

<u>No:</u>	BH2023/02158	<u>Ward:</u>	Rottingdean & West Saltdean Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	2 - 4 West Street Rottingdean Brighton BN2 7HP		
<u>Proposal:</u>	Demolition of existing building and construction of new two-storey mixed-use development comprising a new ground floor retail unit (Use Class E) and three self-contained dwellings (C3).		
<u>Officer:</u>	Steven Dover, tel: 01273 291380	<u>Valid Date:</u>	31.07.2023
<u>Con Area:</u>		<u>Expiry Date:</u>	25.09.2023
<u>Listed Building Grade:</u>		<u>EOT:</u>	27.10.2023
<u>Agent:</u>	Lewis And Co Planning Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Mr Jason Baker C/o Lewis & Co Planning 2 Port Hall Road Brighton BN2 8LB		

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
Location and block plan	2299(10)002	A	31 July 2023
Proposed Drawing	2299(21)000	C	15 November 2023
Proposed Drawing	2299(21)001	D	20 November 2023
Proposed Drawing	2299(21)002	E	20 November 2023
Proposed Drawing	2299(21)003	D	20 November 2023
Proposed Drawing	2299(31)001	C	15 November 2023
Proposed Drawing	2299(31)002	A	31 July 2023
Report/Statement		Design & Access	31 July 2023
Block Plan	2299(11)001	A	15 November 2023

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. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development 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 DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.

4. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Above Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with Policies DM18 and DM20 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.

5. No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity, to include a biodiverse green roof, at least one bee brick and at least three swift bricks/boxes, has been submitted to and approved in writing by the local planning authority.
 The EDS shall include the following:
 - a) purpose and conservation objectives for the proposed works;
 - b) review of site potential and constraints;
 - c) detailed design(s) and/or working method(s) to achieve stated objectives;
 - d) extent and location /area of proposed works on appropriate scale maps and plans;
 - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - g) persons responsible for implementing the works;
 - h) details of initial aftercare and long-term maintenance;
 - i) details for monitoring and remedial measures;
 - j) details for disposal of any wastes arising from works.
 The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
Reason: To provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 174 and 180 of the National Planning Policy Framework, Policy CP10 of the Brighton & Hove City Council City Plan Part One and Policy DM37 of the City Plan Part Two.

6. 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.
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 of the Brighton & Hove City Plan Part One; and DM18 and DM21 of the Brighton & Hove City Plan Part Two.
7. The first floor windows in the northern elevation of the development hereby permitted shall be obscure glazed and non-opening below 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 Policies DM20 and DM21 of Brighton & Hove City Plan Part 2.
8. The second floor dormer windows in the northern elevation of the development hereby permitted shall be obscure glazed, and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with Policies DM20 and DM21 of Brighton & Hove City Plan Part 2.
9. The ground floor retail unit as shown on the hereby approved plan (2299(21)000C) shall only be used for purposes defined within Schedule 2, Part A Use Class E (a) and (e) of the Town and Country Planning (Use Classes) Order 1987 and for no other use classes notwithstanding the Town and Country Planning (General Permitted Development) (England) Order 2015 and subsequent amendments thereto unless otherwise agreed in writing by the local planning authority.
Reason: In order to retain as active frontage to the street and safeguard the character of the locality to comply with policy DM12 and DM18 of the City Plan Part Two.
10. Notwithstanding the plans hereby approved, 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 recycling and to comply with policies CP8 of the Brighton & Hove City Plan Part One, DM21 of the Brighton & Hove City Plan Part Two, and WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
11. The residential unit developments hereby approved shall not be operational until it has achieved as a minimum, an Energy Performance Certificate (EPC) rating 'B'.

Reason: To improve the energy cost efficiency of existing and new development and help reduce energy costs to comply with Policy DM44 of the Brighton & Hove City Plan Part Two.

12. The residential units hereby approved shall not be occupied until it has achieved a water efficiency standard of a minimum 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 energy and water and to comply with policies SA6 and CP8 of the Brighton & Hove City Plan Part One.

13. No part of the development hereby permitted shall be occupied until the redundant vehicle crossovers fronting onto West Street have been converted back to a footway by raising the existing kerb and footway. The finish of the reinstated footway shall be red block pavements to match those of the footway outside No.5-8 West Street.

Reason: In the interests of highway safety and to comply with policies DM33 of Brighton & Hove City Plan Part 2, CP9 of the Brighton & Hove City Plan Part One.

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

The archaeological work 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 for approval in writing within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is agreed in advance and 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 DM31 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

- 15.

1. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:

- (a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS 10175:2017 - Investigation of Potentially Contaminated Sites - Code of Practice;

And if notified in writing by the local planning authority that the desk top study identifies potentially contaminant linkages that require further investigation then,

- (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2017

And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,

- (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.
2. The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report by a competent person approved under the provisions of condition (1)c that any remediation scheme required and approved under the provisions of condition (1)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:
 - a) built drawings of the implemented scheme;
 - b) photographs of the remediation works in progress;
 - c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy DM41 of City Plan Part 2, and SU11 of the Brighton & Hove Local Plan.

16. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority (in consultation with Southern Water) of the measures which will be undertaken to divert the public sewers, prior to the commencement of the development.

Reason: To ensure adequate foul sewage drainage/treatment is maintained and available prior to development commencing and to comply with policy DM42 of Brighton & Hove City Plan Part 2.

17. The residential units hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans & elevations. The internal layouts shall be retained as first implemented thereafter.

Reason: To ensure an acceptable standard of accommodation for future occupiers is provided and maintained thereafter and to comply with policy DM1 of the Brighton and Hove City Plan Part Two.

18. The 2 Bedroom, 3 Person residential units hereby approved shall only be occupied by a maximum of three (3) persons in each.

Reason: To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy DM1 and DM20 of the Brighton and Hove City Plan Part Two.

19. 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 DM1 of Brighton & Hove City Plan Part 2.

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 should be aware that the site may be in a radon affected area. If the probability of exceeding the Action level is 3% or more in England and Wales, basic preventative measures are required in new houses, extensions, conversions and refurbishments (BRE2011). Radon protection requirements should be agreed with Building Control. More information on radon levels is available at <https://www.ukradon.org/information/ukmaps>
3. The applicant is advised that the application of translucent film to clear glazed windows does not satisfy the requirements of condition 7 and 8.
4. 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.
5. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
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. 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'.
8. Where asbestos is found/suspected on site, it will fall under the Control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: www.hse.gov.uk/asbestos.

9. The applicant is advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.
10. The applicant is advised that Part O of Building Regulations 2022 has been introduced. This standard is aimed at designing out the need for mechanical air conditioning systems in dwellings that would otherwise be prone to overheating and limiting unwanted solar gains. There are optional methods to demonstrate compliance through the Building Regulations.
11. The applicant is advised that assessment under the CIBSE TM59 Thermal Model option should be submitted as part of a full Building Regulations application.
12. The applicant is advised that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water.
The applicant is also advised to consult with the sewerage undertaker to agree a drainage strategy including the proposed means of foul water disposal and an implementation timetable. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or www.southernwater.co.uk.
13. In order to be in line with Policy DM33 (Safe, Sustainable and Active Travel) 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.
14. The water efficiency standard required is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
15. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of

any wild bird while that nest is in use of being built. Planning consent for a development does not provide a defence against prosecution under this Act.

16. The applicant is advised of the possible presence of bats on the development site. All species of bat are protected by law. It is a criminal offence to kill bats, to intentionally or recklessly disturb bats, damage or destroy a bat roosting place and intentionally or recklessly obstruct access to a bat roost. If bats are seen during construction, work should stop immediately and Natural England should be contacted on 0300 060 0300.

2. SITE LOCATION

- 2.1. The application site is a plot of land located on the northern side of West Street currently occupied by a relatively modern, gable ended, two storey building which is set back substantially from the public footway with articulated disabled access ramp and parking spaces infilling this set back. The building is currently occupied by a retail unit (Use Class E) on the ground floor and associated office on the first floor. The retail unit is currently operated as a chemist.
- 2.2. The site immediately adjoins the boundary of the Rottingdean conservation area to the north and east. To the north-east is the grade II listed building at 33 High Street; late 18th or early 19th century date. To the north is the locally listed Rottingdean village hall of 1935.
- 2.3. Rottingdean High Street forms the main road in the village and is its commercial heart, on a strong north-south linear axis. The area is densely packed and displays buildings of a variety of dates and styles, reflecting its incremental change over time. Buildings generally front directly on to the street, with narrow or non-existent footways.
- 2.4. A strong visual coherence is generated by the use of traditional materials in the surrounding area. Terraced buildings are a predominant built form along the High Street. Varied dates of construction - from the late 18th to early 20th century - are reflected though varied detailing, however, they are unified through use of traditional vernacular materials (field flint, flint pebble, soft Wealden brick and smooth lime render), pitched roofs and two storey height. Many now contain later shop fronts, which vary in quality and character.
- 2.5. The site is located within a local shopping centre and therefore policies CP4 of City Plan Part One, and DM12 of City Plan Part Two are relevant, which relate to Regional, Town, District and Local Shopping Centres and maintaining or enhancing the attractiveness of these areas through encouraging more people to visit and utilise facilities. The Article 4 Direction removing permitted development rights for change of use from Use Class E to Residential Dwellings applies to the site. The site also lies within an Archaeological Notification Area. The Rottingdean Neighbourhood Plan was submitted to the Council in early 2023, and the emerging policies also apply to this site as detailed below.

3. RELEVANT HISTORY

- 3.1. **PRE2022/00191** Pre-application advice was sought for the demolition of the existing building (2-4 West Street) and construction of new 2-storey building with ground floor retail unit and 3 self-contained flats.
- 3.2. A summary of the advice given in March 2023, was that the existing building detracts from the setting of the conservation area, and redevelopment with the opportunity to enhance the streetscene would be welcomed. The general footprint and reinstated building line were supported. However the proposed elevations and materials were not considered appropriate, and the rear elevations caused potential amenity harm. In addition any scheme would have to identify how it meets DM12, due to the partial loss of a G/F active frontage.
- 3.3. **BH2008/02320** Installation of a Disabled Access ramp and air conditioning unit to front elevation (part retrospective). Approved
- 3.4. **BH2007/00623** Ground and first floor extensions incorporating two gable roof extensions, new side entrance, ramp and side window. Installation of two rooflights on rear roof slope (Re-submission of withdrawn application BH2006/02873). Refused
1. The proposal is considered poorly designed by reason of poor detailing and arrangement of materials and would harm the character, appearance and setting of the conservation area and the visual amenity of the area. This is contrary to policies QD1, QD14 and HE6 of the Brighton and Hove Local Plan.
 2. The proposal fails to demonstrate a satisfactory construction waste minimisation strategy, confirming how demolition and construction waste will be recovered and reused on site or at other sites, therefore reducing the need to dispose of waste at landfill. This is contrary to policies SU13 of the Brighton and Hove Local Plan, WLP11 of the East Sussex and Brighton & Hove Waste Local Plan and Supplementary Planning Guidance Note 03 (Construction and Demolition Waste).

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the demolition of the existing building and the construction of a new two-storey mixed-use development with accommodation in the roof, comprising a new ground floor retail unit (Use Class E) and three self-contained residential dwellings (C3) at ground, first floor and within the roof space.
- 4.2. The scheme has been amended during its lifetime in response to concerns raised by the Local Planning Authority's Heritage Officer and the Case Officer.

5. REPRESENTATIONS

- 5.1. **Fourteen** (14) representations have been received, objecting to the proposal on the following grounds:
- The development is overdevelopment
 - The development is a poor design
 - The development adversely impacts the conservation area
 - The development is too high
 - The development roof has been increased from that in the pre application
 - The development would cause a loss of privacy, and overshadow
 - The development would result in loss of view
 - The development may damage the flint walls
 - The development may cause dust and dirt
 - The development would restrict access to the side of No.1 West Street
 - Would scaffolding be erected in the Golden Square
 - Would access to the Golden Square be restricted
 - No party wall or attachment notices served
 - Potential loss of fire escape to No.1 West Street
 - The development would result in a loss of off-street parking
 - The development could cause damage to No.1 West Street
 - The development would result in disruption during the delivery and construction phases.
 - The development would result in additional traffic and issues during delivery to commercial unit.
 - The development would result in the loss of a village pharmacy
 - The development will only benefit the developer.
 - Detrimental impact on property value
 - Site notice not displayed
- 5.2. **One** (1) representation has been received, commenting on the proposal on the following grounds:
- Rottingdean Heritage - In conservation terms the building would be an improvement. Regret loss of chemist but point out that as Use Class E it could be used for any other retail/commercial use without need to obtain planning permission.

6. **CONSULTATIONS**

- 6.1. **Conservation Advisory Group** C.A.G. Approve
The Group recommended APPROVAL - 5th September 2023.
- 6.2. **Heritage** No objection
Final comment - No objection 16/11/2023
- 6.3. **Policy** No Comment
Policy comments not required.
- 6.4. **Rottingdean Parish Council** Objection
No provision for residents parking is a serious concern for new dwellings in the Village. Considered not to meet policy DM36 Parking and Servicing with no

parking provided. Consider the flint finish to not be in keeping with other residential properties in West Street. If proposal is approved than request any signage is in keeping with area and meets SPD 07 and is not illuminated. Noted measures made to protect amenity of residents at rear.

- 6.5. **Environmental Health Comment**
Risk of ground contamination so pre commencement condition for a discovery strategy required. Informative in respect of Radon and Asbestos suggested.
- 6.6. **Archaeology No objection subject to condition**
The information provided is satisfactory and identifies that there is a risk that archaeological remains will be damaged.
- 6.7. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of pre commencement planning conditions related to the submission and approval of an archaeological programme of works to the LPA and then implemented in accordance with.
- 6.8. **Ecology No objection subject to conditions**
The information provided is satisfactory and enables the LPA to determine that whilst the proposed development is likely to have an impact on biodiversity, those impacts can be mitigated through the application of a pre commencement planning condition requiring an Ecological Design Strategy to be submitted and approved by the LPA and then implemented in accordance with.
- 6.9. **Private Sector Housing Comment**
The means of escape route in the case of fire from the second floor bedrooms in Unit 2 and Unit 3 is through an open plan lounge/kitchen at first floor level. Ideally, the applicant should consider rearranging the layout of the flat as the lounge/kitchen is considered to be a 'high risk' room in case of fire.
- 6.10. **Brighton and Hove Archaeological Society Comment**
The archaeology of Rottingdean and the surrounding area is relatively unknown, and as such any intervention may produce important records of past landscapes and ancient activity.
- 6.11. **Southern Water No Objection, subject to conditions**
- The attached plan shows that the proposed development will lie over an existing public foul sewer, which will not be acceptable to Southern Water. The exact position of the public apparatus must be determined on site by the applicant before the layout of the proposed development is finalised. It might be possible to divert the public foul sewer, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.
 - The 150 mm diameter gravity sewer requires a clearance of 3 metres on either side of the gravity sewer to protect it from construction works and to allow for future maintenance access.

- No development or tree planting should be carried out within 3 metres of the external edge of the public gravity sewer without consent from Southern Water.
 - No soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of public or adoptable gravity sewers.
 - All existing infrastructure should be protected during the course of construction works.
- 6.12. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.
- 6.13. If the application should be approved they request a condition is attached that the developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to divert the public sewers, prior to the commencement of the development.
- 6.14. **Transport** No Objection, subject to conditions regarding cycle parking scheme and the reinstatement of the redundant vehicle crossover.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove City Plan Part Two (adopted October 2022);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour Joint Area Action Plan (JAAP) 2019.

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
SA6	Sustainable Neighbourhoods
CP1	Housing Delivery
CP4	Retail Provision
CP8	Sustainable Buildings
CP9	Sustainable Transport

CP10	Biodiversity
CP11	Flood Risk
CP12	Urban Design
CP13	Public Streets and Spaces
CP14	Housing Density
CP15	Heritage
CP19	Housing Mix

Brighton & Hove City Plan Part Two (CPP2)

DM1	Housing Quality, Choice and Mix
DM12	Regional, Town, District and Local Shopping Centres
DM18	High quality design and places
DM19	Maximising Development Potential
DM20	Protection of Amenity
DM21	Extensions and alterations
DM22	Landscape Design and Trees
DM29	The Setting of Heritage Assets
DM33	Safe, Sustainable and Active Travel
DM35	Travel Plans and Transport Assessments
DM36	Parking and Servicing
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM41	Polluted sites, hazardous substances & land stability
DM42	Protecting the Water Environment
DM44	Energy Efficiency and Renewables

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

WMP3	Implementing the Waste Hierarchy
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Supplementary Planning Documents

SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPD17	Urban Design Framework

Rottingdean Neighbourhood Plan

The policies in Rottingdean Neighbourhood Plan carry limited weight at present but will gain weight as the Plan proceeds through its stages.

The draft Neighbourhood Plan (NP) was submitted to the Council in early 2023. The draft NP reflects previous local community and stakeholder engagement undertaken across the Neighbourhood Area by the Parish Council including a period of public consultation under Regulation 14 of the NP Regulations in 2021. The Council published the draft Plan for pre-submission (Regulation 16) consultation in February 2023. The next steps for the plan are for it to be submitted for examination by an independent examiner. The NP examination commenced in July 2023.

The policies relevant to the present application are:

H2	Design
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Other relevant documents

Rottingdean Conservation Area Character Statement

9. CONSIDERATIONS & ASSESSMENT

9.1. The main considerations in the determination of this application relate to the principle of development; the design and appearance of the proposed development; the standard of accommodation that would be offered to future residents; and the potential impacts on the amenities of local residents; on highway safety; and on the significance of heritage assets in the vicinity.

9.2. A site visit with a Heritage Officer was undertaken during the course of the pre-application advice in February 2023 and a further site visit in December 2023.

Principle of Development

Creation of Housing

9.3. The proposed development would result in the provision of 3 new residential units.

9.4. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. The local housing need figure for Brighton & Hove using the standard method is 2,328 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.

9.5. The council's most recent housing land supply position is published in the SHLAA Update 2022 which shows a five-year housing supply shortfall of 7,711 (equivalent to 1.8 years of housing supply).

9.6. 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). As such, the provision of three residential dwellings would make a relatively small, but important contribution to the city's housing supply.

Other uses in Local Shopping Centres and loss of employment floorspace

9.7. The proposed change of use would result in the loss of an existing building which provides ground floor retail with associated office space at first floor (Use Class E), which is located within a local shopping centre. The proposed development would provide a mix of uses with one retail and one residential unit at ground floor and two further residential units at first and second floor.

- 9.8. There is a general policy presumption against loss of employment floorspace in principle, and policy CP3 would apply to the loss of the office space at first floor. Whilst the office space is understood to be in use in connection with the pharmacy the space is capable of being occupied and operated independently and therefore CP3 is considered relevant and appropriate to consider. The proposal retains a commercial use within the ground floor; however it would result in the net loss of employment (Use Class E) space due to the existing office not being replaced once demolished (circa 61sqm). Such a loss would normally need to be justified by demonstrating that the existing use is not viable and that there is no market interest. The applicant has not supplied any marketing information that demonstrates that no reduced demand exists. Therefore, the requirements of policy CP3.5 of the Brighton and Hove City Plan Part One have not been fully met.
- 9.9. In addition to the above, DM12 states that other uses in respect of development in local shopping centres are permitted where it can be demonstrated that the scheme meets the following criteria:
- “a) The proposal will maintain and enhance the vitality, viability and the character of the shopping area;*
 - b) The proposal will retain active ground floor uses and frontage and provide a direct service or sales to visiting members of the public;*
 - c) The proposed development or uses will not have a harmful impact on the amenity of local residents due to noise, odour, disturbance or light pollution (see DM20, DM40); and*
 - d) Shop front design should be in accordance with the council's shop front policy (see DM23)”.*
- And:
- “3. Residential use may be appropriate above or to the rear of units in shopping centres provided the active frontage is not compromised and that satisfactory residential amenity can be achieved”.*
- 9.10. In relation to part a) above, it is considered that the proposed scheme would contribute improvements to the overall appearance of the Local Shopping centre, with visual improvements to the public realm through the removal of parking spaces, disabled ramp and removal of a building which has little architectural merit. A retail provision would still be provided at ground floor, albeit not for all of the ground floor as current. On balance it is considered the development would overall enhance and maintain the vitality, viability and retail character of the area.
- 9.11. In relation to criterion b), the proposed development would provide a Class E unit with an active frontage which would front directly onto the existing public footway in line with the current building lines to the west and east. This is considered a significant improvement over the existing building frontage and activity associated with it. The current building is set back significantly from the existing footway, behind parking spaces and an articulated disabled ramp, with a relatively blank façade due the amount of plastic stencil that has been applied to the windows. It is considered on balance that the proposed development would retain the active frontage and ground floor use.

- 9.12. In relation to part c), due to the proposed design and subject to the recommended conditions the development would not have a significant harmful impact on the amenity of local residents. This is discussed in further detail later in this report.
- 9.13. In relation to d), the shopfront proposed is considered appropriate for the proposed development in this location and meets the criteria of policy DM23, particularly in relation to size, scale and fascia being proportionate to the host property and surrounding buildings.
- 9.14. In relation to part 3 of policy DM12, the active frontage is considered acceptable for the proposed development and the amenity impacts of the residential units are considered acceptable, as discussed later in this report.
- 9.15. As mentioned above the loss of some of the retail floorspace at ground floor level, and employment floorspace at first floor would not normally be supported by CP3 and DM12 due to the lack of marketing information and partial loss of the retail unit, however in this particular case the applicant is proposing a development which brings significant improvements to the visual offering of the local shopping centre, with removal of a building which is considered to detract from the character of the area. This, in conjunction with the otherwise acceptable form of development (as discussed below), improvements to the public realm/streetscene and the contribution the proposed dwellings would make to meeting housing need in the City the lack of full conformity to CP3, and DM12 is considered acceptable in this specific case.
- 9.16. Comments have been received objecting or commenting on the loss of the existing chemist if this development was to be permitted. The current building is considered to fall under Use Class E and therefore could be changed into another form of commercial use at any time and would not require planning permission to do so. On this basis it would be unreasonable to refuse planning permission due to the potential loss of the existing chemist.

Design and Appearance

- 9.17. The proposed development is considered to be acceptable in terms of design and appearance. The scale and massing would be appropriate in the context of the site, with a stepping up in ridge heights from No.1 West Street following the existing contours in the street which rise in a westerly direction. The design has been significantly amended from the pre-application, with the verticality and detailing to the front elevation now reflective of a group of terraced dwellings, which are considered to fit well within the existing streetscene and the materials have been amended to better reflect the wider street scene and adjacent conservation area. The amount of ground floor active frontage, which is encompassed by the retail unit, has increased and now has the appearance of approximately two thirds of the ground floor. The reinstatement of a building line which fronts directly onto the footway, with removal of the existing parking spaces, dropped kerb, disabled ramp and existing building, all bring significant visual improvements to the public realm and use of the existing shopping centre.

- 9.18. In terms of external materials, these take cues from existing surrounding development and the adjacent conservation area, and the elevations would be finished in flint with areas of brick detailing to the corners and surrounds, reinforcing the terraced appearance and adding significant additional visual interest. The large western elevation has windows which now break up what could have been a large blank façade and have enhanced the appearance in the public realm. To ensure the final appearance is as anticipated, further details will be required by condition prior to the erection of the development.
- 9.19. The design and appearance of the application has been the subject of pre-application advice from the LPA with significant input from Heritage Officers and overall the design now proposed is considered acceptable.

Impact on Heritage Assets

- 9.20. The proposed development is located adjacent to the Rottingdean conservation area. The scheme has been designed with input from Heritage Officers, at pre-application stage, with further amendments once the application was submitted. The existing building to be demolished is considered of no architectural or historic merit and has been previously identified as a negative feature of the High Street area in the Rottingdean Conservation Area Character Statement. Heritage Officers have confirmed that the proposed developed is acceptable. No negative impacts are considered to the conservation area and the development would remove an identified negative building in the area character statement, with further improvements to the public realm being, as noted above, the reinstatement of the historic pre-existing building line, removal of a large wheelchair ramp, removal of off street parking and a new footway to replace the existing dropped kerb which would match finish of the footway to the north.

Impact on Amenities

- 9.21. The proposal would result in the demolition of the existing two storey gable ended building, which is set back significantly from the existing building line of West Street. The footprint that the existing building currently occupies, would be replaced with the two-storey rear flat roofed element and becomes a gable ended design with accommodation at the front of the building that is in line with the form of the existing buildings at No.1 West Street.
- 9.22. The proposed building form is not considered to bring any significant increase in overshadowing or overbearing effects to the neighbouring properties over and above the current situation, with replacement of the existing two storey gable ended building on the rear boundary, with a new flat roofed structure that reduces the bulk and massing to this northern boundary. No significant harmful loss of outlook or direct loss of light is anticipated, with potential improvements for some surrounding residents.
- 9.23. The south/front-facing windows and dormers would provide views across the public highway and the public car park, which would not cause any amenity harm through overlooking to surrounding residents. The western side-facing windows at first floor level would overlook the side elevations of the adjacent Tesco store and the access road into Golden Square, no harmful overlooking would therefore occur.

- 9.24. The rear windows at first floor and the dormers in the rear roof would enable direct overlooking into the rear gardens of the properties adjacent, nos, 25, 27, 29 and 31 High Street. To overcome this, the plans are detailed to confirm that the glazing in the rear at first floor level would be obscured and non-opening below 1.7metres and obscured glazing would be provided in the rear dormer windows also. The rear windows are serving bedrooms, and the obscuring and respective non-opening would be secured and retained by condition so that any amenity harm from overlooking to the surrounding residents to the rear would not occur.
- 9.25. During demolition and building works some level of disruption and noise is very likely to surrounding properties, but this would be in the short-term only and is not a reason to withhold planning permission. The council will retain the authority to investigate under the Environmental Protection Act 1990, should any noise complaints be received.

Impact on the Public Highway

- 9.26. The proposed development represents a gain of three residential dwellings with a loss of existing Class E floorspace, and it is considered that there would be no additional impact on the highway with a likely reduction in trips to and from the site; this view is shared by the Local Highway Authority (LHA).
- 9.27. The development would result in the loss of off-street parking spaces to the front of the building; and the LHA has not objected to the this as, in view of the reduction of Class E floorspace and the availability of public parking at the adjacent car park, objection on highways grounds is not considered sustainable. The proposed residential dwellings have no car parking associated with them and this is considered acceptable due to the location in close proximity to local facilities and public transport. The LHA confirm this accords with SDP14: Parking Standards which specifies a maximum of one (1) car parking space per dwelling and one (1) visitors car parking space per two (2) dwellings.
- 9.28. The proposed development includes four cycle parking spaces for the three residential dwellings; this is in accordance with SPD14: Parking Standards. A condition is recommended requiring the installation of the secure cycle store which is located at the rear of the development at ground floor level in the interest of encouraging travel by sustainable means.
- 9.29. The proposed development does not propose any cycle parking for the retail unit. SPD14: Parking Standards requires the provision of two cycle parking spaces. It is assessed that the development could not reasonably accommodate these spaces and cycle parking provision is available in the car park opposite the site.
- 9.30. The removal of the existing parking spaces would necessitate reinstatement of the public footway and kerb, which would be secured by condition. Red block pavements which match those on the footway to the west would be conditioned.

Standard of Accommodation

- 9.31. 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. These space standards have now been formally adopted into the Brighton and Hove City Plan, within Policy DM1 of City Plan Part Two.
- 9.32. The NDSS and DM1 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 with 75% of the floorspace being 2.3m or higher. Rooms are also assessed for their ability to provide suitable room to circulate within them by future occupants.
- 9.33. The minimum gross internal area for a one storey, one (1) bedroom, two (2) person dwelling is described as 50 square metres under policy DM1 and the NDSS. The ground floor residential unit (unit 1 one (1) bedroom, two (2) person) exceeds this requirement at approximately 54m².
- 9.34. Unit 2 and 3 have been amended during the course of the application with the plans indicative layout now showing one double bed and one single bed and the agent has confirmed they would be two bedroom, three person dwellings. The minimum gross internal area for a two storey, two (2) bedroom, three (3) person dwelling over two floors is described as 70 square metres under policy DM1 and the NDSS. In this regard the proposed units 2 and unit 3 would meet the required standard of floorspace at approximately 73m² and 74m² respectively.
- 9.35. The floor space would be functional with sufficient levels of circulation space, light and outlook and would therefore provide an acceptable standard of accommodation. The bedrooms proposed meet the minimum space standards of DM1 and would have good or reasonable levels of natural light and outlook, excepting the first floor rear bedroom of Unit 3, which would only have horizontal views from the rear windows above 1.7m due to the obscure glazing. This bedroom would retain sufficient light however only skyward views would be enabled from the rooflight in Unit 3, whilst limited outlook is noted from this bedroom all other rooms within Unit 3 would have sufficient outlook and ventilation and the standard of accommodation of this unit is, on balance, acceptable. It is also noted that the ground floor bedroom window of Unit 1 would face directly onto the footway, which may limit outlook due to a desire for future residents to maintain privacy, however this is not an unusual relationship in a historic environment with a tight urban grain.
- 9.36. A small rear patio area (5m²) is provided as amenity space for Unit 1 and it is acknowledged that the proposed 2 bed units would not have any outdoor amenity space. While outdoor space is beneficial to all homes, given the location of the property it is not considered that lack of outside space would be harmful to the future occupiers of the proposed residential dwellings sufficient to warrant refusal on this occasion. In reaching this assessment, it is noted that the development would be in close proximity to the extensive outdoor recreation area provided by the open beach to the south and the south downs to the west and north west of the site.

- 9.37. The new dwellings shall be subject to a condition requiring that they be built in accordance with the Building Regulations Requirement M4(2) in the interest of equal accessibility. A further condition shall be included requiring compliance with the approved floor plans; the LPA would wish to manage the layouts of these buildings to ensure that neither building becomes over-occupied to the detriment to the standard of accommodation.

Biodiversity

- 9.38. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bumblebees and swifts. A suitably worded pair of conditions will be attached to secure an appropriate number of bee bricks and swift bricks within the proposal in order to help meet the requirements of policies CP10 of the CPP1 and DM37 of the CPP2 as well as Supplementary Planning Document 11: Nature Conservation.
- 9.39. Furthermore, a scheme in relation to the proposed sustainable flat ("green") roof shall be secured by condition in order to ensure that a suitable scheme is supplied that can contribute to the biodiversity of the area.

Sustainable Drainage

- 9.40. Details of sustainable drainage measures to be implemented shall be provided within the sustainable flat roof condition.

Sustainability

- 9.41. Policy DM44 requires new build residential buildings to achieve, as a minimum, an Energy Performance Certificate (EPC) rating 'B'. New dwellings are also required to achieve a water efficiency standard of a minimum of not more than 110 litres per person per day maximum indoor water consumption. This can be secured by condition.
- 9.42. Refuse and recycling storage facilities shall be secured by condition in the interest of waste management.

Other matters

- 9.43. Party wall matters have been raised in representations made on the application and how they would be managed and the impacts of the development. These are not material matters in the consideration of the planning application and would have to be dealt with appropriately by Party Wall surveyors and any award that may be made in relation to any party wall agreement.
- 9.44. Private rights of way and access to the side of the existing adjoining building at No.1 West Street have been raised in representations made on the application, including how they would be managed and the impacts of the development upon them. These are not material matters in the consideration of the planning application. They are a private civil/legal matter for the respective landowners to resolve appropriately.

- 9.45. The agent has been made aware of the party wall and access matters concerns raised.
- 9.46. Access to the Golden Square and footpath to the north by the village hall would remain unaltered. Concerns have also been raised that the proposed development would have a detrimental impact on property value; that the development is just for the benefit of the developer; and that the development would result in the loss of a view, but these are not material planning considerations.
- 9.47. In addition the LPA was made aware that the site notice disappeared/was removed early on in the consultation process. The site notice was reposted onsite, and the consultation period extended to allow for this.

Conclusion

- 9.48. The proposed development would replace a commercial unit (Use Class E) with a new mixed-use development, comprising a ground floor commercial unit and three new residential properties (Use Class C3), which can be given significant weight as a material planning consideration given the Council's lack of a five year housing land supply. The commercial unit, albeit smaller than the existing premises provided, would enhance the active frontage over the existing situation and the dwellings are considered to be of good quality. The overall development would bring improvements to the existing streetscene and public realm, while anticipated to have an acceptable impact on the amenities of local residents and highway safety. Sufficient weight has been attributed to the provision of the additional residential units within this scheme in the planning balance in accordance with the NPPF and on balance and in full consideration of all the above the recommendation is that the application is approved.
- 9.49. Planning conditions shall be included in the interest of residential and visual amenity, accessibility, biodiversity, environmental impacts, sustainability, and highway safety. For the foregoing reasons the proposal is considered to be in accordance with policies SA6, CP1, CP4, CP8, CP9, CP10, CP11, CP12, CP13, CP14, CP15 and CP19 of the Brighton and Hove City Plan Part One, and DM1, DM12, DM18, DM19, DM20, DM21, DM22, DM29, DM33, DM35, DM36, DM37, DM40, DM41, DM42, DM43 and DM44 of the City Plan Part Two. It is also considered to present no conflict with the emerging Rottingdean Neighbourhood Plan.

10. EQUALITIES

- 10.1. During the determination of this application due regard has been given to the impact of this scheme in relation to the Equality Act 2010 in terms of the implications for those with protected characteristics namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. There is no indication that those with any of these protected characteristics would be disadvantaged by this development.

- 10.2. The existing wheelchair ramp would be removed as part of the demolition; however, the proposed retail unit would have direct level access from the street, retaining appropriate access to the proposed building.
- 10.3. The new dwellings shall be subject to a condition requiring that they be built in accordance with the Building Regulations Requirement M4(2) in the interest of equal accessibility.

11. COMMUNITY INFRASTRUCTURE LEVY

- 11.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23rd July 2020 and began charging on all CIL liable planning applications on and from the 5th October 2020. It is estimated that the amount of CIL liability for this application is £24,100.70. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as is practicable after the issuing of planning permission.