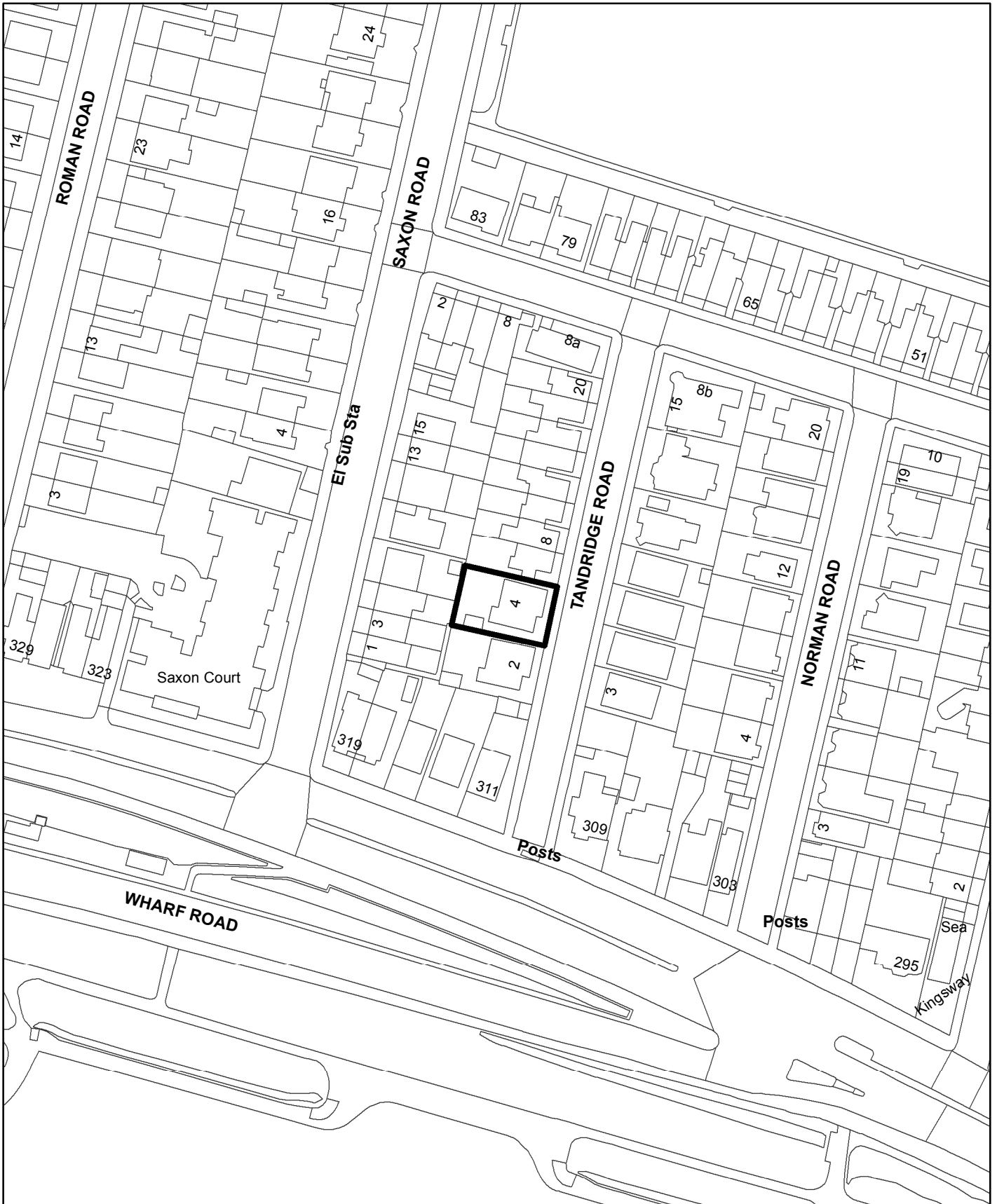
12.1. The development would be accessible to all members of society with lift access to the podium level provided to the north west corner of the site for cyclists and wheelchair users. The development would also provide 10% of the residential units as wheelchair adaptable. The only area of concern in terms of equalities would be the access across the section of breakwater which would not provide dedicated provision for pedestrians and cyclists and may prejudice the safety of users.

ITEM B

**4 Tandridge Road
BH2020/01899
Full Planning**

DATE OF COMMITTEE: 30th September 2020

BH2020 01899 - 4 Tandridge Road



N



Scale: 1:1,250

<u>No:</u>	BH2020/01899	<u>Ward:</u>	Wish Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	4 Tandridge Road Hove BN3 4LU		
<u>Proposal:</u>	Demolition of existing bungalow and erection of 2no two storey semi-detached dwellinghouses (C3).		
<u>Officer:</u>	Michael Tucker, 292359	tel: <u>Valid Date:</u>	13.07.2020
<u>Con Area:</u>		<u>Expiry Date:</u>	07.09.2020
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Garrick Architects 36 Edburton Avenue Brighton BN1 6EJ		
<u>Applicant:</u>	Mr P Varghai C/o Garrick Architects 36 Edburton Avenue Brighton BN1 6EJ		

RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Location and block plan	2023-P-01		13 July 2020
Proposed Drawing	2023-P-02		13 July 2020
Proposed Drawing	2023-P-03		13 July 2020

2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

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

3 No development above ground floor slab level of any part of the development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) details of render and tiling (including details of the colour of render/paintwork to be used)
- c) details of all hard surfacing materials
- d) details of the proposed windows and doors
- e) details of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

4 Prior to first occupation of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning

Authority. The scheme shall include the following:

- a) Details of all hard and soft surfacing;
- b) Details of all boundary treatments;
- c) Details of all proposed planting

All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding or turfing comprised in the approved scheme of landscaping 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.

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

5 Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development 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.

6 Within 6 months of commencement of the development hereby permitted or prior to occupation, whichever is the sooner, a scheme shall be submitted to the Local Planning Authority for approval to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.

Reason: This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

7 The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and

the refuse and recycling storage facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

8 Prior to the first occupation of the development hereby permitted the applicant shall reinstate the redundant vehicle crossover to a footway by raising the existing kerb and footway.

Reason: In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the City Plan Part One.

9 The development hereby permitted shall not be occupied until the dwellings hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

10 None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).

Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.

11 None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.

Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.

12 The ground and first floor windows in the north and south facing elevations of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policy and QD27 of the Brighton & Hove Local Plan.

13 No extension, enlargement or alteration of the dwellinghouses as provided for within Schedule 2, Part 1, Classes A - C of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting

that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

14 Prior to first occupation of the development hereby permitted, pedestrian crossing improvements (dropped kerbs with paving and tactile paving) shall have been installed at the junction of and across Norman Road with Marine Avenue.

Reason: To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7, TR11 and TR12 of the Brighton & Hove Local Plan & CP9 of the City Plan Part One.

15 The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

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

16 A bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

17 Three (3) swift brick(s)/boxes shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter.

Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

Informatives:

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

2 The applicant is advised that the scheme required to be submitted by Condition 6 above should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.

3 The applicant is advised to contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.

4 The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.

5 The water efficiency standard required under condition 11 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

6 Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

7 Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place.

SITE LOCATION & APPLICATION DESCRIPTION

The application relates to a single-storey dwelling with accommodation in the roofspace on the western side of Tandridge Road, south of Wish Park in Hove. Tandridge Road is residential in character, with two-storey properties to the north and east of the application site, and a single-storey building to the south.

Planning permission is sought for the demolition of the existing bungalow and erection of 2no. two storey semi-detached dwellinghouses (planning use class C3).

The proposed building is identical in appearance to the previously approved permission on the site BH2018/02901 (extensions and alterations to existing bungalow to create 2 no new dwellings), which remains extant, though the current application seeks to demolish and rebuild the existing dwelling, rather than converting the building.

The application was deferred from consideration at Planning Committee on 17 September, as members raised queries about whether the bungalow had been split into two dwellings, which officers were unable to answer.

The number of dwellings contained within the existing building has now been investigated by officers. Council Tax records indicate that the building was subdivided into two self-contained dwellings prior to 1993. The applicant has confirmed that the building was sub-divided when it was purchased in 2002. The application has therefore been considered and the recommendation made on the basis that there are two existing dwellings on the site.

RELEVANT HISTORY

BH2019/01304 - Certificate of lawfulness for proposed conversion of existing garage into home office. Approved

BH2018/02901 - Extensions and alterations including adding additional storey to existing bungalow to create 2no dwellings (C3). Approved

PRE2018/00075 - Remodelling and extending of existing property including formation of an additional storey to create a second dwelling. Response issued

REPRESENTATIONS

Twelve (12) letters have been received, objecting to the proposal for the following reasons:

- Additional traffic
- Noise
- Overdevelopment
- Overshadowing
- Too close to the boundary
- Loss of privacy
- Detrimental effect on property value
- Little consultation with residents
- Loss of view
- The existing building should be retained

CONSULTATIONS

Planning Policy: No comment

Sustainable Transport: No objection

Recommended approval as the Highway Authority has no objections to this application subject to the inclusion of the necessary conditions and /or informatives:

- Developer obligation for off-site highways works
- Reinstatement of redundant vehicle crossover
- Porous hard surfaces
- Cycle parking scheme
- Car free housing

Housing: No comment received

Private Sector Housing: No comment

Environmental Health: No comment received

MATERIAL CONSIDERATIONS

In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

The development plan is:

- o Brighton & Hove City Plan Part One (adopted March 2016)
- o Brighton & Hove Local Plan 2005 (retained policies March 2016);
- o East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- o East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- o Shoreham Harbour Joint Area Action Plan (adopted October 2019);

Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part 2

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP12 Urban design
- CP13 Public streets and spaces

CP14 Housing density
CP19 Housing mix
CP20 Affordable housing

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

TR7 Safe Development
TR14 Cycle access and parking
SU10 Noise Nuisance
QD5 Design - street frontages
QD18 Species protection
QD27 Protection of amenity
HO5 Provision of private amenity space in residential development
HO13 Accessible housing and lifetime homes

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste
SPD11 Nature Conservation & Development
SPD14 Parking Standards

CONSIDERATIONS & ASSESSMENT

The main considerations in the determination of this application relate to the principle of the development, the design and appearance of the proposed dwellings and the impact of the proposal on neighbouring amenity. The standard of accommodation to be provided, transport implications and sustainability and are also material considerations.

The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.

The council's most recent housing land supply position published in the SHLAA Update 2019 shows a five year housing supply shortfall of 1,200 (equivalent to four years of housing supply). As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

Principle of Development:

The current application is identical to the previously approved and extant application BH2018/02901, save that it is now proposed to demolish and rebuild the existing dwelling rather than converting the building, and that it has subsequently come to light that there are already two dwellings on the site.

Nonetheless, the principle of the development and the use of the site for the purpose of two dwellings has therefore been established as acceptable.

Further, whilst the proposal would not result in the provision of an additional discrete residential unit, it would provide semi-detached houses, rather than flatted accommodation (where flats make up some 50% of the housing stock, compared to

21% for the South East), and three-bed rather than two-bed dwellings, improving the housing mix and choice available in the city, in accordance with Policy CP19 of City Plan Part 1.

On the basis of the existing building containing 2no. dwellings, Policy HO9 of the Brighton and Hove Local Plan would not apply as the proposal would not include the subdivision of existing residential units.

As such, is it considered that the proposal is acceptable in principle, subject to an assessment of other material planning considerations.

Design and Appearance:

The proposed dwellings would be of an identical appearance to those approved under the extant permission, which was considered acceptable.

As was previously the case, it is considered that the form, scale, height, roof form and materials of the proposed dwellings would not be out of keeping in the streetscene, in which two-storey semi-detached properties are an established feature. It is recommended to secure further details of external materials by condition.

Impact on Amenity:

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

Consistent with the previous application, it is considered that the proposal would not give rise to a significant harmful impact upon neighbouring amenity.

The proposed enlarged dwellings on the site would result in an intensification of residential activity, however any increase in noise disturbance as a result is unlikely to be significant or incompatible with the residential character of the area.

The neighbour to the north is set back from the boundary, with no south-facing windows. As such, it is not considered the development would result in a harmful, overbearing impact, or loss of light for this neighbour.

The neighbour to the south features a north facing window which serves as the only window to a bedroom. It is acknowledged that some harm by way of loss of light and outlook would result to this window. However, that property has two other bedrooms within the roof space, so this is not the only bedroom in this property. It is considered that the benefits of the scheme in the provision of a substantially improved standard of accommodation for the 2no dwellings on the application site mitigates for this slight harm, which when taken into the overall planning balance is considered not to warrant refusal of the application.

The proposed side-facing windows would serve secondary rooms or staircases. It is proposed that a condition is added requiring that these are obscure glazed to prevent overlooking of the northern/southern neighbours. The front and rear windows would not

give rise to closer or more intrusive views than are already available or are to be expected in a residential area such as this.

On this basis, and taking into account the extant permission on site, it is considered that the scheme is acceptable in terms of its impact on residential amenity.

Standard of Accommodation:

The proposed dwellings would each have an internal area of approx. 146sqm, with identical, albeit mirrored, layouts comprising a living room and kitchen/dining space at ground floor, and 3no bedrooms of 13.9sqm, 13.7sqm and 15.3sqm on the first floor and in the loftspace. Each habitable room would provide space for furniture and circulation, as well as access to natural light and outlook.

Each unit would have access to a rear amenity space in accordance with policy HO5.

It is therefore considered that the proposed dwellings would provide an acceptable standard of accommodation, in accordance with policies QD27 and HO5 of the Brighton and Hove Local Plan. The proposed dwellings would provide a substantially improved standard of accommodation compared to the existing dwellings on the site which are considered to provide cramped living environments due to their overall size and internal layouts.

Although not adopted policy, the Government's Nationally Described Space Standards (NDSS) do provide a useful point of reference when assessing the standard of accommodation provided by a new dwelling. With an internal area of 146sqm, each proposed dwelling exceeds the minimum of 108sqm for dwellings of a comparable three-bedroom, three-storey, six-person scale as set out in the NDSS.

Sustainable Transport:

The transport implications of the proposal are identical to the extant permission.

No cycle parking is proposed. A condition will be attached to secure the implementation of a policy compliant scheme for cycle parking.

In the absence of a parking survey to demonstrate the existence of sufficient on-street parking capacity, the Highway Authority considers that there would be insufficient spare capacity within the parking zone to accommodate the likely increase in demand resulting from the development, which could result in overspill parking. As such it is recommended that future occupants should not be entitled to a parking permit, this is to be secured by condition.

Pedestrian crossing improvements (dropped kerbs with paving and tactile paving) are requested at the junction of and across Norman Road with Marine Avenue. This is to improve access to and from the site to the various land uses in the vicinity of the site.

Sustainability:

Energy and water efficiency standards in accordance with policy CP8 of the City Plan Part One can be secured by condition.

Other Considerations:

Conditions requiring a bee brick and 3no swift bricks/boxes have been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

The representations received have raised concerns that the statutory public consultation exercise was not properly carried out for this application. The LPA's records indicate that the statutory requirements and responsibilities for notifying neighbours as set out in the Development Management Procedure Order were followed. Concerns relating to a loss of property value do not form a material planning consideration.

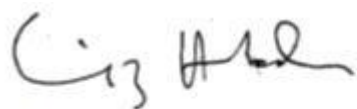
It is considered that any future extensions of the proposed dwellings would need to be carried out in a sensitive and considered manner to protect neighbouring amenity and the surrounding trees. A condition is therefore recommended to remove the permitted development rights of the proposed dwellings.

Conclusion:

The principle of development has been established through the extant permission BH2018/02901. The proposal is identical to this permission in all regards other than that it is now proposed to demolish and rebuild the existing building. This would not be contrary to the development plan and approval is therefore recommended.

EQUALITIES

None identified



Liz Hobden
Head of Planning
City Development and Regeneration

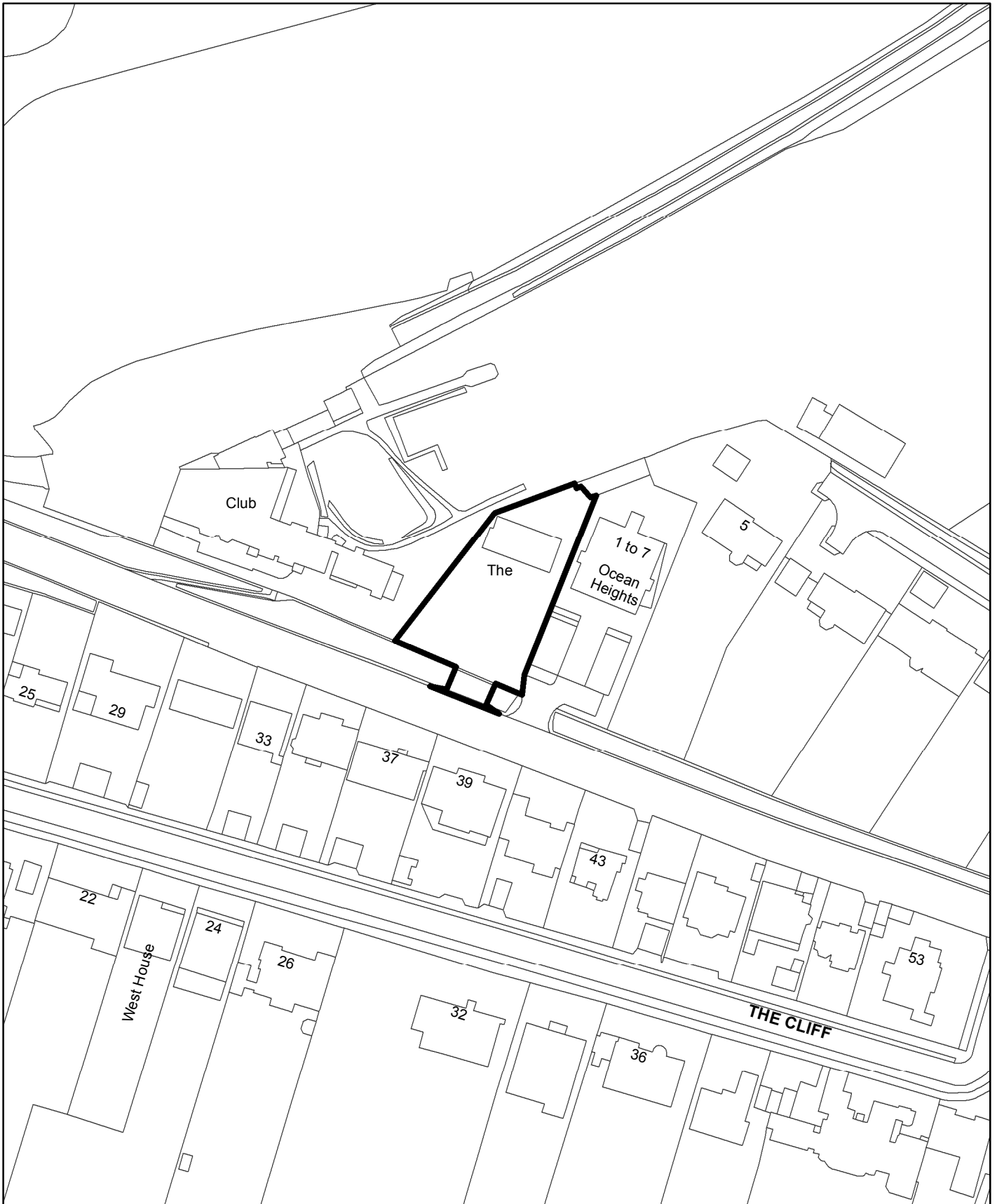
Signature of Reviewing Officer: Jane Moseley
Dated: 21 September 2020

ITEM C

**The White House, Roedean Road
BH2020/01756
Full Planning**

DATE OF COMMITTEE: 30th September 2020

BH2020 01756 - The White House, Roedean Road



N



Scale: 1:1,250

<u>No:</u>	BH2020/01756	<u>Ward:</u>	Rottingdean Coastal Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	The White House Roedean Road Brighton BN2 5RA		
<u>Proposal:</u>	Demolition of existing dwellinghouse (C3) and erection of 3no three storey detached dwellinghouses (C3) with associated landscaping, car and cycle parking, revised access and vehicle crossover.		
<u>Officer:</u>	Russell Brown, tel: 293817	<u>Valid Date:</u>	30.06.2020
<u>Con Area:</u>		<u>Expiry Date:</u>	25.08.2020
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Mrs Sarah Sheath Dowsett Mayhew Planning 63A Ship Street Brighton BN1 1AE		
<u>Applicant:</u>	Mr and Mrs Pybus Bramsfield Ltd c/o Dowsett Mayhew Planning 63A Ship Street Brighton BN1 1AE		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to GRANT planning permission and the following Conditions and Informatives as set out hereunder.

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Proposed Drawing	800	B	18 August 2020
Proposed Drawing	401	B	18 August 2020
Proposed Drawing	300	B	18 August 2020
Proposed Drawing	100	C	26 August 2020
Proposed Drawing	RCo313 / 01	05	26 August 2020
Location and block plan	YO404-P2-001		30 June 2020
Proposed Drawing	YO404-P2-100	B	26 August 2020
Proposed Drawing	YO404-P2-119	B	26 August 2020
Proposed Drawing	YO404-P2-120	B	26 August 2020
Proposed Drawing	YO404-P2-121	B	26 August 2020
Proposed Drawing	YO404-P2-122	B	26 August 2020
Proposed Drawing	YO404-P2-123	B	26 August 2020
Proposed Drawing	YO404-P2-125		30 June 2020
Proposed Drawing	YO404-P2-126	A	26 August 2020
Proposed Drawing	YO404-P2-127	A	26 August 2020
Proposed Drawing	YO404-P2-200		30 June 2020

Proposed Drawing	YO404-P2-201		30 June 2020
Proposed Drawing	YO404-P2-202		30 June 2020
Proposed Drawing	YO404-P2-203		30 June 2020
Proposed Drawing	YO404-P2-204		30 June 2020
Proposed Drawing	YO404-P2-210		30 June 2020
Proposed Drawing	YO404-P2-211		30 June 2020
Proposed Drawing	YO404-P2-212		30 June 2020

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority including:
 - a) physical samples of all brick (including details of its bonding, mortar colour and pointing), vertical infill detail, quoins and tiling;
 - b) samples of all cladding to be used, including details of its treatment in the case of the weathered timber; and
 - c) specification documents for the proposed window, door and balcony balustrades.
 Development shall be carried out in accordance with the approved details.
Reason: To ensure a satisfactory appearance to the development and to comply with Policies CP12 and CP14 of the Brighton & Hove City Plan Part One.

4. A bee brick shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and SPD11.

5. Four swift bricks shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and SPD11.

6. The hard surface to the front parking area hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with Policies CP8 and CP11 of the Brighton & Hove City Plan Part One and SPD16.

7.
 - a. The landscaping hereby approved shall be implemented in accordance with the submitted details in the first planting season after completion or first occupation of the development, whichever is the sooner.

- b. Prior to the first occupation of the development hereby permitted, details of all boundary treatments to include type, position, design, dimensions and materials shall be submitted to and approved in writing by the Local Planning Authority.

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.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with Policies SU3, SU5, SU9, QD15 and QD16 of the Brighton & Hove Local Plan, CP10 and CP12 of the Brighton & Hove City Plan Part One and SPD06, SPD11 and SPD16.

8. Access to the flat roof to the buildings hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.

Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with Policy QD27 of the Brighton & Hove Local Plan.

9.

- a) No development shall take place until the implementation of a programme of archaeological works has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

- b) The archaeological works shall be carried out in accordance with the approved written scheme of investigation and a written record of all archaeological works undertaken shall be submitted to the Local Planning Authority within three months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is agreed in writing with the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with Policies HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

10. The development hereby permitted shall not be first occupied until details of visitor car parking provision for the development has 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 such use at all times.

Reason: To ensure the development provides for the needs of visitors to the site and to comply with SPD14.

11. The vehicle parking area and garages shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.

Reason: To ensure that adequate parking provision is retained and to comply with Policy CP9 of the Brighton & Hove City Plan Part One and SPD14.

12. The new crossover and accesses shall be constructed prior to the first occupation of the development hereby permitted.
Reason: In the interests of highway safety and to comply with Policies TR7 of the Brighton and Hove Local Plan and CP9 of the City Plan Part One.
13. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with Policy TR14 of the Brighton & Hove Local Plan and SPD14.
14. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with Policies QD27 of the Brighton & Hove Local Plan, CP8 of the Brighton & Hove City Plan Part One and WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
15. No development, including demolition and excavation, shall commence until a Site Waste Management Plan (SWMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.
Reason: To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with Policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.
16. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with Policy CP8 of the Brighton & Hove City Plan Part One.
17. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with Policy CP8 of the Brighton & Hove City Plan Part One.
18. The development hereby approved shall be subject to an on-going landscape management schedule as set out in approved drawing 800 Rev B unless otherwise agreed in advance and in writing by the Local Planning Authority.
Reason: For the avoidance of doubt and to protect both the visual integrity of the South Downs National Park and highway safety concerns and to comply

with Policies TR7, SU3, SU5, SU9, QD15 and QD16 of the Brighton & Hove Local Plan and CP9, CP10 and CP12 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
3. Swift bricks can be placed on any elevation, but ideally under shade-casting eaves. They should be installed at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors.
4. The applicant is advised that advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'.
5. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
6. The water efficiency standard required under Condition 17 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site comprises a two storey detached property in use as a single family dwellinghouse, on the northern side of Roedean Road. It is rendered white, hence its name The White House, and has a garage with a white door to the west side. It is well set back within the site and has a large front lawn, which slopes down towards the driveway, which is long and curved. Access onto the road is shared with the Ocean Heights development to the east. There is a reasonably sized garden to the rear, although access can only be had around the east side as the garage prevents access from the west.

- 2.2. The building is not located in a conservation area, nor is it a listed building or in the vicinity of any. It is not within a Controlled Parking Zone (CPZ) but is within an Archaeological Notification Area. The land directly to the north adjoining the rear boundary is a Site of Nature Conservation Importance (SNCI) since it forms part of the South Downs National Park and the Nature Improvement Area runs along Roedean Road.
- 2.3. The current application seeks the demolition of the existing dwellinghouse (Use Class C3) and the erection of three, three-storey detached dwellinghouses (Use Class C3), two of which would have integral garages, along with associated car and cycle parking, landscaping, revised access and a new vehicle crossover onto Roedean Road.

3. RELEVANT HISTORY

- 3.1. **BH2020/00314:** Roof alterations including creation of an additional storey and erection of single storey side extension at first floor. Addition of balconies to front elevation, alterations to fenestration throughout. Associated landscaping, including creation of swimming pool in front garden. Approved 27 March 2020
- 3.2. **BH2020/00971:** Demolition of existing dwellinghouse (C3) and erection of 3no three storey detached dwellinghouses (C3) with associated landscaping, car and cycle parking, revised access and vehicle crossover. Withdrawn 22 May 2020
- 3.3. **PRE2020/00009:** The proposal is to demolish the existing dwellinghouse and erect three, 5 bed dwellings with associated car and cycle parking, bin storage and landscaping. Response issued 26 February 2020 giving the following advice:
- Whilst the provision of three family sized dwellinghouses that contribute to the Council's housing target and address an identified housing need are supported, the development must help create a sustainable neighbourhood and reflect its positive characteristics;
 - The detached typology and transition between the neighbouring building lines shown in Option 3 would make the most efficient and effective use of the site, although the size of the top storey and number of car parking spaces should be reduced;
 - A modern design would not be out of character with the wider streetscene, subject to materiality and landscaping, which must address surface water run-off and biodiversity;
 - Care should be taken to avoid a loss of outlook from and privacy to Ocean Heights and consideration must be given to the proposed dwellings at the East Brighton Golf Club;
 - The dwellings must provide adequate floor space and bedroom sizes, sufficient floor to ceiling heights, maximise natural light, and one should be suitable for wheelchair users;
 - Whilst the provision of an appropriate level of car parking is encouraged, the LPA consider that a financial contribution towards improving transport infrastructure and services is required; and

- The development must demonstrate how it addresses climate change mitigation and adaptation; makes the most effective use of land, minimises waste and facilitates recycling and reduces air, land and water pollution.

3.4. The following is also of relevance at East Brighton Golf Club:

BH2020/00194: Demolition of existing buildings and erection of 2no three storey dwellings incorporating parking, access, landscaping and associated works. Approved 1 April 2020

4. REPRESENTATIONS

4.1. **Fifteen (15) objections** were received during the consultation period raising the following concerns:

- This development does not make allowances for disabled access and should be refused, otherwise it would allow a developer to discriminate against disabled people.
- The application does very little to help community-wide concerns about overdevelopment, the natural environment, road safety and the developers' neighbours. It does little to satisfy objections previously raised.
- This proposal is not in keeping with the direct neighbours as well as the Roedean area as a whole and would cause traffic / access problems, including for the fire engines emerging from the fire station.
- The plot size is too small for three houses and has resulted in rather odd building shapes and positions.
- The proposed house to the front of the plot is still too close to the boundary line and is too big. The scheme opportunistically eats into the amenity of Ocean Heights. It also sits far too close to the golf club development.
- This site sits on the boundary of a national park and the application will be of detriment to local wildlife as it requires the elimination of hedgerows to create a new entrance.
- Creating three access roads (including that recently approved by BH2020/00194) within metres of each other would surely increase the possibility of an accident on Roedean Road. There is insufficient provision for parking.
- There is no need to build this development of 3 houses when the brownfield Gasworks site is due to be developed.
- The landscaping is insufficient and the garden spaces for the houses are either dark or small.
- The Council or developer should create a proper pathway for pedestrians, young children on cycles, pushchairs and other mobility users.
- More highway signage must be put in place urgently to ensure the road is safe for all, including traffic calming measures and crossing points.
- The proposal would affect neighbouring properties through noise and disturbance, being overbearing, overshadowing, loss of privacy, light and enjoyment of a view, leading to a detrimental effect on property values.
- The houses would also overshadow the practice putting green and outside seating area at the golf course.

- The drainage system may only allow one drain to flow from the site and therefore it may be unable to cope with the proposed flow volume of from the three houses.
- The boundary and excavation for House 3 and its garden is extremely close to Ocean Heights carport, which could cause structural damage.
- The Title Deed of this property mandates that no more than 2 dwellings are permitted to be built on the land. Although planning decisions cannot take into consideration land covenants, should this restrictive covenant be breached there is a risk that an injunction may be obtained.

4.2. The Roedean Residents' Association have objected to the application for the following reasons:

- Houses of this size (5 bedrooms) usually have 2+ cars and there is a risk of dangerous overspill parking on Roedean Road where parking is prohibited. Cars outside the houses risk blocking access to their neighbours' garages.
- The 3 large homes cross the width of the plot and, in consequence of their scale, are unduly dominant on the streetscape. This remains the case despite House 1 being lower than the previous application.
- Their significant height and proximity to the boundary means they overlook Ocean Heights and the approved proposed development to the west. While there is some improvement on the eastern boundary, House 1 is now right up against the eastern boundary to the detriment of the approved development to the west.
- There is latitude in our constitution for more than one home if space allows but these 3 large houses do not fulfil our intent that homes of scale in Roedean have a proportional setting on their plot.
- The adjacent properties leave space for vehicles to exit / enter the road without hindrance. The proposed plan means the hardstanding areas share access routes and could block vehicles wishing to turn off Roedean Road.
- As an organisation, we support the continuous upgrading of property in our area, but the balance of the Association's viewpoint is that this development is against the common interests of our Members.

4.3. **Councillor Mears** has objected to the application. A copy of the correspondence is attached to the report.

5. CONSULTATIONS

5.1. **Transport:** Unable to recommend approval of this application due to the following:

There being no pedestrian and mobility impaired access that links the dwelling to the surrounding public footway and bus network on Roedean Road. Residents would have to walk on the roadside to access the footway and bus stops west of the site. There is no footway along Roedean Road for pedestrians to safely access the site, which has the potential to bring persons walking to the site in direct conflict with vehicles and other highway users. This would be particularly dangerous for pedestrians:

- At night time when there is reduced light.

- When two vehicles pass each other, and there are parked vehicles on the southern edge.
- 5.2. The speed and frequency may impact on the risk (both negatively and positively), but not significantly enough to satisfy our safety concerns. The lack of footway would also increase the level of vehicles travelling to and from the site disproportionately to that of more sustainable areas of the City. This would be contrary to the NPPF section 110a which requires development to “give priority first to pedestrian and cycle movements”. A lack of footway from this development to local amenities, such as the closest bus stops, would mean those with mobility issues, such as wheelchair and buggy users, would have no choice but the drive to and from the site being contrary to NPPF section 110b which requires development to “address the needs of people with disabilities.”
- 5.3. The applicant attempts to make a case in the transport report that a footway is not needed and references an inspectors decision over a site in a rural area / village. This site is not comparable being:
- on a ‘B’ road leading to an ‘A’ road;
 - in relatively close proximity to a City centre; and
 - close to a city centre public transport route e.g. Roedean Crescent bus stops and 14 route.
- 5.4. A footway is therefore expected to be provided. Ideally this should be for the length of Roedean Road on its northern edge. It is understood that this may be unreasonable for this size of development. We therefore would be willing to accept a shorter stretch of footway eastwards along the northern edge Roedean Road linking the site to the Roedean Crescent bus stops.
- 5.5. No step-free access for two of the three proposed residential units, limiting access for residents with protected characteristics. The access across the site provides significant barriers to pedestrians and disabled users, with no provision of step free access to two of the three proposed units. The two units to the north of the site proposes a significant level of steps leading up to the entrance and would be unsurmountable to many people that may be resident or visiting. Therefore, this proposal does not meet the requirement of the NPPF to ensure “safe and suitable access to the site can be achieved for all users.” It is also not considered there to be objective justification for this and therefore it is deemed not to comply with the Equalities Act 2010.
- 5.6. The space being provided for vehicle parking appears overly generous allowing additional parking to be accommodated on site. This could lead to obstruction to other highway users and over-provision of the maximum number of vehicles allowed in Parking Standards SPD14. Three parking bays are proposed for the residents within garages, with an additional two visitor bays on the forecourt. Parking Standards allow one space per dwelling and 1 space per 2 dwellings. Therefore, the five indicated spaces are already above the maximum standards that would be 4 spaces in this case. There is also concern that the large forecourt would allow excessive parking for residents above those indicated on the submitted plans and well above the maximum parking

standards (SPD14). If overparking does occur this may mean access is obstructed (pedestrian, cycle and vehicle) and vehicles may have to reverse off the site onto the public highway and this would be unacceptable. On a site where there are more than one or two dwellings there is greater probability of this occurring. This would increase the risk of danger on the highway and not comply with Policy TR7. Prior to determination, we require a reduction in the width of the crossover and forecourt, a hatched turning head to enable all vehicles to enter and exit in a forward gear and a reduction in formal visitor parking from two spaces to one.

- 5.7. There is concern that a servicing / refuse truck may not be able to enter and exit the site in a forward gear safely (the applicant has provided a swept path analysis for a family vehicle only). A swept path analysis using the likely type of vehicle size is required prior to determination. The applicant should contact the City Council's City Clean for further information on size of vehicle.
- 5.8. There is concern that the proposed new vehicle crossover would reduce road safety, with foliage and a steep verge on either side of the access reducing visibility. It is however acknowledged that there is sufficient space on and off site for these matters to be dealt with via an appropriately worded condition. The condition must also include any necessary management and continued maintenance of the hedging. The information provided in the transport report is noted, but further design details are requested and must comply with national and / or other recognised local authority guidance, such as East Sussex County Council.
- 5.9. It is also recommended that refuse and recycling collection area / compound is proposed to ensure wheelie bins are contained and do not cause obstruction or nuisance on the highway.

Following the submission of revised drawings, the following comments were provided:

- 5.10. The reduction in the access width is welcomed, however five parking spaces are still proposed for a development that only has three dwellings. SPD14 states that there must be a maximum of a space per dwelling plus a space per two dwellings for visitors. It is not the case SPD14 'suggests parking is rounded for C3 residential units.
- 5.11. It is particularly important that parking is reduced as the applicant has provided a swept path analysis that indicates that refuse and recycling vehicles cannot make the necessary manoeuvres to exit the site in a forward gear. It is therefore requested that an amended plan is submitted prior to determination that includes the following:
- The south eastern visitor space near the hedging shall be removed and replaced by an appropriately sized 'no parking' / hatched turning area; and
 - one visitor space shall be retained, but located further north without obstructing the bin store. This will allow the refuse vehicle to enter and leave in a forward gear.

- 5.12. Without such amendments refuse and recycling are likely to occur on the highway causing obstruction to other users (contrary to Local Plan Policy TR7 and the site's car parking provision shall exceed the maximum standards.
- 5.13. For this new development it would be unacceptable for refuse and recycling servicing to occur on-street and bins to be left on the highway, even temporarily on collection day. This is particularly important as, unlike the southern side of Roedean Road, the site's entrance and crossover on the northern side are likely to be on a significant slope. This could result in:
- Refuse and recycling bins rolling or getting blown into the street when left empty, endangering and obstructing other motorists and highway users; and
 - refuse vehicles obstructing a classified road whilst stationary and making its collections.
- 5.14. We strongly request that further swept path analysis is submitted to ensure access for all refuse / servicing vehicles. This would also reduce the need for any other unnecessary manoeuvring of other vehicles using the site.
- 5.15. Pedestrian access within the site provides significant barriers to pedestrians and those with mobility issues, with a sloped access and no provision of step free access to two of the three proposed units. The two units to the north of the site proposes a significant level of steps leading up to the entrance and would be unsurmountable to many people that may be resident or visiting. The applicant has stated that it would be possible for lift access mentioned by the applicant to be provided in the future from the garages. They do not however propose this, and it should be considered as a recommendation by the LPA.
- 5.16. The proposed cycle parking spaces are acceptable.
- 5.17. There is concern that the proposed new vehicle crossover would reduce road safety, with foliage and a steep verge on either side of the access reducing visibility. It is however acknowledged that there is sufficient space on and off site for these matters to be dealt with via an appropriately worded condition to include any necessary management and continued maintenance measured.
- 5.18. It is recommended that a refuse and recycling collection area / compound is proposed on the hardstand to ensure wheelie bins are contained and do not roll down the driveway and cause danger or obstruction on the highway.
- 5.19. It is not considered that there is reasonable 'objective justification' under the Equality Act 2010 for the significant barriers across the site to access for pedestrians and disabled users, and the inadequate pedestrian access to and from the site given the lack of a footway on the adjacent 'B' classified carriageway (Roedean Road).
- 5.20. Further revised drawings were submitted and it was not considered sufficient to remove both marked visitor parking spaces as this would result in the hardstand being a larger car parking area with more cars than before. Additionally, the collection area does not appear to be a formal enclosure.

- 5.21. **County Landscape Architect: Recommend for refusal**
The existing houses on the north side of Roedean Road are set back from the road behind large gardens. The Ocean Heights development is set back from the road and green roofs have been used over the car ports, which to some extent mitigate for the loss of the green frontage.
- 5.22. The proposal to provide three houses on this site would leave little space for an adequate landscape mitigation plan. A landscape scheme has been submitted to support the proposed development and this includes proposed trees on the first floor level to the south of the amenity garden areas. These trees would shade the south facing gardens and rooms. They would also compromise the already limited garden space available to residents. Trees located on the terraces would be limited to small specimens in planters and therefore in a restricted growing medium. These trees would only be present if desired by the residents and whilst shade may be welcomed on the hottest days for most of the year it may not be desirable.
- 5.23. The proposed development would have an adverse impact on the views from the South Downs National Park (SDNP). Whilst it is recognised that the development would be seen in the context of other development on the urban edge, the development would represent a cumulative adverse effect. The proximity of the proposed development and the adjacent Ocean Heights would exacerbate the adverse visual impact of the bulk of buildings in views from the SDNP.
- 5.24. The submitted landscape scheme does propose planting of trees in the rear gardens. The space available is not sufficient to plant species of trees that would grow to an adequate size to mitigate for the loss of green infrastructure within the site. Trees planted in private spaces are not usually considered to be reliable mitigation as the residents are at liberty to remove them in the longer term.
- 5.25. The creation of the new access would have an adverse impact on the green bank and hedgerow which fronts Roedean Road. The front garden of the White House provides a green buffer between the house and the road. This green character extends eastwards along the north side of Roedean Road. The intensity of built development proposed in this application would not provide an opportunity for a new landscape scheme to soften the appearance of the proposed development on this frontage.
- 5.26. It is recommended that the proposed development is not supported as it would be an overdevelopment of the site. There would be a lack of green space around the buildings to allow for adequate landscape mitigation and the proposal would have an unacceptable impact on local townscape / landscape character and views.

Following a review of the detailed landscape plan, the following comments were provided:

- 5.27. The site frontage on to Roedean Road: The detailed landscape scheme proposes six Ginko biloba trees, which are deciduous, underplanted with ornamental planting. In optimum conditions these trees grow to 12m high and 4-8m spread by 20 years. The constrained planting area would probably stunt this growth, however these trees would become a nuisance for the residents over time. They are also deciduous and would provide little winter screening. A more practical solution that could provide an effective screen would be to plant some fastigiate (upright) conifer trees with a tall shrub understorey and climbing plants to grow down the wall including a high proportion of evergreen plants.
- 5.28. In conclusion, this would not resolve the impact of the hard surfaced access onto Roedean Road which would remove a wide section of the vegetated bank. A solution to this could be to provide a narrower access or one similar to the consented permission for this site.
- 5.29. The rear boundary with the SDNP: As House 1 would be set back from the boundary with a lawn area to the north this would help to break up the massing and this unit would not have a significant impact on the SDNP.
- 5.30. The detailed planting plans do indicate a belt of native shrub planting with four Quercus ilex (holm oak trees) and five Hawthorn trees and the area for this is 2m at the widest point. The concerns with this are that the holm oaks are evergreen and they grow to a spread of 8m and height of 12m. Unless these are regularly pruned to control the spread they will become a nuisance in the small space available. The mixed native shrubs would also soon outgrow the available space. There would be no guarantee that the residents would want to retain the shrubs or the holm oaks which would become a nuisance to them within a few years of occupancy.
- 5.31. Mitigation planting for housing developments is usually in public areas and outside the control of individual householders so that it is managed and protected in the long term.
- 5.32. There are possible planting solutions for this area which could provide an acceptable screen. This would not necessarily need to be limited to native planting as there is a garden character to the extended boundary of Roedean with the SDNP. A mix of native and ornamental planting would give more flexibility and would be more likely to be acceptable to the future residents, however it would still need to be protected in the long term. Alternating fastigios (upright) species of hawthorn, Acer campestre and conifers could provide a solution. These would need to be underplanted with a mix of deciduous and evergreen shrubs of limited spread.
- 5.33. A selection of both deciduous and evergreen ornamental species which provide a range of flowers to attract pollinators would be ideal and would provide ecological benefits e.g. varieties of hebes, viburnums, buddleias and lilacs. This approach would be more likely to be accepted by the residents but this still would not guarantee long term retention should the residents decide they want more open space.

- 5.34. Following the submission of revised landscape proposals, it was confirmed that they had addressed previous concerns. With the fully implemented landscape proposals, the proposed development would have an acceptable impact on the SDNP and Roedean Road.
- 5.35. **Brighton and Hove Archaeological Society:** Suggestion to contact the County Archaeologist for their recommendations.
- 5.36. **County Archaeology:** Recommend for approval - The information provided is satisfactory and identifies that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of a planning condition.
- 5.37. **Environmental Health:** no comment, concerns or conditions to recommend
- 5.38. **Private Sector Housing:** There doesn't seem to be separation between the hallway and the kitchen/ living room in House 1. There should be a door as the kitchens/ living rooms are high risk rooms and should there be a fire, it would not be contained.
- 5.39. **Planning Policy:** No comments

6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Joint Area Action Plan (October 2019)
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation which is currently being undertaken to 30 October 2020.

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP1 Housing delivery

CP8 Sustainable buildings

CP9 Sustainable transport

CP10 Biodiversity

CP12 Urban design

CP14 Housing density

CP15 Heritage

Brighton & Hove Local Plan (retained policies March 2016)

TR7 Safe Development

TR14 Cycle access and parking

SU5 Surface water and foul sewage disposal infrastructure

SU10 Noise nuisance

QD15 Landscape design

QD16 Trees and hedgerows

QD27 Protection of amenity

HO5 Provision of private amenity space in residential development

HO13 Accessible housing and lifetime homes

NC4 Sites of Nature Conservation Importance (SNCIs) and Regionally Important Geological Sites (RIGS)

HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents:

SPD06 Trees and Development Sites

SPD11 Nature Conservation and Development

SPD14 Parking Standards

SPD16 Sustainable Drainage

Supplementary Planning Guidance

SPGBH9 A Guide for Residential Developers on the Provision of Outdoor Recreation Space

Other Documents

Urban Characterisation Study 2009

East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan - Policy WMP3d and WMP3e

8. CONSIDERATIONS & ASSESSMENT

8.1. The main considerations in the determination of this application relate to the principle of development, the design of the dwellings, their impact on the setting of the SDNP, neighbouring amenity and on the highways network as well as the standard of residential accommodation created and archaeological matters.

8.2. Because of Covid restrictions, officers did not undertake a site visit in relation to the present application, but the case officer has visited the site on an earlier date in relation to previously applications. It is therefore considered that the context of the development and the planning considerations relating to this are well understood.

Principle of development:

8.3. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.

8.4. The Council's most recent housing land supply position published in the SHLAA Update 2019 shows a five year housing supply shortfall of 1,200 (equivalent to four years of housing supply). As the Council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

8.5. Three family sized dwellinghouses, two of five- and one of four-bedrooms, would help to meet an identified housing need with the city and would make a contribution, albeit a minor one, towards the Council's housing target.

8.6. Density, the design of the dwellinghouses, their impact on neighbouring amenity, the standard of accommodation and other matters are discussed below.

Density:

8.7. The site is within the Black Rock neighbourhood where the average dwellings per hectare (dph) is 13. The low density, two storey residential development with large gardens in the immediate surroundings of the site contrasts with the high density apartment blocks within the Marina to the south. Thus the variations in gross density range from less than six dph to greater than 90 dph. The present proposal would provide 24 dph, which is therefore nearly double the average density for the neighbourhood.

8.8. City Plan Part One Policy CP14 outlines that, for developments below 50 dph, a lower density will be accepted where it can be adequately demonstrated that the development would reflect the neighbourhood's positive characteristics, would meet the housing needs of a particular group or groups within the community and would better contribute towards creating a sustainable

neighbourhood. It is considered that the development would generally reflect the surrounding neighbourhood's 'positive characteristics', and would help to meet the housing needs of families seeking large homes. In relation to the 'creation of a sustainable neighbourhood', consideration will be had in the remainder of this report to the criteria in Policy SA6: Sustainable Neighbourhoods, principally parts A5 (sustainable transport), A6 (sustainable buildings), A8 (mix of dwelling types and tenures) and B2 (biodiversity and open space).

Design:

- 8.9. Roedean Road comprises a wide variety of substantial detached houses. In general, properties on the northern side of Roedean Road are set on rising land above the road. This has resulted in some properties, particularly on that side of the road, being particularly prominent in the streetscene, including some which are of modern design and materials. Some of these houses are immensely striking, both from Roedean Road and in wider views, including from the main coast road. These now form a strong element of the already eclectic mix of styles and ages of houses and the range of materials that contribute to the general character and appearance of Roedean Crescent.
- 8.10. In this context, three proposed dwellings of patently modern design, even though they are different from the other examples, would not be generally out of character with the wider streetscene and would not adversely affect its diverse appearance. Moreover, this area is not subject to any special heritage or landscape protection.
- 8.11. The immediate surrounds are largely characterised by two and three storey buildings, albeit many of the former have sufficiently steep pitched roofs allowing for the loftspace to be habitable, effectively providing a third floor of living accommodation. The nine storey 1930s Marine Gate building is further afield to the south west on Marine Drive (A259). However, in the immediate context the Ocean Heights development to the east is five storeys and the East Brighton Golf Club to the west is two storeys.
- 8.12. All of the proposed three storey dwellinghouses would sit below the ridge height of the existing dwellinghouse (by 1.05m in the case of House 3), and well below the recently approved dwellinghouse on this site (by 2.25m in the case of House 3). They would also mediate between the height of Ocean Heights and the golf club buildings regardless of whether BH2020/00194 on the site of the latter is constructed. It is recognised that the proposal optimises the potential of the site in terms of the number of storeys by using the topography, together with some excavation, to partially sink the lowest floor into the land. The design approach to not exceed the ridge height of either of the adjoining buildings is supported. Flat roof forms are proposed to keep the height low and to allow the provision of photovoltaic panels, which is welcomed.
- 8.13. Concern has been raised in objections received that the proposal represents overdevelopment and 'crams' three houses onto the site. Notwithstanding the density considerations, the plot sizes are 336.4m² for House 1, 298.2m² for

House 2 and 356.2m² for House 3. In comparison, the two approved houses on the adjacent site to the west have plot sizes of 306.4m² and 422m². Therefore, two of the proposed dwellinghouses would sit on similar-sized plots to these, and House 2 is only slightly smaller than the eastern-most approved dwellinghouse. Of the two properties directly across from the application site, nos. 37 and 39, the plots sizes are 673m² and 768.5m² respectively, which are more typical of properties built at that time and therefore are not considered to be directly comparable.

- 8.14. The volumes of the proposed buildings at the lower ground floor or at ground floor level are increased, but this is not evident as they are set down into the site. The upper floor levels are well set back from the lower ground floors and from Roedean Road in a stepped arrangement to reduce the visual massing of the development. The set back design allows the introduction of front terraces, patios and gardens at ground floor level, to which there is no design-based objection.
- 8.15. It is noted that there is not a strong prevalent building line along the north side of Roedean Road. Therefore, the proposal to project the front building line of House 1 past that of the golf club buildings to the west is considered acceptable. It is noted that were the approved development on the adjacent site to the west to be constructed, the front building line of House 1 would line up with both dwellinghouses. At ground and first floor level the front building line of House 3 would align with the front facades of Ocean Heights.
- 8.16. The use of acceptable materials is crucial to successfully assimilate the proposed design into this part of the road and ensure a high quality finished development. It is necessary to ensure they are sympathetic to the area, including in terms of colour, texture and quality.
- 8.17. The proposal employs a modern approach as shown in the 3D images within the Design and Access Statement. The proposed dwellinghouses would be constructed in materials to both unite them and to also express their individuality from one another. Together with their form and scale, each house would be distinguishable, but a common palette of materials would be used in the form of white / light grey / dark grey brick in addition to bronze coloured metal and timber cladding.
- 8.18. It is considered that the use of bricks of contrasting colour and texture would be durable and contemporary yet would complement the rest of the material palette. Further details of the brick and vertical infill detail are recommended to be secured by condition in the event of an approval. Recessed infills of weathered timber cladding panels are also proposed to be used in places to break up larger areas, details of which can also be included in the condition. The bronze coloured metal cladding would be used to accentuate the frames of openings through extrusions and would appear as a series of overhanging or stacked forms to the front and rear elevations. Again, details can be conditioned.

8.19. The proposal is therefore considered to be of a high standard of design and would help to create a coherent townscape that would respect the character of the neighbourhood while contributing positively to its sense of place.

8.20. As such the proposal is considered to be compliant with City Plan Part One Policies CP12 and CP14.

Impact on the setting of the South Downs National Park:

8.21. City Plan Part One Strategic Area Policy SA5 sets out that the Council will protect and enhance the natural beauty of the South Downs National Park. Since this proposal is within its setting, it must respect and not significantly harm it, but where any adverse impacts are had, these must be minimised and appropriate mitigation or compensatory measures proposed, which should have regard to landscape character and impacts.

8.22. Whilst the County Landscape Architect previously raised concerns about the proposed development's impact on the setting of the SDNP, these have now been addressed by amendments. These include the increased use of native shrubs blended with semi-ornamental planting to the front boundary, alternative tree species and planting within raised planter to the rear boundary, an evergreen hedge within a raised planter to the east side of the hardstanding, the narrowing of the site entrance to allow greater retention of existing shrubbery and the submission of a Landscape Contract Agreement. As such, subject to conditions to secure the full implementation of the landscape proposals, the proposed development would have an acceptable impact on the SDNP and Roedean Road.

8.23. It is worth noting that no rooflights have been proposed to protect the SDNP's designated status as an International Dark Sky Reserve. No external lighting would be installed either.

Trees, Landscaping and Biodiversity:

8.24. The ratio of hard to soft landscaping is in favour of the latter and has been shown on the planting and landscaping plans submitted with this application.

8.25. In total, nine trees would be planted on site, selected for their suitability to the site and would be a mix of evergreen and deciduous. Some are included for their form and colour and others are chosen for screening. The *Ilex aquifolium* 'JD van Tol' trees would be semi-mature, the field maple and common hawthorn would be 'Heavy Extra Standard' and Sorbus 'Joseph Rock' would be 'Heavy Standard'. In effect, this means that they would need space to grow, which has been factored into the plans. Numerous shrubs of many varieties are also proposed around the site and which would be robust, easily maintained and suitable for the location. Many of the plants would enhance the general ecological potential of the site, adding habitats for wildlife and food sources for insects and invertebrates.

8.26. It is still considered necessary to add a condition requiring four swift bricks and a bee brick to further improve ecology outcomes on the site in accordance with City Plan Part One Policy CP10 and SPD11.

- 8.27. To avoid any surface water escaping the site, the driveway surface would be of tarmacadam / asphalt which can be porous upon a 150mm sub-base. It is recommended that further details are secured by condition to ensure the type used is porous, or the 1:60 fall incorporated directs water to a drainage gully.
- 8.28. Given that the submitted information is sufficient and acceptable to Officers, only a condition requiring the landscaping to be implemented in the first planting season after completion or the first occupation of the development, whichever is the sooner, would be imposed in the event of an approval. It would also require any trees or plants that die, are removed or become seriously damaged or diseased to be replaced in the next planting season with others of similar size and species within a period of 5 years from the completion of the development.
- 8.29. The landscaping proposals therefore accord with criteria A9, which mentions tree planting and projects that improve the environment, and B2, which supports improvements to biodiversity, of Policy SA6.

Impact on Neighbouring Amenity:

- 8.30. Paragraph 127 of the NPPF outlines that planning decisions should ensure that developments create places that promote health and well-being, with a high standard of amenity for existing and future users.
- 8.31. It is not considered that, following changes made to the previously withdrawn scheme, the proposal would have any significant impact on daylight for the two approved dwellings at the East Brighton Golf Club (ref. BH2020/00194), as demonstrated .
- 8.32. Officers consider that the findings of the Daylight and Overshadowing Report are acceptable, and there would be no significantly detrimental impact on the external amenity areas of the permitted new dwellings or of Ocean Heights. There is no requirement to assess the impact on the practice putting green and outside seating area of the golf course itself. It is worth noting that the external amenity areas of the proposed dwellings have been designed with BRE guidance in mind, and although the rear terrace of House 1 and both the rear terrace and garden for Houses 2 and 3 fail in respect of hours of sunlight received on 21st March, all have additional spaces to the south that do comply with the BRE guidelines, which naturally receive more daylight and sunlight.
- 8.33. In terms of the impact of the proposed development on the lower ground floor level of Flat 1 Ocean Heights, this would mainly be in respect of loss of light to the obscure glazed rooflights over both bedrooms. Compared with the existing dwellinghouse, House 3 is approx. 1.3m closer to the eastern boundary (2.5m compared to the existing 3.8m) but would be 70cm lower than the existing eaves and lower in terms of total height. It would also be 6.1m lower than the approved scheme. Therefore, by reducing the ground levels on the application site and stepping the side elevation, it is considered that the current proposal would not worsen any relationship that could currently occur, particularly taking

into account the potential erection of a fence up to 2m high under 'permitted development' rights.

- 8.34. House 1 would now be 6.33m from the permitted new dwellings at 8.25m high from ground level and House 3 would be 2.5m from Ocean Heights at 10.74m high. Whilst the depth of the dwellings at 10.32m (House 1) and 14.74m (House 3) would be substantial, it is not considered that they would be unacceptably overbearing or cause a significant sense of enclosure for neighbouring residents, and certainly not to such a degree that it warrants a refusal of this application on those grounds. It is noted that this impact is lessened by the dwellinghouses being sunken into the site.
- 8.35. Given the wide site and uninterrupted views from the terraces at Ocean Heights it is not considered that those dwellings would suffer from a material loss of outlook. In terms of the permitted new dwellings, there is no material impact on the second floor living room as it is dual aspect and the impact on the outlook from the upper ground floor snug is not considered sufficient to warrant a refusal.
- 8.36. The west-facing windows of the dwellings either serve ensembles or a void and therefore no overlooking of the permitted new dwellings would result. A condition would be imposed to prevent the flat roofs of the dwellinghouses being used as any kind of external amenity area. The proposal would therefore be acceptable with regards to overlooking.
- 8.37. The use of the site would intensify through comings and goings given the increase in dwellings and residents, but it is not expected that any impact would be significantly harmful to amenity from an additional two dwellings.
- 8.38. For the reasons above, the proposal would be unlikely to result in significantly adverse amenity impacts on neighbouring occupiers and would broadly be in accordance with Policy QD27.

Standard of Accommodation:

- 8.39. Policy QD27 of the Brighton and Hove Local Plan aims to secure a good standard of living accommodation for current and future occupiers in all new developments. Accommodation should therefore provide suitable circulation space within the communal spaces and bedrooms once the standard furniture has been installed, as well as good access to natural light and air in each habitable room.
- 8.40. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, they provide a useful guideline on acceptable room sizes that would offer occupants useable floor space once the usual furniture has been installed.

- 8.41. There is no Gross Internal Area (GIA) guideline for a five bed, nine person property over three storeys. On the basis that 9m² is the difference between the GIA for a five bed dwelling for seven people and that for a five bed dwelling for eight people, 134m² would be an appropriate GIA for the proposed dwellings in order that they may provide an acceptable standard of accommodation. In the case of Houses 1 and 2 their GIAs would be 204.1m² and 199.5m² respectively, which is well in excess and welcomed. House 3 would also have a GIA of 181.4m² over and above that required by the NDSS of 121m². All of the other bedrooms are sufficiently sized, as are the floor to ceiling heights of at least 2.35m.
- 8.42. All of the dwellinghouses would have at least dual aspect to the north and south allowing for cross-ventilation as well as sufficient outlook and ventilation. House 1 would also have west-facing windows to the ground floor kitchen.
- 8.43. As previously noted, all of the proposed dwellings have external amenity areas that receive sufficient natural light. Subject to a condition regarding boundary treatment, all would be sufficiently private, although there would be varying degrees of overlooking from the terraces to the front of Ocean Heights, which is unavoidable.
- 8.44. As such, the proposed development is considered to provide a good standard of accommodation for all dwellinghouses, compliant with Local Plan Policy QD27.

Impact on Highways:

- 8.45. Officers would accept the proposal meeting the maximum car parking standards, rather than providing less spaces than the standards, given the site's location and the following points:
- A driveway needs to be retained for access to the garage so the driveway cannot be designed in such a way so as to be unsuitable for car parking, nor can it be shortened without moving the dwellinghouses forward of the front building line of the neighbouring club house, which would be unacceptable on design grounds.
 - The proposed dwellinghouses would have five bedrooms and a potential maximum occupancy of nine people. As such, it would be unreasonable to restrict car parking further.
 - Any overspill car parking can be accommodated nearby since the site is not within a CPZ.
- 8.46. In this case, the maximum car parking standards in Outer Areas for three, 3-4+ bed dwellings are three spaces plus one space for visitors. There would be a space for each dwellinghouse (within the integral garage for Houses 2 and 3) and following amendments, the visitor parking has been removed. The retention of the garage for car parking purposes would be restricted by condition in the event of an approval and it is considered that the marking out of a visitor parking space can also be secured by condition.
- 8.47. It is considered that the proposed cycle parking spaces are acceptable and given that they would all be acceptable in terms of number of spaces, size and

location (being secure and dry), it is recommended that a condition be added to secure their implementation prior to occupation and retention in perpetuity.

- 8.48. The provision of a pedestrian footway to the front of the site to either meet the existing pavement to the west of the golf course entrance (or indeed its car park) or to the corner of Roedean Crescent is complicated for legal and highways-related reasons. Whilst ideally the site would be accessible on foot, Officers recognise that this is an existing situation and the provision of two additional dwellings is not considered to necessitate a significant additional need for a pedestrian footway. Any requirements for such a footway would therefore be disproportionate to the scale and impact of the development
- 8.49. In terms of configuration of the vehicular access to the site, this has been reduced, as requested by the Local Highways Authority (LHA). However, it is noted that there is the potential for the foliage to reduce visibility by intruding into sightlines, and therefore compromise highways safety if allowed to grow unchecked. It is recommended that a condition be added to secure compliance with the Landscape Management Ownership drawing submitted with the application.
- 8.50. The hardstanding to the front of the site allows for the refuse and recycling vehicles to service the proposed development on-site, which is supported. The swept path drawings also show that larger vehicles, whether owned by residents or driven by visitors, and delivery vehicles could access and turn around within the site without reversing onto the road, which is very busy, as acknowledged by representations received. This would also inform the location of the visitor parking space to be marked out.
- 8.51. In terms of the refuse and recycling bins, an area for these to be left on collection day is shown on the submitted plans, and it is acknowledged that this does not facilitate on-street collection. Whilst the LHA have requested for a compound to be proposed, it is worth noting that the hardstanding only has a slight fall of 1:60 and it is therefore very unlikely that bins would roll into the road on collection days when they are left outside their internal stores.
- 8.52. There is not forecast to be a significant increase in vehicle trip generation as a result of this proposal and therefore any impact on carriageways would be minimal and within their capacity, which is therefore acceptable.
- 8.53. Following comments from the Local Highways Authority (LHA), it has been clarified that lift access for Houses 2 and 3 can be provided in the future from the garages and this has now been shown on the plans. House 1 already benefits from level access from the hardstanding to the front of the site. It is noted that the site levels complicate the possibility of providing a stairlift and / or ramped access externally and that Local Plan Policy HO13 only requires 5%) of all new dwellings to be built to a wheelchair accessible standard on sites of more than 10 new dwellings, which therefore does not apply in this instance.

- 8.54. As such, it is not considered that there any highways issues that would warrant a refusal of this application other than those that can be adequately controlled by condition.

Archaeology:

- 8.55. The proposed development is on the site of prehistoric and Roman burials, illustrated by the 2003 discovery of an early Bronze Age burial just 50m to the west of the site. An additional Bronze Age burial and an Iron Age ditch is recorded approx. 100m to the north-east of the site, and a further two burials of Roman date are recorded within 250m. Other finds of prehistoric and Roman material within a 250m radius of the site include coins, pottery and struck flint.
- 8.56. It is anticipated that groundworks undertaken in association with the proposed development have the potential to expose and disturb significant below ground archaeological remains including in-situ human burials. In the light of the potential for impacts to heritage assets with archaeological interest resulting from the proposed development, the area affected by the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features that would be disturbed by the proposed works, to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss. A condition shall be imposed.

Sustainability:

- 8.57. City Plan Part One Policy CP8 requires new development to demonstrate a high level of efficiency in the use of water and energy and for it to achieve 19% above Part L for energy efficiency in addition to meeting the optional standard for water consumption. Therefore, conditions are recommended to ensure the development met those standards. It is noted that Mechanical Ventilation with Heat Recovery (MVHR), solar technologies, timber from certified sustainable sources, locally derived materials that have low embodied energy and sustainable drainage techniques are to be used, which is welcomed. Conditions relating to bee bricks and swift boxes are also proposed. The proposal would also help to achieve the aims of part A6 of Policy SA6 to promote and support environmental sustainability improvements to new buildings.

Issues raised by consultation:

- 8.58. Issues regarding covenants within Title Deeds, structural damage, the drainage system, property values and loss of a view are not relevant planning considerations and therefore have not been taken into account in the determination of this application.

9. CONCLUSIONS

- 9.1. This proposal would provide three new dwellinghouses of a good standard accommodation and high-quality architecture. The application would also contribute towards creating a sustainable neighbourhood and result in ecology / biodiversity improvements without having an adverse impact on the setting of the SDNP, neighbouring amenity, highways and archaeological assets,

subject to the imposition of suitable conditions. As such, this application is recommended for approval.

10. EQUALITIES

- 10.1. Whilst level access is provided for House 1 from the hardstanding to the front of the site, the internal space for House 2 and 3 is over three levels due to the existing topography of the site. The extent of the level change is such that the dwellinghouses cannot be wheelchair accessible, although they can be adaptable for those with a mobility-based disability were a lift installed within the garages in the future as shown on the plans.



PLANNING COMMITTEE LIST

Brighton & Hove COUNCILLOR REPRESENTATION
City Council

Cllr. Mary Mears

BH2020/01756 – The White House, Roedean Road

24th July 2020:

As a ward Councillor for Rottingdean Coastal I am writing to object to the above planning applications for the following reasons;

I objected to the first planning application and this new application does not address my previous concerns.

The proposed 3x5 bedroom family houses is a gross over development of the site the design of the three houses are bulky and cover the width of the plot and would cause overshadowing , house no1 is now right up to the boundary.

This development is to close to the boundary of Roedean Road, it is showing a single parking space per home plus 2 shared spaces for visitors, houses of this size would normally have more parking spaces per house.
There is also a serious issue of safety on this section of Roedean Road which has double yellow lines and no foot path, and a steep bank on the north side the proposed access is shared with Ocean Heights and would mean that traffic would be using this access on a blind bend.

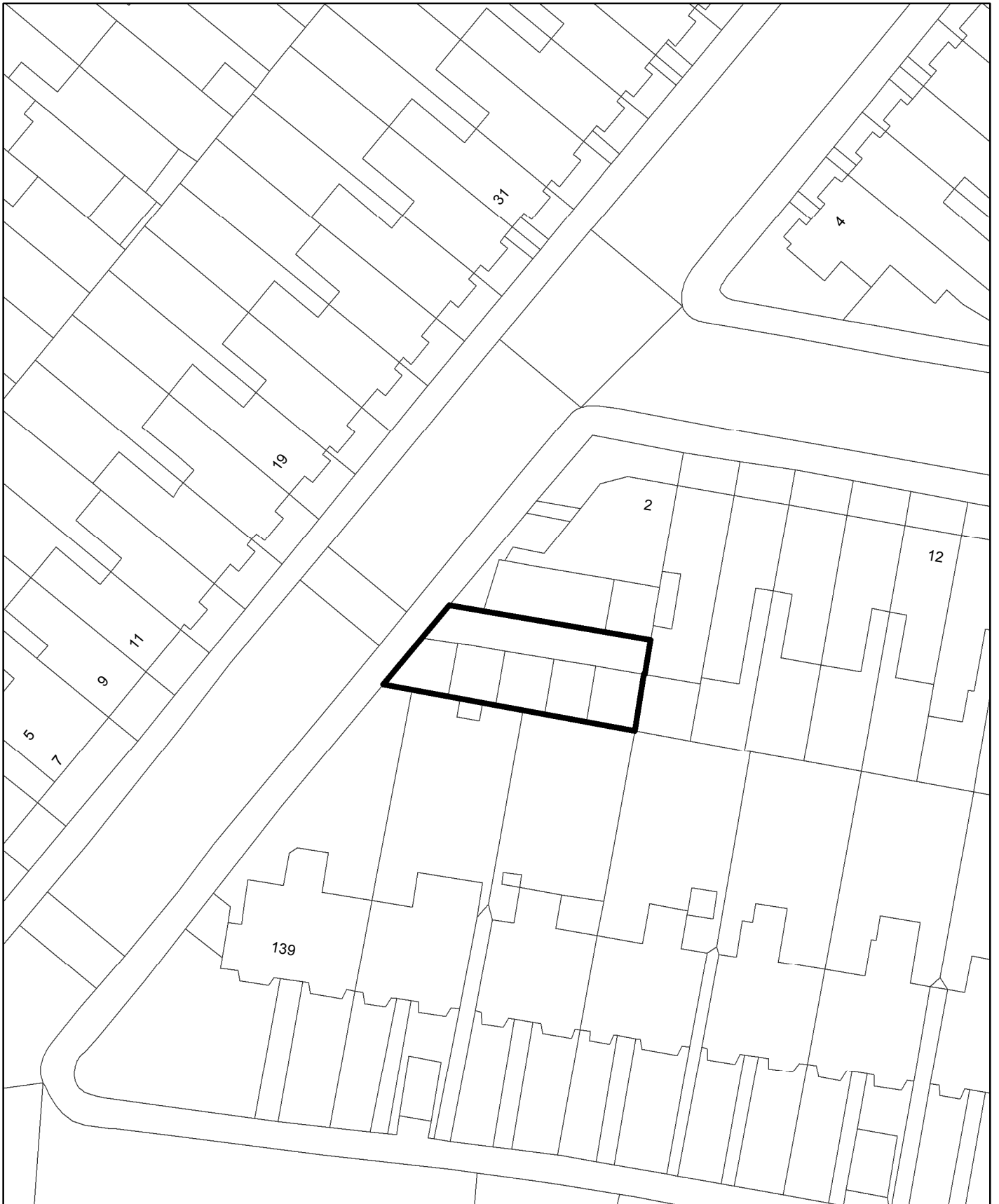
Should this planning application be minded to grant under delegated powers, I wish this planning application to go to the planning committee and reserve my right to speak.

ITEM D

**Garages At 2A Lowther Road
BH2020/01823
Full Planning**

DATE OF COMMITTEE: 30th September 2020

BH2020 01823 - Garages At 2A Lowther Road



N



Scale: 1:452

<u>No:</u>	BH2020/01823	<u>Ward:</u>	Preston Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Garages At 2A Lowther Road Brighton BN1 6LF		
<u>Proposal:</u>	Demolition of existing garage & storage sheds and erection of a three storey building to form 3no one-bedroom flat (C3).		
<u>Officer:</u>	Sven Rufus, tel: 292454	<u>Valid Date:</u>	06.07.2020
<u>Con Area:</u>		<u>Expiry Date:</u>	31.08.2020
<u>Listed Building Grade:</u>		<u>EOT:</u>	
Agent:	Stickland Wright Ltd. 4 Gloucester Passage Brighton BN1 4AS		
Applicant:	Glenvale Investments C/o Stickland Wright Ltd. 4 Gloucester Passage Brighton BN1 4AS		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Proposed Drawing	20029-P-012		6 July 2020
Proposed Drawing	20029-P-110	B	9 September 2020
Proposed Drawing	20029-P-111		6 July 2020
Location and block plan	20029-P-001		6 July 2020

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

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

3. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) samples of all hard surfacing materials
- d) details of the proposed window, door and balcony treatments

e) samples of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

4. Prior to the first occupation of the development hereby permitted the applicant shall reinstate the redundant vehicle crossover outside the site in Lowther Road back to a footway by raising the existing kerb and footway.

Reason: In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the City Plan Part One.

5. The hard surface hereby approved (other than the areas of retained red brick pavers) shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the City Plan Part One.

6. Prior to first occupation of the development hereby permitted, three secure, covered cycle spaces shall be provided on site and 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.

7. The development hereby permitted shall not commence until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.

Reason: This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

8. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of how the existing red pavers will be reused to pave the forecourt of the new house have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the pavers shall be retained onsite thereafter.

Reason: To ensure the satisfactory appearance of the building and to comply with policy HE6 of the Brighton & Hove Local Plan and policies CP12 and CP15 of the Brighton & Hove City Plan Part One.

9. A bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
10. Six (6) swift bricks/boxes shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter. Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development
11. 11. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:
- a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
 - b. a schedule detailing sizes and numbers/densities of all proposed trees/plants and confirmation of location, species and sizes
 - c. details of all boundary treatments to include type, position, design, dimensions and materials;
- 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.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.
12. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One
13. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
14. The development hereby permitted shall not be occupied until the dwelling(s) hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control body appointed for the

development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

15. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.

Reason: To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that the proposed highways works should be carried out in accordance with the Council's current standards and specifications and under licence from the Streetworks team. The applicant should contact the Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) at their earliest convenience to avoid any delay.
3. The applicant is advised that advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website (www.communities.gov.uk).
4. In order to be in line with Policy TR14 Cycle Access and Parking of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient (including not being blocked in a garage for cars and not being at the far end of a rear garden), accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22 or will consider other proprietary forms of covered, illuminated, secure cycle storage including the Police approved Secure By Design cycle stores, "bunkers" and two-tier systems where appropriate.
5. The applicant is advised that the scheme required to be submitted by Condition 7 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to

notify potential purchasers, purchasers and occupiers that the development is carfree.

6. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
7. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place.
8. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
9. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The site is upon rising ground on the eastern side of Lowther Road between a contemporary three-storey dwelling and rear gardens belonging to houses in Preston Drove. Lowther Road, in the main, comprises terraced housing constructed at the turn of the 20th Century. The area is primarily residential.
- 2.2. Existing buildings comprise an end garage (bounding Lowther Road), with storage sheds behind and extending the depth of the site. The buildings are all formed along the south boundary. The application site does not lie within the Preston Park Conservation Area but lies immediately north of the designated area boundary.
- 2.3. This application seeks to demolish the existing garages and sheds and erect a three-storey building with three flats: a two-bedroom flat on the ground floor, and one-bedroom flats on each of the first and second floors.

3. RELEVANT HISTORY

- 3.1. **BH2020/02209:** Demolition of existing garage & storage sheds and erection of a three storey building to provide 1no. two-bedroom flat and 2no. one bedroom flats (C3). (Under consideration).

- 3.2. **BH2019/01214:** Demolition of existing garage & storage sheds and erection of a three storey 4 bedroom single dwelling (C3). (Approved 8/3/20).

4. REPRESENTATIONS

- 4.1. Thirteen (13) letters have been received from neighbours, objecting to the proposed development for the following reasons
- Potential impact on parking
 - Impact of development on people while they are working at home
 - Impact on conservation area
 - Loss of light to properties on Hythe Road
 - Overdevelopment of a small space
 - Overshadowing and overlooking of property on Preston Drive
 - Insufficient cycle parking
 - Insufficient bin storage

5. CONSULTATIONS

5.1. **Environmental Health:**

No objection

Approve with condition for 'discovery' - if during construction contamination is found.

5.2. **Heritage:**

No objection

The site is outside but immediately adjacent to the Preston Park Conservation Area. The footprint and scale of the proposed development is acceptable and would cause no harm to the conservation area. The retention of the red brick pavers is welcomed. The proposed development should be subject to a condition requiring materials samples and a condition detailing how the red brick pavers will be re-used.

5.3. **Southern Water:**

Comment

Provided advice about connection to sewers.

5.4. **Sustainable Transport:**

No objection

No changes to pedestrian access proposed and this is acceptable. Insufficient detail of cycle storage which should be secured by condition for a minimum of three spaces. There are on street disabled parking opportunities so the lack of disabled parking as part of the development is acceptable. Loss of vehicular access is acceptable but should be accompanied by reinstatement of the crossover, secured by condition. All hard standing should be porous. No parking provision is proposed and this is acceptable. The site is in CPZ F which has a permit uptake rate of 90% and being over the threshold of 80% indicates that the property is likely to increase demand on parking permits. Therefore the new flats should be restricted from the right to apply for parking permits.

6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation which is currently underway to 30 October 2020.

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP15	Heritage
CP19	Housing mix

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

TR14	Cycle access and parking
QD16	Trees and hedgerows

QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD 09	Architectural Features
SPD 12	Design Guide for Extensions and Alterations
SPD 14	Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of development, the design of the proposed dwelling, the standard of residential accommodation, its impact on neighbouring amenity, sustainability and the impact on the highways network.
- 8.2. Because of Covid restrictions, Officers did not undertake a site visit specifically for this application but undertook a site visit related to a previous application BH2019/01214. In conjunction with aerial photos and streetview it is considered the context of the development is well understood. Further, given the acceptability of the built development has been approved in principle previously, this is not considered to prevent a robust planning assessment being made.
- 8.3. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.4. The council's most recent housing land supply position published in the SHLAA Update 2019 shows a five year housing supply shortfall of 1,200 (equivalent to 4.0 years of housing supply). As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

Principle of development:

- 8.5. The site has an extant permission for development of a three-storey house on essentially the same footprint and with the same impact in terms of scale, albeit a single dwelling rather than the three now proposed. This established that the principle of residential development on this site is acceptable, and the consideration of that remains unchanged in that respect. Determination of this application will rest on the consideration of other matters related to other elements of the main considerations as set out above.

Design and Appearance:

- 8.6. City Plan Policy CP12 expects all new development to raise the standard of architecture and design in the city, establish a strong sense of place by

respecting the character of existing neighbourhoods and achieve excellence in sustainable building design and construction.

- 8.7. When considering whether to grant planning permission for development affecting a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Case law has held that the desirability of preserving a listed building or its setting or the character or appearance of a conservation area must be given "considerable importance and weight".
- 8.8. The site adjoins a conservation area and as such Policy HE6 of the Local Plan will apply, which states that proposals should 'preserve or enhance the character and appearance of the conservation area'. As already established by the extant permission under planning application number BH2019/01214, an acceptable development is possible on this site.
- 8.9. The current proposal is for a building that would be similar to the extant permission (BH2019/01214) in terms of footprint, height, depth and proximity to the site boundaries on Preston Drove. On that basis, it is not considered that the proposed building can be considered an overdevelopment of the site.
- 8.10. The proposed external appearance is also broadly similar, although there would be some differences in windows and material finish. However, the extant permission does include a condition which has not yet been discharged for the submission of samples and details of materials to be used, so this element of the approved scheme remains uncertain. Notwithstanding that, the appearance of the proposed new building for the current application does differ in impact from the approved plans and the difference between the two schemes requires further consideration.
- 8.11. The proposed front elevation would replace the approved pattern of fenestration with Juliet balconies to the first and second floors. The potential amenity impact of this will be discussed below. In design terms, it would result in a simpler design than the approved scheme and would be considered acceptable in appearance, and to not harm the streetscene. The front elevation also has a different appearance on the ground floor to the approved, so that the line of the building no longer reflects that of the street, but has a stepped footprint so that the northern part of the building is set back from the southern part. This would create a different relationship to the street than seen in the extant permission, but is not considered in itself harmful to the appearance and would not warrant refusal.
- 8.12. Another new element has been proposed in the current scheme with a fence around the front garden of the proposed ground floor flat, effectively isolating the building from the street at this point. The typical pattern of properties in this area is to have a more open frontage such that the building retains a relationship with the street. However, there are also a number of nearby properties which have installed higher fences or otherwise enclosed their front gardens, so the proposed design is not considered to be so out of character as to warrant refusal. Additional details of the boundary treatment will be secured by condition along with other elements of the landscaping as discussed below.

- 8.13. All other alterations on the other elevations are considered to be minor and to not materially impact on the design and appearance of the proposed development.
- 8.14. As set out above, the proposed new building for the three flats would be similar to the approved scheme under BH2019/01214, and where the proposals differ, it is not considered that the resulting appearance would be detrimental to the streetscene or the wider area. It is therefore considered that it would not be reasonable to refuse the proposed development on the basis of the appearance of the scheme, subject to amendments to the front boundary treatment. These details would have been secured had the scheme been otherwise acceptable.

Landscaping:

- 8.15. The proposed ground floor flat includes a front and rear garden, which although limited in extent, provide some opportunity for landscaping. The rear garden can be accessed from the rear bedroom and the living area of the flat and would be 21msq with an additional 9msq patio at the rear of the living area. The front garden, accessible only through the front bedroom, would be 7.5msq of which 2.5msq would be patio. Details of landscaping for this area will be secured by condition.
- 8.16. Heritage officers have asked for the retention and reuse of the red brick pavers currently on the site. The applicant has agreed to this, and a separate condition will be attached requiring details of how this will be achieved. In addition though the locations where the red brick pavers will be utilised should be included in the landscaping proposal.
- 8.17. Other areas of hardstanding that have been indicated on the plans approved here should be porous and the landscaping proposals should include these details also.
- 8.18. The proposed scheme introduces boundary features at the front of the property separating the garden, the bike and bin store area and the forecourt/entrance to the flats from the pavement. Details of these boundary features will be required as part of the landscaping scheme to be secured by condition..

Standard of Accommodation:

- 8.19. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, Draft City Plan Part 2 proposes to adopt them and indicates a direction of travel on behalf of the LPA. The NDSS provide a useful guideline on acceptable room sizes that would offer occupants useable floor space once the usual furniture has been installed. The NDSS identifies a minimum floor space that should be achieved for a single bedroom as measuring at least 7.5m², and a double bedroom should measure at least 11.5m². The minimum floor space requires a head height of above 1.5m.

- 8.20. The proposed layout includes a two-bedroom flat on the ground floor, with front and back gardens. The ground floor flat offers 70msq, with the two bedrooms being 10.3msq and 10.8msq. The NDSS guidance for room sizes sets out that these rooms should be considered as single rooms. The NDSS does not consider a dwelling of this layout suitable for only two people, so no direct comparison can be made against the guidance in that respect. However it is noted that the guidance does advise that the minimum floor area for any configuration of two-bedroom single-storey dwellings would be 70msq, which is what this flat offers. This is therefore considered acceptable
- 8.21. The ground floor flat also provides a kitchen and dining/living space with an open plan feel. The kitchen area towards the front of the property would have no natural light other than from a skylight, and the more distant rear patio doors from the living room. Despite the lack of outlook at the furthest point of the kitchen, it is considered that this would be acceptable. The degree of space in the ground floor flat, in conjunction with access to the front and rear gardens is considered to offer a satisfactory standard of accommodation.
- 8.22. The first and second floor accommodation was originally proposed as being two identical one-bedroom flats. The floor area offered by each of the flats is 41msq. It was considered that the layout proposed at the outset would have provided substandard accommodation due to the layout of the floorspace, resulting in poor flows between the rear bedroom and front living room, and limited space for movement and arrangement of furniture within the living accommodation. Following discussion of these issues with the applicant, a revised layout was provided which it is considered addresses the concerns and the first and second floor units are now considered to provide a satisfactory standard of accommodation.
- 8.23. The revised proposed layout created more space for the kitchen/dining area and a more defined space for the 'living room' component of that space, without creating pinch-points for movement between the different areas. The opening out of the defined hall/landing by the entrance door has created a layout that appears more spacious than first proposed. Although the sleeping area remains separated from the living accommodation by the central stairwell in the building, the more open route from the front to the back of the unit creates more of a studio feel which is consistent with the limited floor area.
- 8.24. The proposed accommodation on the first and second floors of the proposed development are now considered to be suitable in terms of size and layout to provide a good standard of accommodation as single occupancy studio flats.

Impact on Amenity:

- 8.25. The proposed new building would be on the same footprint and size as the approved scheme and as such the principle of the development in terms of its relationship to neighbouring properties is accepted. However, it would result in flatted development rather than a single dwelling, and various amendments to the built scheme set out above which may result in material changes to impacts on amenity. Further, as part of the determination of this application comments have been received from neighbours which merit consideration.

- 8.26. A number of concerns have been raised with regard to the overshadowing that the property would cause to 2 Hythe Road. The proposed development would not extend further than the back of the existing building at 2 Lowther Road. The relationship between the flats at 2 Hythe Road and the existing and proposed developments is such that the proposed building would cause an increase in the loss of light but of a very limited nature considered against the loss of light that results from the existing building at 2 Lowther Road.
- 8.27. There would be potentially greater impact on residents of 4 Hythe Road. However, it is considered that the loss of light resulting from the proposed dwelling would not be significantly more than from the existing building, and certainly not to such an extent that this would warrant refusal. This principle has been accepted in the past in relation to planning permission BH2019/01214, which is near identical in this regard, but the material differences in the present scheme have been acknowledged in reaching this conclusion.
- 8.28. The addition of Juliet balconies to the front elevation would facilitate a greater degree of overlooking onto neighbours on Lowther Road. However, this is not considered to cause harm to the amenity of those properties as they are on the opposite side of the road, at least 15m away, with street trees obscuring much of the line of site, and notwithstanding those considerations, the windows opposite face the public highway and other buildings facing them. Whatever additional harm may arise to the amenity of neighbours opposite would not be significant enough to warrant refusal in this case.
- 8.29. No other concerns with regard to overlooking have been identified.
- 8.30. The development would result in increased disturbance over the approved scheme by virtue of there being three households living on the site, rather than a single household in one dwelling. However, the impact on neighbouring amenity is not considered to be significant, or out of keeping with the location where purpose-built or converted flatted development is common.
- 8.31. The proposed development would otherwise have the same impact on amenity as the approved scheme. The height and scale of the proposed development are consistent with the pattern of development on Lowther Road, and the degree to which the upper floors is set back from the rear boundaries on Lowther Road is considered to create sufficient distance such that the increased height would not result in an overbearing structure.
- 8.32. It is therefore considered that the scheme is acceptable in terms of its impact on amenity.
- Heritage:**
- 8.33. The proposal is adjacent to the Preston Park Conservation Area but not within it. It is not considered that the proposed development would cause harm to the setting of the Conservation Area.

- 8.34. The retention of the red brick pavers in the proposed development is welcomed. Details of how this will be achieved will be secured by condition.

Sustainable Transport:

- 8.35. No changes to pedestrian access is proposed and this is acceptable.
- 8.36. The proposed flats should provide a minimum of three cycle parking spaces, and this is shown on the proposed plans. However, it is not clear whether the space is sufficient for three cycles and there are no details provided regarding the nature of these in terms of security and cover which SPD14 requires. It is recommended that the provision of cycle storage is secured by condition. It is noted that Highway Officers sought a condition requiring approval of a cycle storage scheme, but this is not considered to be justified in order to secure sufficient cycle parking on the site.
- 8.37. The loss of the existing garages is not considered to be problematic and has already been approved in the extant scheme. However the current application removes the garage that was included in the extant permission under BH2019/01214, resulting in no parking provision on site. This allows for an increase provision of residential accommodation on the site as is welcomes, and being within the guidelines of SPD14, would be acceptable. Nonetheless, to the parking pressure in the area and in the absence of any specific parking pressure surveys, it is considered that the proposed flats, should be restricted from being able to apply for parking permits. This will be secured by condition.
- 8.38. The removal of all parking from the site results in the existing crossover becoming redundant and as such, a condition will be attached to reinstate the pavement here.

Sustainability:

- 8.39. Policy SU2 of the Brighton & Hove Local Plan and CP8 of the Brighton & Hove City Plan Part One require new development to demonstrate a high level of efficiency in the use of water and energy. Policy CP8 requires new development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. These standards will be secured by condition.

Biodiversity:

- 8.40. The council now requires provisions to be made for biodiversity in all applications. While none have been specifically proposed as a part of this application, such measures will be secured by condition, with a requirement to include bee bricks and swift boxes in the final scheme.
- 8.41. Further biodiversity benefits may be achieved through the proposed landscaping scheme which will be secured by condition.

9. EQUALITIES

- 9.1. New residential buildings are expected to be built to a standard whereby they can be adapted to meet the needs of people with disabilities without major

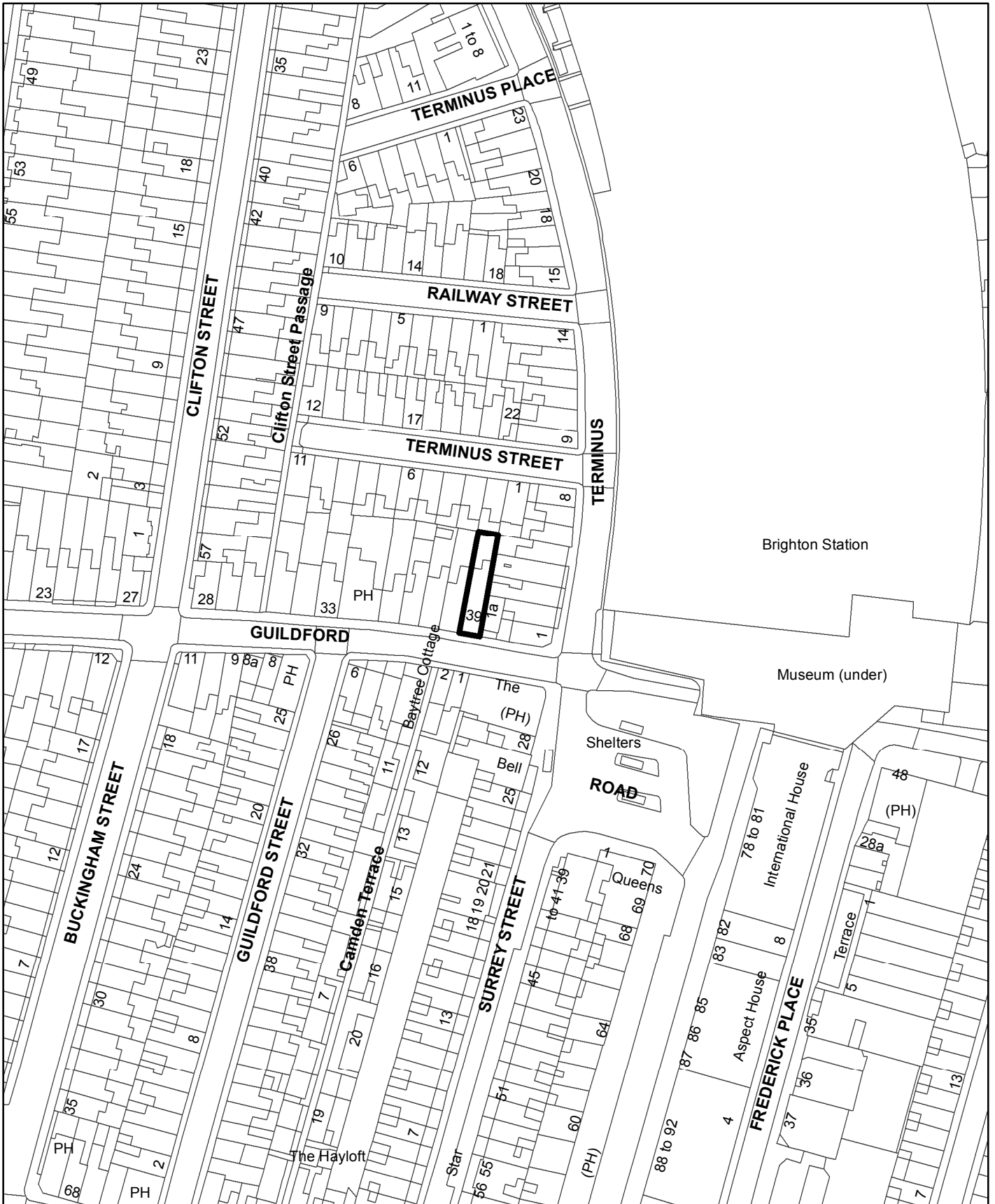
structural alterations. Conditions will be applied to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.

ITEM E

**39 Guildford Road
BH2020/01808
Full Planning**

DATE OF COMMITTEE: 30th September 2020

BH2020 01808 - 39 Guildford Road



N



Scale: 1:1,250

<u>No:</u>	BH2020/01808	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	39 Guildford Road Brighton BN1 3LW		
<u>Proposal:</u>	Change of use of the ground floor fish and chips shop (A5) to office (B1) and alterations and single storey extensions to the rear of the building to create a studio flat (C3). (Part-Retrospective)		
<u>Officer:</u>	Emily Stanbridge, 293311	tel: <u>Valid Date:</u>	08.07.2020
<u>Con Area:</u>		<u>Expiry Date:</u>	02.09.2020
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd Road Brighton BN1 5PD	Lewis & Co Planning	2 Port Hall
<u>Applicant:</u>	Mr Kelmend Murataj Brighton BN1 5PD	C/o Lewis & Co Planning	2 Port Hall Road

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Proposed Drawing	A-03		24 August 2020
Location and block plan	A-01		24 August 2020
			24 August 2020

2. The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.
3. The B1 office use hereby permitted shall not be open to customers except between the hours of 09:00 - 18:00 Monday to Friday and 09:00 - 17:00 Saturdays and shall remain closed on Sundays, Public and Bank Holidays.

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

4. The rooflight of the single storey extension hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
5. Access to the flat roof over the extension hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
6. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
7. Prior to first occupation of the development hereby permitted a scheme shall be submitted to the Local Planning Authority for approval to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.
Reason: This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.
8. The residential unit hereby approved shall not be occupied until it has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with Policy CP8 of the Brighton & Hove City Plan Part One.
9. The residential unit hereby approved shall not be occupied until it has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.

Reason: To ensure that the development is sustainable and makes efficient use of water to comply with Policy CP8 of the Brighton & Hove City Plan Part One.

10. A bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that the scheme required to be submitted by Condition 7 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers of the restrictions upon the issuing of resident parking permits.
3. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a narrow, three-storey, terraced property on the northern side of Guildford Road. The road is predominantly residential in nature, although there is a café at the junction of Guildford Road and Terminus Road, a public house at the junction of Guildford Road and Surrey Street, and two further public houses to the west of the application site along Guildford Road. There are numerous commercial units at the nearby train station and along Queen Street and its surrounding area.
- 2.2. The application site has been split into two units. The ground floor is a vacant commercial unit, most recently occupied as a fish-and-chip shop. The upper floors are a residential maisonette which was given permission for a four-bedroom, small house in multiple occupation (HMO - Planning Use Class C4) on appeal in May 2020.
- 2.3. The front elevation currently features a green-tiled shopfront with a large display window and timber fascia board at ground floor. The upper floor elevations are painted render. The front elevation is similar in appearance to the rest of the

terrace to the west of the site. The application site is adjoined to a two storey (plus basement) building to the east which is of a different style to the application site.

- 2.4. To the rear of the building there are a number of ad-hoc structures in poor condition adjoined to the main building, as well as a small garden surrounded by high boundary walls.
- 2.5. The property is located within the West Hill Conservation Area. There are no listed buildings in the near vicinity.
- 2.6. There is no off-street parking associated with the application site.
- 2.7. The application has changed over the lifespan of the submission. Originally, permission was sought for change of use of the ground floor fish and chips shop (Planning Use Class A5) to office (Planning Use Class B1) and alterations and extensions to the rear of the building to create a two-bedroom flat (Planning Use Class C3).
- 2.8. After negotiation, the application has been revised and the application now seeks to change the use of the vacant ground floor fish-and-chip shop (Planning Use Class A5) to provide 16.4m² of office space (Planning Use Class B1) plus a small kitchen and W.C. Planning Permission is also sought to remove the ad-hoc structures to the rear and replace them with a single storey rear extension to create a studio flat (Planning Use Class C3). The application is part-retrospective as the works to convert the interior of the shop to an office has commenced, though this is not a material consideration in determining the application.

3. RELEVANT HISTORY

- 3.1. BH2020/00235: Change of use from existing three-bedroom flat (C3) to a four-bedroom small house in multiple occupation (C4). Approved May 2020.

4. REPRESENTATIONS

- 4.1. Thirteen (13) representations have been received objecting to the proposed development on the following grounds:
 - Lack of transparency in application
 - Overdevelopment
 - Poor design
 - Adversely affects the conservation area
 - Noise and disruption
 - The proposed extension is out of character with the area
 - Overlooking and loss of privacy

- Significant increase in occupiers of the building
- Lack of measurements on the plans
- Poor access for disabled people
- This application could set a precedent
- The application retains only a small area of commercial use
- Parking pressures
- Additional traffic
- Works have already begun
- Waste management
- No other such developments in the area
- The commercial use should be retained as fast food outlet or retail

- 4.2. Revised plans were received on the 25 August 2020 with the following revisions:
- Reducing the scale of the single storey rear extension from 12.4m deep to 9.85 deep;
 - Proposing a studio apartment rather than a two-bedroom apartment in the single-storey extension.
- 4.3. A single representation was received objecting regarding the revised scheme:
- Overshadowing
 - Loss of privacy
 - Additional noise
 - Increased comings and goings
 - Additional traffic

5. CONSULTATIONS

5.1. Policy Comment Loss of existing unit

The unit is located close to Brighton Station on the periphery of the Regional Shopping Centre. As such the unit operates as an individual commercial unit and not part of a parade. Policy SR8 Individual Shops in the Adopted Local Plan 2005 seeks to protect only A1 uses therefore this policy does not apply in this instance.

- 5.2. Draft CPP2 policy DM13 will allow a change of use of individual shop units to non-A1-A5 use provided that there are alternative shopping facilities within reasonable walking distance (300m) and the shop unit has been marketed for a minimum of one year. The weight attached to this policy is however limited at this point.

Proposed office use

- 5.3. The provision of new employment floorspace is assessed under saved Policy EM4 of the Local Plan and no concerns are raised with regard to criteria (a) to (d), criteria (e) and (f) are for the case officer to assess and criteria (g) would be difficult to achieve due to the size of the site.

- 5.4. Draft CPP2 policy DM11, which currently holds limited weight, should also be taken into account which outlines requirements for new business floorspace; particularly paragraph 2.99 which outlines the requirements that need to be demonstrated in order to meet the likely needs of end users and to attract new occupiers.
- 5.5. **Sustainable Transport:** Verbal Comment 22.07.2020 Approval subject to conditions
- Car free housing
- 5.6. **Heritage** No comment
- 5.7. **Private Sector Housing** Comment
It needs to be ensured that a 60 minute separation between residential and commercial parts including provision of linked AFD coverage. Both bedrooms at ground floor rear-facing are inner rooms so we'd to ensure there is either mist system installed to open plan kitchen/diner (front-facing); or, escape windows (if feasible) installed to both bedrooms rear-facing leading to an ultimate place of safety.
- 5.8. **Environmental Health** Comment
Attach condition for discovery of land contamination

6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour Joint Area Action Plan (adopted October 2019).
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part 2

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation which is currently being undertaken until 30 October 2020.

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP14	Housing density
CP19	Housing mix

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

TR7	Safe Development
TR14	Cycle access and parking
QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of amenity
SR8	Individual shops
HO5	Provision of private amenity space in residential development

Supplementary Planning Documents:

SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of the development, the appearance of the development and its impact upon the character and appearance of the streetscene including the Conservation Area; the standard of accommodation provided; the impact on neighbouring properties; and transport implications.

- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3. The Council's most recent housing land supply position published in the Strategic Housing Land Availability Assessment Update 2019 shows a five year housing supply shortfall of 1,200 (equivalent to 4.0 years of housing supply). As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 8.4. Due to the coronavirus pandemic it has not been possible to undertake a physical site visit due to social distancing and alternative working arrangements. The assessment detailed below has been made based on the documents submitted as part of the application, photographs provided by the planning agent during consideration and recent GoogleEarth and Streetview imagery of the site.

Principle of development

Loss of existing use

- 8.5. The unit is located close to Brighton Station on the periphery of the Regional Shopping Centre. As such the unit operates as an individual commercial unit and not part of a parade. Policy SR8 within the Adopted Local Plan relates to Individual shop units but only seeks to protect A1 Uses and therefore in this case does not apply. Whilst the draft City Plan Part 2 is more restrictive in terms of allowing a change of use to non A1-A5 units, only limited weight is attached to this policy at this time.
- 8.6. Furthermore, information has been submitted with this application to state that the unit is currently vacant. The property was last used as a fish and chip shop, but this ceased trading approximately three years ago.
- 8.7. On balance, therefore, it is considered that given the time since it has been used for retail purposes, and the lack of adopted policy support for retaining such use, the loss of a retail unit is acceptable in principle.

Proposed use

- 8.8. The provision of new employment space in this unit would be a small but welcomed addition. The proposed B1 office, although small in size, would provide a kitchen area and toilet facilities and would contain a sufficient floor area for a small business.

- 8.9. With regard to a B1 use, Local Plan Policy EM4 states:
"Planning permission will be granted for new business and industrial uses (Use Classes B1 and B2) on unidentified sites within the built-up area boundary provided that:
- a. there is a demonstrable need for such a use, given the availability of existing land or premises identified in the plan or on the market or with outstanding planning permission;*
 - b. the site is readily accessible by public transport, walking and cycling;*
 - c. the development would not result in the net loss of residential accommodation;*
 - d. the development would not result in the loss of an important open space, an identified Greenway or a nature conservation site as specified in the Plan;*
 - e. the development would not have a demonstrably adverse environmental impact because of increased traffic and noise;*
 - f. the development would not be detrimental to the amenities of occupiers of nearby properties or the general character of the area; and*
 - g. there is adequate landscaped amenity open space."*
- 8.10. The proposals meet criteria a-f as is considered below. There is a significant need for new B1 floorspace in the city and therefore the provision of the proposed new floorspace is welcomed. With regards to criteria g, this would be difficult to achieve given the size of the site so is considered adequate in this regard, and to meet the criterion.
- 8.11. The proposal would provide new employment floorspace and would therefore accord with City Plan Part One Policies CP2 and CP3, helping to meet an identified need for B1 office space in the city.

Design and Appearance

- 8.12. The front elevation of the application site would remain largely unaltered, retaining the shop front window which looks out over Guildford Road. A new replacement communal entrance door to the building would be provided.
- 8.13. The most significant changes to the property are to the rear of the existing building, which includes the extension to house a new residential unit. The original submission included a 12.4m deep rear extension of primarily 2.5 metres in height with a reverse pitched section to 3.5 metres in height. This reverse pitched roof has subsequently been removed from the scheme. The original extension was considered to be overly large, resulting in a significant area of flat roof.
- 8.14. Alterations were sought and the application now features a single storey rear extension which extends 9.85 metres from the original building and 2.5 metres in height. The proposed extension would be positioned between adjacent neighbouring extensions. To the west of the site is a large extension which forms

the shared boundary wall and is of a much greater height than that proposed. To the east of the site is an extension featuring a butterfly roof form, although not as high as the extension proposed, the perceived height of the proposed extension would be reduced when viewed in context with this neighbouring addition and shared boundary wall.

- 8.15. Although the proposed extension would be a large addition to a terrace building, it should be noted that extensions of varying depths exist on the neighbouring terraced properties to the west. In addition, the proposed extension would replace the existing ad-hoc extensions and extend no further to the rear than the existing buildings, but squaring-off the rear elevation.
- 8.16. The proposed scheme is therefore not considered to pose any additional harm to the character and appearance of the host property or the wider Consideration Area, particularly as there would be minimal change to the front elevation.

Standard of accommodation

- 8.17. Policy QD27 of the Brighton and Hove Local Plan aims to secure a good standard of living accommodation for current and future occupiers.
- 8.18. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, Draft City Plan Part 2 proposes to adopt them and indicates a direction of travel on behalf of the LPA. The NDSS provide a useful guideline on acceptable room sizes that would offer occupants useable floor space once the usual furniture has been installed. The NDSS identifies a minimum floor space that should be achieved for a single bedroom as measuring at least 7.5sqm and a double bedroom as measuring 11.5sqm.
- 8.19. The Local Planning Authority considers both quantitative and qualitative issues raised with regards to the standard of accommodation for future occupiers in accordance with policy QD27.
- 8.20. Access to the studio apartment would be via a main communal front door which would also provide access to the office and to the separate HMO on the first and second floors.
- 8.21. The studio apartment would measure 47m² and comprise an open plan kitchen and dining area, separate shower area and bedroom/living area screened by a partition wall which extends half the width of the extension to ensure an open plan layout is retained. The proposed apartment would receive natural light from two rooflights and two sets of French doors on the rear elevation serving the bedroom/living area. The rooflights proposed will be obscure glazed to protect the privacy of future occupiers from views out of the windows on the floors above.

- 8.22. The kitchen area would lack natural light and views, however internal kitchens and shower rooms are not uncommon in apartments, and the remaining space would be well lit from the two French doors. The overall layout is considered reasonable and would provide the future occupant/s with room to cook and dine and relax in and would exceed the NDSS requirements for a studio unit. The layout is considered to allow for sufficient usable floor area and circulation space after the placing of likely furniture items required by future occupiers.
- 8.23. The apartment would also have access to its own private rear garden providing valuable outdoor amenity space for future occupants. Policy HO5 requires development to include outdoor amenity space and this development meets the needs of the policy as the size of the outdoor space is proportionate to the dwelling and anticipated occupation.
- 8.24. The proposed studio apartment is therefore considered to provide a reasonable level of living accommodation to future occupants in accordance with policies DQ27 and HO5.

Impact on Amenity:

- 8.25. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

The proposed change of commercial use

- 8.26. The use of the site as B1 would attract a limited footfall of visitors to the site. Given the overall space of the commercial unit, the proposed number of employees would be limited. Given the small-scale nature of the development it is unlikely that the proposed use would create harmful noise disturbance to neighbouring residential properties. In any case, a condition to restrict the opening times is attached to protect the amenity of the current and future occupiers of neighbouring properties.
- 8.27. Additionally, the change of use from the unit's previous use as a chip shop to B1 office space reduces the harm to local amenity. There will be less comings and goings of an evening and weekends when local residents are likely to be at home, as well as in decrease in cooking odours, noise from extraction equipment and pollution.
- 8.28. The introduction of an office space is not considered to cause detrimental harm to neighbouring occupiers and therefore is in accordance with Policy QD27 of the Local Plan.

The proposed residential unit

- 8.29. The proposed studio flat would result in an increase in comings and goings, but the number of people occupying the studio flat would be limited due to the size of the accommodation and is therefore unlikely to be of a magnitude to warrant refusal.
- 8.30. Due to the close proximity of neighbouring properties on Guildford Road, Terminus Street and Terminus Road there will be a small increase in mutual overlooking which is to be expected in a built-up residential area such as this. The rear French doors would look out onto the rear garden and then a high boundary wall measuring 2.9m high. The wall would obscure views of the neighbouring properties thereby protecting privacy.
- 8.31. The height of the proposed extension would be set below the height of the shared boundary wall to the east. This boundary wall which comprises part of the neighbouring extension, features no window openings. The proposed extension would therefore not be visible from this neighbouring property.
- 8.32. In addition, No.4 Terminus Road features a large butterfly roof extension which extends to the eastern boundary of the site. This neighbouring extension coupled with the height of the shared boundary wall reduces any significant harm to these neighbouring occupiers and therefore the addition of the extension is considered acceptable.
- 8.33. Overall, the proposed studio flat is not considered to have a significant adverse effect on neighbouring amenity and would not warrant the refusal of this application.

Sustainable Transport:

Cycle Parking

- 8.34. Due to site constraints it is not considered that policy compliant cycle parking could be achieved and as such in this instance no cycle parking is sought by condition.

Car Parking and trip generation

- 8.35. The additional residential unit could create overspill of parking into the surrounding streets, but this is not considered to amount to a serve impact. Furthermore, the site is located in CPZ Zone Y, which should mitigate some of the parking demand.
- 8.36. Permit uptake, within this zone, as an average of the last 12 months was measured at 96% and therefore a condition requiring the development to be car free will be secured by condition.

- 8.37. The office use within the building is unlikely to generate a significant impact in trips owing to its size. In addition, the office is in a highly sustainable location with public transport options in close proximity.

Other Considerations:

- 8.38. The Council has been seeking to improve ecological outcomes within the city. Since November 2019 the Council has been securing minor amendments to approved schemes to increase biodiversity contributions. A condition will therefore be added to require a bee brick to be incorporated into the build and improve biodiversity outcomes in line with policy CP10 Biodiversity and SPD11 Nature Conservation and Development.

9. EQUALITIES

- 9.1. Although the living space of the proposed studio flat is over one level it would be accessed by a single step up to the communal front door and via a narrow corridor measuring 0.8m wide. Therefore the property, owing to its access, may not be suitable for those with severe mobility impairments, and a condition to secure compliance with Building Regulations M4(2) is not sought.

