

<u>No:</u>	BH2021/04167	<u>Ward:</u>	Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Brighton Gasworks Land Bounded by Roedean Road (B2066) Marina Way and Boundary Road Brighton BN2 5TJ		
<u>Proposal:</u>	Comprehensive mixed-use redevelopment comprising site preparation and enabling works, demolition of existing buildings and structures; provision of new buildings comprising residential use (Use Class C3) and flexible non-residential floorspace (Use Class E), new private and communal amenity space, public realm, landscaping; car and cycle parking, highway works, access and servicing arrangements; associated plant, infrastructure and other associated works including interim works.		
<u>Officer:</u>	Chris Swain, tel: 292178	<u>Valid Date:</u>	24.11.2021
<u>Con Area:</u>		<u>Expiry Date:</u>	16.03.2022
<u>Listed Building Grade:</u>		<u>EOT:</u>	17.07.2024
<u>Agent:</u>	Quod Quod 8-14 Meard Street London W1F 0EQ		
<u>Applicant:</u>	St William Homes LLP Care of Quod 8-14 Meard Street London W1F 0EQ		

1. RECOMMENDATION

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

- A) Completion of a s106 Agreement and secure the Heads of Term as set out below:

Section 106 Head of Terms:

Affordable housing:

- Prior to implementation of the development the applicant shall use reasonable endeavours to enter into a contract with a Registered Provider (RP) with sufficient grant funding to acquire 40% of the total dwellings on the site which will be provided as affordable housing by the RP.
 - The applicant shall use reasonable endeavours to ensure that the contract provides for the affordable housing to be provided is in broad alignment with the Council's target mix and tenure split.

- Late-stage Reviews of Viability
 - Reviews of viability will be required if the applicant is unable to secure 40% affordable housing of an acceptable mix and tenure on site, as set out above.

Sustainable Transport and Highways:

- The applicant is required to enter a s278 to provide the following highway works prior to first occupation / use of the site as indicated in Figure 44 and Appendix D of the Transport Assessment (December 2023).
 - Boundary Road improvements,). These works would also include a new signal-controlled Toucan crossing on Marine Drive, south of Boundary Road, including the provision of suitable kerbing to facilitate cyclist joining/leaving the cycle route. 1 x car club bay to be provided on Boundary Road. Tree planting and an agreed maintenance plan. Any necessary TRO's.
 - B2066 Roedean Road, Marina Way improvements, immediately adjacent to the site, including a new footway on the western side of Marina Way between the development and Roedean Road.
 - Bikeshare hub to secure the provision of a bikeshare docking facilities with 10 e-bikes in proximity to the site, to be located on-site or the public highway, adjacent to the site (eg. Boundary Road).
- Permissive Path Agreement
 - Access shall be provided through the site at all times via a permissive path agreement.

Public art

- Commissioning and installation of an Artistic Component and / or Arts Strategy to the value of £231,620.

Employment:

- A financial contribution of £180,260 towards the Local Employment Scheme
- Submission of an Employment & Training Strategy to set how the developer, contractor (and their sub-contractors), as well as any other relevant agents will collaborate in order to meet the Local Employment Scheme's key objectives:
 - Recruitment and Development
 - Careers, Experiences of Work & Social Value
 - Green Economy & Sustainability

Monitoring fees:

- Contribution for the necessary monitoring of the s106 agreement, the public art proposals and the measures and objectives within the Travel

Plan.

B) The Conditions & Informatives set out at Appendix B

SAVE THAT should the s106 agreement not be completed on or before 11 September 2024 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in Appendix C of this report:

2. SITE LOCATION

The Site

- 2.1. The site known as the 'Brighton Gasworks' is located within the Whitehawk and Marina Ward. It covers an area of 2.02 hectares. There is a fall of elevation from north to south of approximately 9m in height with a shallower fall in gradient from east to west. It is bounded by Roedean Road to the north, Marina Way to the east and south and Boundary Road to the west. The main A259 Seafront Road is further to the south.
- 2.2. The northeastern part of the site is occupied by two redundant gasholders, with the frame of one still in situ. Directly to the south of the gasholders are several small buildings that contain operational gas equipment and accordingly there remain low, medium and high-pressure gas mains underneath parts of the Site.
- 2.3. The rest of the site is made up predominantly of hardstanding with low rise / warehouse style buildings used in association with the existing commercial uses, largely located in the centre of the site. The mix of uses includes vehicle parking, storage and maintenance and servicing.
- 2.4. The northern and southern boundaries of the site abut areas of council-owned land which are outside of the red line site boundary and do not form part of the proposed development.

Surrounding context and constraints

- 2.5. Directly to the north of the site is a brick building containing a primary substation and council owned land used for storage in conjunction with highways maintenance. On the northern side of Roedean Road is the Brighton Waldorf School, a low rise assisted living development and four storey residential block.
- 2.6. On the eastern side of Marina Way there are a number of semi-detached and terraced housing, Roedean Community Fire Station and also the large scale locally listed Marine Gate flat development, built in the late 1930s and predominantly eight to nine storeys in height.
- 2.7. The council owned land directly to the south of the site contains a single storey community building. Further to the south, Marina Way drops away, extending into an underpath below the main seafront road (A259) that provides access to the Brighton Marina.

- 2.8. The eight storey 1970's Courcels building is sited to the southwest of the site, with the western boundary flanked by Boundary Road and the backs of the terraced properties of Arundel Street. The Bell Tower Industrial Estate is sited to the northern end of Boundary Road, to the west of the site.
- 2.9. The closest listed building is the Grade II Listed French Convalescent Home, located to the southwest of the site. Further to the west is located the Grade I listed Kemp Town Estate and Enclosures, the boundary of which forms the extent of the Kemp Town Conservation Area (CA). The East Cliff CA lies immediately to the west of the listed Kemp Town Estate.
- 2.10. To the northeast of the site beyond Roedean Road is East Brighton Park which is encompassed by the edge of the South Downs National Park (SDNP).
- 2.11. In respect of statutory designations, the Brighton to Newhaven Cliffs Site of Special Scientific Interest (SSSI) is approximately 50m southeast of the site, Beachy Head West Marine Conservation Zone (MCZ) is approximately 300m to the south, and Whitehawk/Race Hill Local Nature Reserve (LNR) is approximately 700m to the northwest. The non-statutory designated Sheepcote Valley Local Wildlife Site (LWS) is sited approximately 130m to the northeast.

3. RELEVANT HISTORY

Pre-application

- 3.1. There were extensive discussions between the Council and the applicant prior to the submission of the application which helped to shape the proposals and set out key design and policy requirements. The pre-application process included two independent external Design Review Panels (DRP) where a panel of built environment professionals critiqued the early development proposals.
- 3.2. The DRPs reviewed initial schemes which had approximately 600 residential units with heights of up to 16 storeys, with the tallest buildings to the centre and north of the site. Whilst the panel was generally more comfortable with the height and massing to the south, the massing to the centre and north was considered too tall and dense, impacting on views from the north and reducing the quality of the proposed amenity areas. Concerns were also raised about the lack of integration with the Council-owned land to the north and south of the site and the Panel set out that these parcels should ideally be incorporated into the site. The Panel also set out that heritage and cultural memory should play a more prominent role with the industrial past of the gasholders referenced in some way. Whilst the general design approach of a link between the Downs and the sea was considered to have merit this needed to be further refined and the public spaces improved for the scheme to succeed as a quality piece of public realm, which also worked with commercial and residential occupiers of the site.
- 3.3. The general layout and massing and architectural form was further evolved over time in response to officer and DRP feedback before an application was submitted. Alongside considerations of quality design and impact on neighbouring amenity key issues requiring attention were identified including

sustainability measures, appropriate housing mix and the provision of robust land contamination information.

- 3.4. Notwithstanding viability concerns, the applicant was strongly pressed by the Council to explore all options to provide affordable housing in the scheme, whether that would be via any form of grant or other additional funding mechanism or through any other partnerships or joint ventures.
- 3.5. It is noted that there were discussions between the applicant and the Council to purchase the land parcels abutting the north and south of the site. Although the applicant submitted a formal offer to acquire the land they failed to reach an agreement, with the Council deciding they needed to explore other options at the time. As such the proposals were developed without these sites.
- 3.6. The applicant also undertook pre-application engagement with the local community via mail-drop, a consultation website, virtual drop-ins, and meetings with local councillors and groups.

Planning applications

- 3.7. **BH2019/02964** - Temporary change of use of site until 16th October 2024 as holding area/consolidation site for hospital building contractors, incorporating hospital construction staff car parking and erection of 6no storage containers to store window units and 54no storage containers for commercial storage and associated alterations. (Part retrospective). Approved 19 January 2023.
- 3.8. **BH2018/02571** - Prior Notification Demolition application for Demolition of Former Gasworks Site Boundary Road. Refused on 7 September 2018 on the grounds that insufficient information was submitted within the 8-week prior notification deadline.
- 3.9. **BH2015/02689** - Temporary change of use of site until 1st November 2019 for: 1) "Park and Ride" parking facility for existing hospital staff and associated waiting area and toilet buildings; 2) hospital construction staff parking; 3) construction material holding and distribution area and erection of 14 containers and 'heras' fencing (part- retrospective). Approved 4 May 2017.
- 3.10. **BH2013/02188** - Prior approval for demolition of the two former gasholders. Approved - 13 September 2013.
- 3.11. **BH2010/00882** - Change of use from private open space to car wash (retrospective). Refused 7 July 2010.
- 3.12. **BH2009/01498** - Temporary change of use for period of 5 years for the sale of surplus and reclaimed building materials, installation of portacabins and other ancillary structures and new site fencing (part retrospective). (South-east corner of site) Approved 28 September 2009.
- 3.13. **BH2002/00016/FP** - Use of asset office and first floor for office premises (former British Gas Depot). Approved 8 February 2002.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for a comprehensive mixed-use redevelopment of the site, comprising the following:
- site preparation and enabling works, demolition of existing buildings and structures; and
 - erection of buildings ranging from 3 to 12 storeys as part of a mixed-use development of the site.
- 4.2. The development would comprise 495 dwellings including 481 flats in eleven apartment blocks, and 14 three-storey townhouses along the western boundary of the site, along with 2,791m² of commercial floorspace at ground floor level throughout the site. There would be a landscaped 'green link' towards the eastern edge of the site providing public linkages from the Roedean Road to the north to Marina Way to the south.
- 4.3. The development is proposed to be split into 3 phases, though much of these works will be undertaken concurrently.
- Site set up and preparation, demolition, remediation, site-wide enabling works,
 - Phase 1 – Buildings E1, Townhouses, E4, F, G & H,
 - Phase 2 – Buildings A, B, C & D Blocks,
 - Phase 3 – Buildings I1 & I2.

Residential

- 495 dwellings (Use Class C3) with a combined mix of:
 - 26 x studio (5%),
 - 142 x one bed unit (29%),
 - 265 two bed unit (54%),
 - 48 x three bed unit (10%) and
 - 14 x 3/4 bed townhouses (3%)
- The applicant has agreed to use 'reasonable endeavours' to provide policy compliant affordable housing. This would be through the sale of 40% of the market homes to a Register Provider (RP) who would purchase with the benefit of Homes England grant funding. This would be for 198 homes with a tenure mix of 55% affordable rent and 45% shared ownership. This would be for 198 homes with the following mix;
 - 77 x 1 bed (39%), 107 x 2 bed 54% and 14 x 3 bed units (7%).
- All residential units to have private amenity space in the form of a balcony or private garden space,
- All residential units to have access to communal amenity space in the form of landscaped podium gardens and terraces,
- An internal communal space for residents for leisure / home working.

Commercial

- 2,791sqm of flexible employment floorspace (Class E), predominantly at ground floor level throughout the scheme,

- Net increase in number of jobs on site (the average assessed as increase of 110 FTE).
- 2000sqm of the employment floorspace to be conditioned to be solely either 'office, research and development or light industrial' space.
- Mix of units with different sizes and layouts throughout the site, suitable for a number of uses such as retail, restaurant / café, professional services, medical or health services, creche or recreation.

Public Realm / highways improvements and landscaping

- Landscaped route 'Green Link' through site from Roedean Road / Marina Way in the northeast, linking up to Boundary Road to the southeast,
- Significant highways improvements to Boundary Road with new surfacing, drainage, lighting, pavements and tree planting,
- A flexible space in the north of the site, 'The Circus' which can be used for community and event use,
- 758sqm of children's play space in private and public spaces
- 400sqm food growing areas within the private gardens.

Parking and access

- 179 podium car parking spaces for both residential and commercial uses including disabled parking accessed via Boundary Road,
- 532 long stay residential cycle parking spaces.
- 24 long stay commercial cycle parking spaces,
- 86 short stay cycle parking spaces (residential and commercial)
- 30 motorcycle spaces
- Servicing and Deliveries via Boundary Road and Marina Way,
- Pedestrian and cycle path through the scheme,

Sustainability and Biodiversity

- Green /Brown biodiverse roofs with photovoltaic panels,
- Air Source heat pumps throughout,
- Landscaping and public realm that includes a significant uplift in biodiversity net gain.

Revisions to the scheme

- 4.4. The scheme, as originally submitted in November 2021 was for 553 residential units and 2,697m² of employment floorspace. The applicant has subsequently undertaken significant revisions to address issues and concerns raised by planning officers and internal and external consultees as well as local residents and amenity groups.
- 4.5. The scheme was revised and formally resubmitted and re-consulted on from late 2022 with changes to height and massing and architectural form and improvements to master planning layout, but with similar quantum of development with 565 residential units and 2,742 sqm of employment floorspace.

- 4.6. Whilst the 2022 revisions did improve the scheme in many areas Officers did not consider that the scheme had gone far enough to address a number of key concerns.
- 4.7. The current scheme has been revised further with the key points set out below:
- Reduction in overall numbers of residential units to 495,
 - Reduction in height to buildings to the centre and north of site
 - Gaps opened up between buildings to help permeability (views) through the site and improve sunlight in the public realm,
 - Improved architectural design, from and materially with a circular gasholder inspired 'gateway' building (Block C)
 - Improved sustainability measures with 100 per cent heat pumps and solar panels throughout
 - Additional land contamination information provided upfront,
 - Addition wind microclimate and balcony details provided upfront.

Environmental Impact Assessment (EIA)

- 4.8. The Development falls within Category 10(b) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, which is applicable to 'Urban Development Projects'. The applicant did not seek a screening opinion from the Council and instead committed to undertaking an EIA and submitting an Environment Statement (ES) with the planning application voluntarily. The ES that has been submitted is based on the Scoping Opinion provided by the Council in November 2020 setting out the matters that needed to be covered.
- 4.9. The ES has been revised and information and assessments have been updated as necessary to take account of changes to the scheme since the original planning application submission, with additional consultation undertaken, as required by the EIA Regulations.

5. REPRESENTATIONS

- 5.1. The original application was consulted on from December 2021. A further revision to the application was consulted on from December 2022. The current application was consulted on from January 2024. Over the course of the entire application process we have received 1734 representations, including from the following groups.
- 5.2. AGHAST, Surfers Against Sewage, Save Britain's Heritage, Rottingdean Heritage, Kemp Town Society, Brighton and Hove Heritage Commission, The Brighton Society, Amex Area Neighbourhood Action Forum, North Laine Community Association, Montpelier & Clifton Hill Association, Regency Squares Community Regency Society of Brighton and Hove, The Georgian Group, The Gasworks Coalition (this group is formed of the Brighton Society, Regency Society of Brighton & Hove, Kemp Town Society, Kingscliffe Society, Montpelier & Clifton Hill Association, Brighton & Hove Heritage Commission, North Laine Community Association, Rottingdean Heritage, West Hill Community Association, Marine Gate Holdings Ltd, Due East, AGHAST, Amex Area

Neighbourhood Action Forum, Regency Square Community, Southdown Rise Residents Association and Kingsway and West Hove Residents Association (KAWHRA)) objecting to the proposed development for the following reasons:

Design, appearance, heritage.

- Overdevelopment of the site, too dense, buildings too close together,
- Inappropriate height, mass and bulk, does not respect character of area,
- Detrimental impact on views of the South Downs National Park, create an ugly visual barrier between the South Downs and the sea,
- Generic architecture, poorly designed, lacks quality and imagination, not a holistic design approach, inappropriate colours and materiality,
- The gas holder structure should be retained / listed,
- Poor quality of public realm,
- Excessive footprint and poor layout,
- Building lines too close to the edge of the site,
- Lack of views, permeability through site.
- Fails to respect existing architectural built form,
- Lacks human scale,
- Showing the proposed Marina development in views is misleading as it will never get built,
- Brighton's character becoming lost with numerous poorly designed large-scale schemes such as this,
- Utilising cheap materials in the design,
- Poor orientation of the buildings,
- Square Tower blocks are akin to Milton Keynes at its worst,
- Building C brick colour should be toned down to a pastel shade and the bricks should have a matte finish to avoid reflections.
- Buildings should be taller,
- Balconies and detailing detract from scheme,
- Design does not respect Brighton's heritage,
- Harms the setting of conservation areas, setting of the Grade I Listed Kemp Town Estate, numerous listed buildings within the local area and the Brighton seafront, harm to locally listed buildings including Marine Gate
- Removal of historic Rottingdean/Brighton flint wall which marked parish boundary,
- Harm to Area of Outstanding Natural Beauty.

Policy

- Excessive in density and way beyond the minimum of 2000sqm of commercial and 85 residential units set out within policy DA2 of the City Plan Part 1,
- The site is not within a designated Tall Buildings Area or special node,
- The proposal does not integrate well into the Marina or Black Rock and has no strategic vision for the wider area,
- Contrary to local and national planning policy and legislation,
- Contrary to SPD17, Urban Design Framework,
- Lack of joined up planning for East Brighton, Black Rock and Marina

- Fail to "foster well-designed, beautiful and safe places" - one of the overarching objectives of the National Planning Policy (NPPF).

Transport / highways

- Increased road and junction congestion especially on A259 and Eastern Road, impact on emergency services, hospitals, on race days at racecourse,
- Highway safety issues for pedestrians, cyclists and vehicles,
- Insufficient vehicle and cycle parking proposed,
- Parking pressures within surrounding streets in and outside the CPZ, especially for disabled drivers, parking survey flawed,
- Lack of connectivity to adjoining sites, including the beach,
- Increased rat runs,
- Boundary Road is an unadopted road owned by the freeholders on Arundel Street,
- Lack of planning for refuse collection and deliveries,
- Site poorly connected by public transport,
- Covenant should be used to restrict car ownership for residents to prevent parking problems.

Land contamination / pollution / noise / air quality / safety

- Land is contaminated and not suitable for development, insufficient land contamination information to safely determine application,
- National concern about gasworks sites and an All-Parliamentary Group has been set up to investigate - other redeveloped gasworks sites have resulted in health complaints from local residents,
- Could result in negative health issues for local residents in respect of gases, vapours, odours, waste or dust that could be harmful, hazardous, noxious or contaminated during remediation and construction,
- No examples of safe gas works sites that have been safely cleaned up have been provided by the applicant or council,
- Mobilisation of pollutants could be worsened by permeable surfaces,
- Schools in close proximity could be impacted by airborne contaminants,
- Construction time is too long and will exacerbate noise/vibration and pollution issues,
- Deep piling and foundations will exacerbate the release of contaminants - a low-rise scheme should be considered that would disturb less of the contaminated land,
- Lack of mitigation plans,
- The Gasworks site is not identified as a 'special site' under Contaminated Land Regulations 2006.
- Previous application to remove the gasholders on the site was rejected on grounds of insufficient information on contamination,
- Gasworks site in Hove was not deemed appropriate for residential development,
- Should comply with top standards of bioremediation, bioreceptors, biosensing, data sensors and monitoring and not just be "LCRM compliant".
- Pollution will impact upon local food growing,
- Additional emissions / pollution from vehicles using the development, worsening of air quality,

- WHO air quality guidelines for both nitrogen dioxide and particulate matter will be exceeded, and adverse impacts upon the local populace are inevitable,
- Concerns about the developer's track record,
- National Grid should have cleaned up site before application submitted,
- The baseline air quality assessment is flawed,
- Not safe to develop over gas pipelines and infrastructure,
- Risk of unexploded bombs - area was heavily bombarded during the Second World War,
- UK Health Security Agency have expressed concerns that there is insufficient information contained within the planning application to be able to fully assess the impact of the proposed development on public health.
- Insufficient sewage infrastructure will result in more sewage discharges into bathing waters,
- Developer should install a water treatment plant before onward discharging to the system,
- Will increase vermin problem in surrounding area.

Housing

- Proposed units will appeal to foreign investment and holiday lets and offers little benefit to the area - properties will not be affordable to local people,
- Lack of affordable housing on site,
- Poor housing mix - too many smaller units rather than family accommodation,
- Viability assessment not submitted with the original application,
- Poor quality of housing, lacking in daylight, sunlight, privacy, outlook and suitable external amenity space,
- Free market economics does not work and thus it is essential to provide social housing,
- Lack of attached housing association/funding for affordable homes.

Standard of accommodation

- Proposed housing is too small / cramped,
- Poor levels of sunlight and daylight
- Lack of privacy and outlook,
- Amenity spaces are too small / lacking in quality,
- Excessive wind impacts through public and private areas,
- Lack of play areas or any sports facilities.

Sustainability. Ecology and biodiversity

- Lack of ecology considerations,
- Insufficient green landscaping,
- Site is near protected wildlife areas and the SDNP and will negatively impact these,
- Lack of swift bricks and bat boxes,
- Insufficient number of larger trees,
- Starlings currently roost on gasholders and would be displaced,
- Vegetation / trees won't grow in this harsh environment,

- Loss of trees that are a habitat for birds,
- Impact on Beachy Head West Marine Conservation Zone and marine ecology,
- Consequences of the groundwater and soil contamination on wildlife
- Lack of technical documents assessing impact of any contamination on ecology,
- Would not support the South Downs Biosphere Reserve,
- Ecological Assessment inadequate in respect of surveys and assessment of protected species,
- Low biodiversity net gain score, detrimental to wildlife and loss of opportunity to make a genuine gain.
- Lack of renewable energy proposed, gas boilers should be removed from scheme,
- Does not achieve highest sustainability standards of heating and cooling of properties,
- Not carbon friendly - method of construction is high in embodied carbon, would not use environmentally friendly building materials/methods, would not meet B&HCC's carbon Neutral 2030 agenda,
- Environmental performance of tall buildings reduces over 6 storeys,
- Impact on geosyncline not assessed,

Residential amenity for neighbours

- Loss of light and daylight and overshadowing, does not meet BRE guidance,
- Overbearing and enclosing impact, loss of outlook
- Overlooking and loss of privacy,
- Noise and disturbance during construction and once completed,
- Will create strong wind tunnels, issues with high wind speeds around site and impacting local residences,
- Too close to neighbouring boundaries,
- Drainage and flooding issues.

Consultation

- Too many documents which are hard to understand,
- Development does not respond to local residents' concerns set out in the earlier pre-application consultation by the developer,
- Poor public engagement from the developer,
- Not enough time given to respond,
- Lack of engagement with community groups,
- Lack of public consultation regarding the scheme and amendments,
- Consultations poorly timed over holidays,
- Scheme does not align with resident's priorities for the site.

Other issues

- Council owned land not integrated into site,
- Negative impact on property prices,
- Restriction of views,
- Brighton Marina appeal was dismissed by the Planning Inspectorate and the council should consider this precedent when assessing this scheme,

- Detrimental impact on infrastructure,
- Site is needed for parking and storage in conjunction with hospital re-development,
- Results in the loss of existing commercial operators which may not be able to be relocated in the city and would result in a loss of jobs and services,
- Lack of medical, dental, nursery, schools, sports and other civic facilities,
- No contributions towards sport and recreation in the local area,
- Increased impact on all local services,
- No need for commercial property on site,
- Impact on neighbouring resident's mental health,
- Lack of joined up thinking with the Marina and Black Rock sites,
- No community centre,
- Lack of commercial uses,
- Detrimental to tourism,
- Does not benefit local residents in one of the most deprived areas of Brighton,
- applicant's Financial Viability Assessment (FVA) was not included with the original application submission,
- applicant's FVA is flawed, does not conform to national guidance and has inaccurate assumptions,
- The proposed development would increase crime in the area.
- Concerns with the robustness of the wind assessment
- Height of development and increased wind issues could impact safe use of the Brighton air ambulance helicopter,
- Green link should extend to the sea,
- Concerns that proposal would not meet health and safety regulations,
- Fire safety concerns,
- Flat unlikely to sell in this area,
- Lack of quality retail / supermarket in the scheme,
- Incompatible commercial and residential uses
- No commitment to community spaces in new development
- An alternative option for lower rise scheme has been put forward by a campaign group and should be considered,
- Council has not responded to all freedom of information requests,
- Impact on the Cliff structure,
- Disproportionately affects deprived population with existing poor health outcomes,
- The drilling and/or piling may adversely affect Marina Way and Boundary Road, Marine Gate, Courcelles and the houses situated along Boundary Road causing adverse ground movement,
- The application lacks a geological survey of the site to determine if there are any fault lines between the Black Rock and the chalk of the South Downs,
- Residents have previously been told by the council that the development would be the same height as Boundary Road.
- Lighting concerns,
- Privacy issues in respect of CCTV cameras to be used in proposed development,
- Drainage/flooding

- No model produced,
- The development site is supported by a raised beach, a geosyncline perhaps unrepeatable in the country and of major geological importance and historical interest.
- Will increase population levels in the city,

5.3. 58 representations have been received Supporting the proposed development for the following reasons:

Design, appearance and heritage

- Good design and an uplift in visual quality of the area,
- Already tall buildings either side of site,
- Looks great and will smarten up the area,
- In keeping with listed buildings in the area,
- The housing density proposed is appropriate,
- Colour and materials are supported,
- The design is in keeping with the local area,
- A long way from the listed buildings and has no impact in heritage terms,
- Will have modernise this area of Brighton,
- Will bring a metropolitan feel to the area, which is supported,
- The changes to the north have improved the scheme.

Transport / highways

- The proposals will not result in any increased highways impacts,
- Parking in the area is not as oversubscribed as the rest of the city,
- Cycle and pedestrian routes should be prioritised,
- Very walkable location and will reduce car dependency.

Housing

- Brighton has a chronic housing crisis, and this scheme is urgently needed,
- Good housing mix,
- Will provide additional housing,
- More homes will allow younger people to stay in the city,
- Benefit to families in the city,
- National housing emergency supports the building of taller buildings,
- Will drive up the quality of housing in the area,
- Additional houses will help stop house prices continually rising,
- The scheme is supported but think more homes could be provided,

Land contamination

- The proposals will have the benefit of clearing up a contaminated site,
- Great that private and not public money is being used to clean up the site.

Ecology, sustainability and biodiversity

- Sustainable design which will help with the climate emergency,
- Huge improvement in respect of biodiversity / urban greening,
- Council should provide electric charging parking on Boundary Road.

Residential amenity

- Existing commercial operators on the site are noisy and not suitable for the area.

Others

- Exciting to see such massive investment and improved public realm in one of the most deprived areas of Brighton,
- Will bring vitality to the area,
- Much better to develop this brownfield site at high density than leave it empty and build on the greenfield sites,
- Redevelopment of the site is urgently needed and long overdue,
- New areas of good quality public realm in a run-down and neglected location,
- Will create employment opportunities and economic growth,
- Objectors are homeowners and landowners protecting their assets,
- Brighton needs to move with the times,
- The majority of local people are supportive of the scheme,
- Development should not be held up by nimbies and militant objectors,
- Local campaign groups are harassing local residents to object to the scheme and are not representative of local views,
- Local campaign groups are spreading misinformation about the scheme,
- Lot of objections are not from the local area and are not impacted by the proposals,
- Great amenities to be provided and a benefit to the local community,
- Gasworks sites have been successfully remediated all of the country,
- Will increase house values in surrounding area,
- People objecting do not understand that a low-rise scheme is not viable and will not be built.

5.4. 8 representations, including from the Hove Civic Society have commented (neither objecting or supporting) on the proposed development for the following reasons:

- Appropriate design,
- There is a precedent for height in the area and increased density is needed in Brighton,
- Whilst the proposed materials are supported, we would want assurances that these are not watered down when the scheme gets built out,
- Will Boundary Road get adopted, and will residents be able to park there, or will they be displaced?
- Sufficient parking spaces should be provided,
- Safe links for pedestrian and cyclists should be provided and connectivity through site should be a priority.
- Monitoring of the site must be done by consultants appointed by the council and not the developers,
- New residents will get great views,
- The council should ensure the scheme is fully integrated into the marina and eastern seafront,

- Improving local amenities / infrastructure, including green infrastructure should be prioritised,
- Will towers block mobile or satellite signals?
- Additional pavement should be added on Roedean Road between the golf club and Roedean Crescent,
- Shortage of social housing,
- Housing should be provided for public sector,
- Would remove the existing dangerous gas holders and polluting buses,
- There is the potential for a major public benefit in the development of the site.
- The scheme has improved over time and new cycle and pedestrian links are of value,
- Heritage harm is limited and would be overcome by public benefits.

5.5. Councillor and MP Representations

Consultation on original application

- Councillor Mears (former) objects to the scheme.
- Councillor Platts (former) objects to the scheme.
- Councillor Williams objects to the scheme.
- Councillor Miller (former) supports the scheme.
- Mr Lloyd Russell-Moyle MP objects to the scheme.

Consultation on revised application – November 2022

- Councillor Williams objects to the scheme.

Consultation on current application

- Councillor Williams objects to the scheme.
- Councillor Fishleigh objects to the scheme.

5.6. All the representations are attached.

6. CONSULTATIONS

External:

6.1. **Active Travel England: No objection subject to conditions**

ATE has now reviewed the LHA's third and final consultation response, which provides clarification on a number of points recently raised by ATE and has no objection to the approval of this application subject to the conditions proposed by the LHA being imposed, plus consideration of a wayfinding condition.

6.2. **Brighton and Hove Archaeology Society: Comment**

Site lies close to an area of intense archaeological sensitivity. Among the finds from Roedean immediately to the west are burials dating from the Neolithic and Early Bronze Age periods, and the location of a Roman coffin burial. In October 2003 the Brighton and Hove Archaeological Society excavated an Early Bronze Age burial, close by, on the East Brighton golf course. Other recent discoveries include Roman coins and pottery found in the gardens of a house in Roedean

Crescent, and a large underground chamber, hitherto unknown, possibly associated with Royal Navy activities during the Second World War. The Society are unaware of any archaeology within the proposed development, but the County Archaeologist may have information.

6.3. **Conservation Advisory Group: Objection**

The group objects on the grounds of

- excessive heights of the proposed scheme which is outside a Tall Building Zone and would be highly prominent in many viewpoints including from both the South Downs and the seafront,
- Harm to the to the Grade I listed Kemp Town Estate and other adjacent listed and locally listed buildings,
- Harm to the Kemp Town and East Cliff Conservation Areas,
- Excessive density, resulting in an overdeveloped appearance and landscaping areas dominated by circulation,
- Loss of historic flint wall.

6.4. **County Archaeology: No Objection**, subject to conditions

6.5. The site does not contain any Scheduled Monuments, Registered Parks & Gardens or Battle Fields, nor does it fall within a Conservation Area or contain any listed buildings. The site is not within a currently defined Archaeological Notification Area (ANA). A Comprehensive Archaeological Desk Based Assessment submitted as part of EIA Scoping Report sets out the archaeological and geoarchaeological potential of the site, concluding that the site generally has a low to moderate potential for most periods of past human activity. We generally concur with this assessment but would note that the site generally lies within an extensive prehistoric and Romano-British landscape that includes evidence for settlement, agriculture and funerary practice, as reflected in the disposition of Archaeological Notification Areas in the wider vicinity. Notwithstanding post-depositions impacts associated with the past industrial land use of the site, elements of this wider prehistoric and Romano-British (and later) landscape are likely both to extend into and survive within the site boundary. A condition is recommended for the provision of a programme of archaeological works in accordance with a written scheme of investigation prior to commencement and then a site investigation with a post site investigation assessment.

6.6. **County Landscape Architect: No Objection**,

The revised scheme includes alterations to buildings in the north help to mitigate for potential adverse effects on the local townscape and views from the South Downs National Park. The opening up of more views through the site and improved sunlight to public spaces are welcomed.

6.7. The proposed landscape strategy has been designed to respond to the exposed location and local microclimates that will be created by the development. A good variety and mix of trees and other plant species have been selected. The planting strategy has identified different areas of character and microclimate within the site and has adapted the planting mixes to suit these. The detailed planting proposals have incorporated a mix of ornamental and native planting to

maximise the biodiversity benefits and adapt to local conditions. The proposed hard landscaping materials should create a high quality legible public realm.

- 6.8. The proposed development would represent a major change to the townscape and visual amenity of the local area. There would be some localised impacts on townscape character and views. On balance and in the longer term the proposed development would enhance the local townscape and provide an opportunity to create high-quality public realm.
- 6.9. A comprehensive landscaping scheme should be secure via condition.
- 6.10. **East Sussex Fire and Rescue: No objection**
In the light of the Health and Safety Executive's (HSE) response, we have no further comments to add at the planning application stage and will pick up during the next regulatory stage.
- 6.11. **Ecology: No Objection**, subject to conditions.
With reference to your recent re-consultation, County Ecology have now had the opportunity to consider the above application, review the Bat Survey Briefing Note (Ecology Solutions, May 2024, Ref: 8757) and offer the following advice on ecological issues, that should be read alongside advice provided 12 January 2022, 17 January 2023 and 12 March 2024. In summary, provided the recommended mitigation, compensation and enhancement measures are implemented, the proposed development can be supported from an ecological perspective. Conditions are recommended for a Construction Environment Management Plan (CEMP), Ecological Design Strategy, green roof specifications, bird, bat and bee boxes, Landscape and Ecological Management Plan (LEMP).
- 6.12. **Environment Agency: No objection** subject to suggested conditions
We would agree that significant amount of remedial works have been previously undertaken at this site and that significant investigation has taken place across the site. As such, contamination extents are likely be limited compared to many other gasworks and we would not expect substantial areas of undetected contamination to be encountered. Given the long history of the site as a gasworks, it is likely that some areas of unexpected will be encountered. This must be dealt with as unexpected contamination in line with the remediation strategy.
- 6.13. If any visual or olfactory evidence of unexpected contamination is encountered, in any area proposed for infiltration drainage, then this must be diligently investigated. If there is a risk of mobilisation of any contamination, then we would require that this contamination is chased out and base/side of any exaction validated. Any work associated with this must be done in liaison with the Environment Agency.
- 6.14. Overall, there is no objection to the scheme, subject to conditions relating to a remediation strategy if previously unidentified contamination is discovered, the submission of a verification report prior to occupation and the requirement for

written consent from the LPA for any piling or deep foundations using penetrative methods.

6.15. **ESP Utilities Group:** Comment

The applicant is advised to notify ESP Utilities before the commencement of any works and adhere to all relevant Safe working Practices.

6.16. **Health and Safety Executive (HSE):** No objection

Blocks A, E1 and E2 are under 18m in height and are provided with a single stair core, containing an evacuation stair and dry riser. All the other blocks, apart from A, E1 and E2, are above 18m in height and will be served by two stair cores: one evacuation stair and one fire-fighting stair (part of the fire-fighting shaft).

6.17. The Fire Statement dated 10/11/2023 states that the adopted fire safety standards are Approved Document B Volume 1 & 2 ('ADB1' & 'ADB2'). It is noted that the open plan apartments will be designed in accordance with the recommendations of BS 9991:2015 ('Fire safety design, management, and use of residential buildings'). HSE has assessed the application accordingly.

6.18. Following a review of the information provided in the planning application, HSE is content with the fire safety design as set out in the project description, to the extent it affects land use planning considerations.

6.19. **Historic England:** Comment

Note proposal would cause some harm to the significance of the Kempt Town Conservation Area and the very highly graded buildings within it because of its tall, dense, city centre form and character. This would erode the understanding of the origins of Kemp Town as an independent settlement surrounded by open space and sea.

6.20. We anticipate that impacts would be mainly from streets, thereby affecting the character of the area more than the individual listed buildings. We consider that the level of harm to the Conservation Area would be less than substantial, in NPPF terms, and at the lower end within that scale.

6.21. We also highlighted that additional viewpoint analysis should also be provided to be able to fully assess impacts. We advised that the harm could be reduced through the lowering of the heights of the tallest elements and reducing the density of the scheme in line with paragraph 201 of the National Planning Policy Framework.

6.22. We appreciate that further design changes have now been made to the scheme. However, we do not think that these amendments sufficiently address our concerns as they do not substantially change the tall, dense city centre form and character of the proposal. We therefore retain our previous position that the proposal will cause some harm to the significance of the Kemp Town Conservation Area and wish for our previous advice to be fully taken into account in consideration of the scheme.

- 6.23. Based on the information before us, we consider that the level of harm caused to the Conservation Area would be less than substantial, in NPPF terms, and at the lower end within that scale.
- 6.24. Overall, Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements paragraphs 201, 205, 206, 208 and 212 of the NPPF.

Nature Space (impacts on Great Crested Newts): No objection

- 6.25. The development falls within the green impact risk zone for great crested newts. Impact risk zones have been derived through advanced modelling to create a species distribution map which predicts likely presence. In the green impact zone, there is moderate habitat and a low likelihood of great crested newt presence. - The environmental statement for the site states that 'The disused gas storage tanks offer negligible opportunities for breeding amphibians, and the Site contains no terrestrial habitat of any suitability for amphibians. The Site is therefore assessed as being of negligible value for amphibians. As such, further assessment of amphibians within this ES Chapter is not considered necessary.' – we are satisfied with the environmental statement, that if this development was to be approved, it will not cause an impact on great crested newts and/or their habitats.
- 6.26. **National Highways: No objection**
We have no objection to this application on the basis that the proposals will generate minimal additional traffic on the Strategic Road Network (SRN) in Peak Hours. We therefore consider that the development, alone, will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT C2/13 para's 9 & 10 and MHCLG NPPF 2021 Paras 110-13), in this location.
- 6.27. We leave it to the Council to determine whether any development contributions should be sought towards SRN works required and planned as a result of the cumulative impacts on the SRN arising from the Brighton & Hove City Plan and any other windfall development.
- 6.28. **Natural England: No objection**
Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.
- 6.29. **Scotia Gas Network (SGN): Comment**
Applicant is advised to adhere to all relevant guidance during construction works to protect the existing gas infrastructure.
- 6.30. **Sport England: No objection**
Sport England understands that BHCC does not now seek individual contributions towards the off-site provision of sport and recreation facilities arising from the demand generated by proposed developments as this is now covered in CIL. Although the development is also not liable to CIL, we further

understand that the Council will still assess that demand and any local deficits could still be funded through the Citywide CIL pot if considered necessary.

6.31. **South Downs National Park Authority (SDNPA) (Comment):**

Final comment

The further changes made to the proposals are broadly welcomed in terms of mitigating potential harmful impacts upon the setting of the National Park and creating a more legible gateway into the National Park in this location.

- 6.32. The scheme does not appear to be supported by a lighting strategy. If BHCC are minded to recommend approval, the Authority would reiterate the need to consider harmful impacts upon the International Dark Skies Reserve arising from light spill from both external and internal lighting sources. A sensitive external lighting scheme and measures to prevent internal lights spill such as low transmittance glazing should be secured by planning condition.

Comments on original scheme

- 6.33. In summary, the South Downs National Park Authority does not object to the proposal but highlights that the setting of the National Park as its key concern. The NPPF states that development within the setting of a national park should be sensitively located and designed to avoid or minimise adverse impact. Should the Local Planning Authority be minded to recommend the application for approval, on balance, then improvements to the scheme are advised in order to mitigate impacts on the landscape and natural and scenic quality of this area and improve green infrastructure. In particular, a landscape led approach to the layout, softening of the hard edge of the development, retaining views and connection to the coast.

6.34. **Southern Water: No objection subject to recommended conditions**

Southern Water has undertaken a desktop study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that these additional flows may lead to an increased risk of foul flooding from the sewer network. Southern Water is currently in process of designing and planning delivery of offsite sewerage network reinforcements. As previously advised Southern Water seeks to limit the timescales to a maximum of 24 months from a firm commitment of the development.

- 6.35. Conditions are recommended in respect surface water runoff disposal.

6.36. **Building Research Establishment (BRE - Sunlight and Daylight): Comment**

BRE have reviewed the revised daylight and sunlight chapter and internal sunlight and daylight assessments which use the methodology in the BRE Report 'Site layout planning for daylight and sunlight: a guide to good practice' to assess loss of daylight and sunlight to surrounding properties. For daylight and sunlight provision to the proposal the revised report uses the recommendations in the latest edition of the BRE Report and BS EN17037.

Impact on neighbouring properties

- 6.37. Appropriate surrounding dwellings have been included in the assessment.

- 6.38. It is clear the proposed development would impact neighbouring areas, particularly the rear of Arundel Street where several properties would have significant impacts. However, the situation in this location is complex and the assessment has been based on a mix of known, partial and estimated plans. At some properties there is the potential for the impact to be reduced if non habitable rooms are involved or windows that would have a loss of sunlight do not light living areas. Existing overhangs or obstructions may also be a factor in larger relative losses of light in some cases.
- 6.39. In general, the overall results are similar, or a slight improvement, on the assessment of the previous scheme.

Internal sunlight and daylight for the proposed development

- 6.40. The results in the revised assessment suggest that 96% of bedrooms across the scheme would meet the relevant illuminance target in the BRE Report and BS EN17037 of 100 lux.
- 6.41. 72% of combined living areas (living/kitchen/dining rooms and studios) hit the highest target for kitchens of 200 lux. 85% of combined living areas (living/kitchen/dining rooms and studios) would be able to meet the medium target for living rooms at 150 lux. Compared to the previous 2022 scheme the overall results across the site are a slight improvement.
- 6.42. Overall, 75% of living areas across the scheme would be able to meet at least the minimum sunlight recommendation.
- 6.43. The open spaces around Blocks A, B and C would meet the BRE guidelines for sunlight provision. “The Circus” space would now technically meet the BRE guidelines (although it is based on an arbitrary area assessed). The area to the west of the site appears to be generally well sunlit, apart from the space to the north and northwest of Block H. The area to the south of the site would be well sunlit. The east of the site has the potential to be well sunlit to the north and south of the space. The area to the west of Block I1 has the potential to be poorly sunlit. The townhouse gardens do not meet BRE sunlight guidelines for sunlight.
- 6.44. **Sussex NHS Commissioners: Comment**
On behalf of NHS Brighton and Hove Clinical Commissioning Group, Health Service infrastructure within the Brighton and Hove area presents significant challenges with a lack of development land available, high density population areas and capacity issues within existing premises. This development indicates a potential estimated 1,500 patients that may become resident within the area and therefore Health Commissioning as a statutory consultee would seek relevant contributions in the form of s.106 or CIL funding to support respective service infrastructure. The number of residents that would likely occupy the proposed development would not warrant the development of new health facilities as it does not provide economies of scale, however a respective contribution in combination with contributions from other developments would be expected in order to meet infrastructure needs.

- 6.45. **Sussex Police - Designing Out Crime: Comment**
No major concern raised.
- 6.46. Secure By Design principals should be followed and appropriate security measures incorporated. A condition is suggested to secure these measures.
- 6.47. **District Valuation Service (DVS - Viability): Comment**
The DVS have reviewed the viability of the scheme in accordance with the national PPG and RICS guidance.
- 6.48. The viability of a fully private housing scheme has been reviewed. The DVS viability appraisal generates a residual profit of £9,358,959 which is below the target developers profit of £51,219,055. The Gross Development Profit (GDV) at 3.35% is much lower than the DVS assessed profit level of 18.39%.
- 6.49. Following the above testing work It is our considered conclusion that the proposed development is unable to support full planning policy requirements.
- 6.50. In order to be delivered there must be either flex in the landowners' expectation of the developer's profit or a reduction in development costs or a combination of all. This is considered remote at the date of assessment and so may raise wider concern over the deliverability of the scheme.
- 6.51. Further to paragraph 009 of the PPG, a review mechanism is reasonable to strengthen the local authorities' ability to seek compliance with relevant policies over the lifetime of the project.
- 6.52. Given the applicant's aspiration to increase revenue and reduce costs, it is considered important BHCC agree a review mechanism for the scheme to be re-reviewed, once costs are known.
- 6.53. **UK Health Security Agency: Comment**
[Please note: the UKHSA commented on the original submission but have not responded to subsequent consultations, so some comments are out of date.]
- 6.54. It is noted that a Remediation Strategy has not been provided. In the absence of this information, it is difficult to fully assess the risk of dust to human health during the construction phase and it is suggested that stringent conditions are proposed in respect of dust management and monitoring.
- 6.55. In respect of ground conditions, without sight of the Remediation Options Appraisal and Remediation Strategy or an Odour Mitigation strategy and without further monitoring to establish a baseline for vapours it is considered that there is insufficient information to fully assess the application.
- 6.56. **UK Power Networks: Comment**
The applicant is reminded that they are required to follow safe construction practices.
- 6.57. **RWDI (Wind Microclimate): Comment**

RWDI have undertaken a peer review of the updated wind assessment in Chapter 11 and Appendix 11.1 of the Environmental Statement for the Development produced by Windtech Consultants. The methodology is in keeping with accepted industry practice and results and conclusions are in line with what would be expected for a scheme of this size in the Brighton area and is consistent with the methodology of previous assessments reviewed by RWDI for this development.

- 6.58. Potential impacts to the wind environment have been identified, for which a mitigation strategy has been developed and assessed by Windtech as part of their assessment. Consistent with the previous assessments, the inclusion of the Development appears to have a generally positive (and at worst negligible) impact to conditions in the surrounding area, which would be expected as a result of the increase in shelter to an area that is otherwise quite exposed. Some uncomfortable conditions remain to the east of the site, but these do not appear to be made materially worse by the inclusion of the development.
- 6.59. One further qualitative recommendation was made, which is intended to resolve the outstanding adverse impact to the balconies of Block H. We are satisfied with the assessment and its conclusions and would only reiterate that the achievement of the suitable wind environment as presented would be dependent on implementing the mitigation strategy as described.

Internal consultees:

- 6.60. **Air Quality:** No objection subject to suggested conditions.
- 6.61. Existing policy under DM40 states 'air quality improvements should be included wherever possible and have a positive impact'. The developer has demonstrated how the completed development will be 'air quality positive' compared to the extant site use.
- 6.62. Light (car and van) and heavy (lorry and coach) vehicle trips to and from the site are predicted to decrease when the development is operational compared to the current site usage (2024/25). Peak, daily and annual average vehicle trips due to this and other developments are not expected to increase emission or adversely affect city air quality, including monitors and residences at roadside.
- 6.63. The developer proposes to deliver a fully electric development without emissions to air. The design does not require combustion of gas, biomass or other fuels on site. The development is not predicted to cause an exceedance of current UK air quality standards or delay meeting more stringent WHO guidelines.
- 6.64. A CEMP should be conditioned to reduce vehicular and on-site emissions during construction.
- 6.65. **Arboriculture:** No objection, subject to suggested condition
Having assessed the trees on site arboriculture would agree that T1 Sycamore and G1 Sycamore / Elder identified are of poor condition and would not pose a material constraint to development. The proposed landscaping would more than mitigate for this loss, as such there is no objection on arboriculture grounds. We

do however have some concerns relating to the landscaping and species selection. The site is in proximity to the water line and exposed to the prevalent south westerlies, a hostile environment for tree establishment. The applicant should consider a tiered scheme with tree planting within sheltered areas of the site, as opposed to the current stand-alone specimens on the boundary. The Arboriculture Team would welcome new planting within Boundary Road. A condition for tree pit construction, along with the proposed maintenance plan will need to be approved in writing by the local authority prior to condition discharge.

6.66. **Artistic Component:** Comment

The Council's published Developer Contribution Technical Guidance sets out the methodology to calculate a sum for public art provision which may be sought from major development proposals. To arrive at the level of contribution, the calculation uses the Gross Internal Area (GIA) of the development (in this instance approximately 57,905 sqm) multiplied by a value relating to the site's location within the city as set out within the technical guidance (in this instance £4 per square metre GIA). The Artistic Component element for this application is to the value of £231,620.

6.67. **Arts and Events:** Comment

The proposed development poses no immediate threat to established arts venues. Please note however that East Brighton Park is a key site for outdoor events in the city, including outdoor concerts and festivals which may have noise impacts on the proposed residencies. This ongoing usage should be factored into assessments of design and sound mitigation provision.

6.68. **City Clean:** No objection subject to suggested condition

Refuse and recycling storage areas for this new build development are suitable in respect of size, layout and location. The road layout does not impede waste collection vehicles when manoeuvring on site to collect the refuse and recycling. The overall approach is supported. A waste and recycling management plan condition is recommended.

6.69. **Economic Development:** No objection,

Economic Development acknowledges the proposed development is in compliance with minimum employment space requirements specified in Policy DA2 and do not object to the proposals. There are some concerns regarding the loss of B2/B8 space to be replaced by Use Class E as there is a pressing need for light industrial space in the city.

6.70. **Education:** Comment

Over the last few years, the situation in respect of pupil numbers has changed considerably and we are now seeing a significant fall in the number of children in the city. This is already having a significant impact on the number of pupils in our primary schools and will, in the next few years, have a similar impact on our secondary schools. Given that this is the case we are not looking to secure any education funding from development at the present time.

6.71. **Employment and Skills:** No objection subject to the required obligations.

An Employment & Training Strategy will be required to cover all relevant phases of the project. The Strategy should set how the developer, contractor (and their sub-contractors), as well as any other relevant agents will collaborate in order to meet the Local Employment Scheme's objectives:

- Recruitment and Development,
- Careers, Experiences of Work & Social Value
- Green Economy & Sustainability

6.72. A Developer contribution of £180,260 to be paid prior to site commencement in accordance council's Technical Guidance for Developer Contributions to be used to fund local training and employment agreements.

6.73. **Environmental Health (Leap – Contamination/Ground Conditions): No objection subject to suggested conditions**

Leap Environmental Ltd have been instructed by the Council to provide specialist advice on land contamination, acting for the Environment Health Team.

6.74. Fundamentally, it is clear that the land contamination assessment undertaken to date has been completed by a competent and reputable consultant on behalf of the applicant in accordance with published guidance. We are in agreement with the majority of the work undertaken, the conclusions reached, and the recommendations made. The perceived significance of potential nuisance during the enabling and early-stage construction works is likely to continue to be of concern to local residents. Although this has been addressed in the submitted documentation and particularly the Air Quality and Odour Management Plan, it would be prudent to request additional baseline monitoring and ensure that all site activities and dust and odour assessment measures are continually and accurately monitored with appropriate escalation and intervention contingencies.

6.75. The key points relating to the former gasworks and submitted documents relating to contamination can be summarised as follows:

- This is not a typical gasworks in terms of contamination. Levels of contamination are generally not as high as other gasworks sites as gas production ended in 1880, when the site was much smaller. It was then used predominantly for gas storage and not production (the by-products of gas production being the main contamination issue relating to gas works sites). The contamination from the gas production was predominantly in the southwest of the site. The 2003 investigation found free phase tar in this area and most of this and other gasworks contamination was removed in 2003. Residual tar-based contamination was left in the chalk at depth and is reducing due to natural attenuation. The recent site investigations found contamination on the site in the gas holders in the north of the site and made ground across the site. Hence the contamination is predominantly shallow localised soil contamination of soil, soil contamination within gas holder 6 and residual deep contamination of the chalk in the southeast.
- The investigation of the site is considered appropriate in terms of distribution, contaminants investigated and analysis. Additional vapour testing is recommended as part of the baseline monitoring for the Air Quality and

Odour management plan. This will directly address some of the concerns of local residents and will determine appropriate thresholds to inform the traffic light system within the Air Quality and Odour Management plan.

- There is inevitably a risk of unforeseen contamination, however the risk of this is low and this is addressed in the discovery strategy detailed in the remediation method statement and proposed condition.
- The proposed Remediation Method Statement is considered appropriate for this site and proposed use. The additional vapour monitoring should be used to confirm the location and specification for the proposed vapour membranes and information on the membranes selected and locations included in the verification report.

6.76. Conditions are recommended to ensure that the development is carried out in accordance with the submitted Remediation Strategy and the Air Quality and Odour Management plan (with additional vapour test to feed into the baseline monitoring). The submission of a verification report is required prior to first occupation, a condition relating to stockpiling excavated made ground and also a discovery strategy (for any unforeseen contamination).

6.77. **Environmental Health (Acoustic Associates - Noise and Vibration): No objection** subject to suggested conditions.

Acoustic Associates Sussex Limited (AASL) have been instructed to review the scheme in respect of noise and vibration. Specifically, Chapter 10, Noise and Vibration and the corresponding Appendix 10.1 - Noise and Vibration Assessment (August 2022) within the ES, as well as Technical Note submitted in March 2024 have been assessed. The submitted documents satisfactorily identify the key noise receptors adjacent to the site.

6.78. Given the protracted nature of development over a long construction period, suitable controls for Construction site noise will be relevant and should be conditioned via a Construction Environmental Management Plan (CEMP).

6.79. Whilst the site is predominantly residential, at the ground floor level, there are likely to be numerous and mixed class E uses. It is normal to not know who these units might be let to at such an early stage and for this reason, it is relevant to consider appropriate conditions to safeguard residents above from adverse noise events/exposure in terms of noise and additionally vibration.

6.80. The submission states that the Building Regulations and specifically, Approved Document E (0.8) is a minimum standard and where there is a mixed commercial/residential tenure then a higher standard of sound insulation is applicable and as stated, this is capable of being conditioned.

6.81. The recent inclusion of fitness and gym premises into class E has also meant that there are additional considerations for noise and specifically airborne and impact sounds and vibration energy which can be transferred and propagated to residential receptors through the building structure. Again, this is capable of being dealt with through specific and relevant conditions.

- 6.82. Conditions have been recommended to safeguard future occupants from adverse noise levels, odour and nuisance and a recommendation to demonstrate/validate that such internal sound pressure levels have been achieved.
- 6.83. **Heritage Team:** Comment with suggested conditions
The only asset of historic interest that would be directly affected by the proposed development is the flint boundary wall along Boundary Road. It remains that the wall has townscape interest from its materials and the degree of enclosure it provides, and that this would be entirely lost as a result of the proposed development.
- 6.84. It is disappointing that the scheme does not currently include any retention of the fabric or other visual reference to this feature that could make a positive contribution to the qualities of the scheme. It is however noted from the submitted documents that the finalisation of the landscaping to Boundary Road is not yet complete, and the heritage team would encourage collaboration on how elements of the existing boundary wall could be incorporated or referenced in the final landscaping proposal.
- 6.85. It remains that there will be loss of some broad views which contribute to the significance of Marine Gate as a landmark building. This is considered less than substantial harm to its significance at the lower end of the scale.
- 6.86. The impact of the scheme as a backdrop to the distinctive roofscape of the French Convalescent Home has been reduced by the lowering of some elements within the proposal, however it remains that there will still be less than substantial harm to its significance and this would be at the lower end of the scale.
- 6.87. The amended scheme would still result in the introduction of development emerging at the end of the vista along Eastern Road, (with potential to impact the group of grade I listed buildings and the Kemp Town Conservation Area) however the current reduction in height slightly reduces the level of change, and as previously stated it is not considered that the proposed development would cause harm to the setting or would affect the significance of this group of listed buildings.
- 6.88. Historic England has queried whether there are other views where the development has the potential to be visible within the setting of the Kemp Town Conservation Area and thereby impact on its significance and has suggested points on Arundel Road and on the opposite side of Marine Parade, near Arundel Terrace.
- 6.89. Further consideration has been given to whether there is a need for other viewpoints to be assessed, specifically the points suggested, and it is considered that the most significant heritage views are already covered, and no other views are required.

- 6.90. In the event of public benefits being considered to outweigh the identified heritage harm, conditions should be added to any approval to ensure that the final landscaping proposal for Boundary Road shall include clear visual reference to the position and extent of the historic wall and a photographic recording of the boundary wall is produced prior to its demolition.
- 6.91. **Strategic Housing & Development: Comments**
It is acknowledged that the scheme meets policy requirements relating to the non-viability of providing affordable housing on this development. In accordance with policy CP20 and the Council's Viability Assessment Checklist, an independent review of viability has been obtained from the District Valuer Service (DVS). That independent assessment supports the applicant's assertion that the scheme cannot meet the Council's affordable housing policy requirements through a standard s.106 Agreement.
- 6.92. Notwithstanding the above, the Strategic Housing & Development supports this scheme as it is seeking to use reasonable endeavours to provide 40% affordable housing through an alternative funding model if sufficient Homes England grant funding is forthcoming.
- 6.93. However, should the anticipated element of affordable housing not be obtained through the alternative funding model, a viability review (to be independently assessed) will be required during the scheme's progress to reassess the affordable housing position with any agreed uplift to be provided in the form of commuted sums towards affordable housing in the city.
- 6.94. **Planning Policy: No objection** subject to conditions
The council is keen to see the successful redevelopment of the Gas Work Site. The site is allocated in the adopted City Plan Part 1 (DA2. C.2) for approximately 2,000 sqm m of business floorspace to the north of the site and a minimum of 85 residential units and ancillary retail development.
- Employment Space
- 6.95. During the pre-application discussions and in response to the submitted scheme and revisions, planning policy comments have sought further clarification on the design and configuration of the employment space to ensure the proposed units can meet identified business need to accord with Policies DA2 Brighton Marina, Gas Works and Black Rock Area, CP3 Employment Land and DM11 New Business Floorspace.
- 6.96. In order to ensure a policy compliant amount of business floorspace is capable of being delivered on this strategic site allocation a minimum 2,000 sqm floorspace specifically for business floorspace (E(g) (i - iii) must be secured through condition/ s106 in accordance with DA2 Brighton Marina, Gas Works and Black Rock Area and CP3 Employment Land and in order to comply with NPPG paragraph 35.
- 6.97. A condition should be used to secure the specific units in the Yard to ensure delivery of E(g) employment floorspace in compliance with DA2.

- 6.98. A condition/s106 should be used to require that a draft marketing strategy is shared with council before the marketing of the employment sites begin to ensure that successful take up of the employment units in accordance with DM11 New Business Floorspace. This should also consider phasing to ensure sufficient employment space comes forward in each phase.
- 6.99. It is noted that the Circus public realm space itself is envisaged to be able to host events including markets involving occupants of the commercial units on the site. Policy DM16 and CP13 apply.

Housing

- 6.100. The city has a very substantial 5-year housing supply shortfall and therefore national planning policy indicates that housing provision carries increased weight within the planning balance (as set out in NPPF Paragraph 11). Recent figures (2022 SHLAA) show a five-year shortfall of 7,711 dwellings (1.8 years of housing supply). The provision of 495 residential units would make a significant contribution towards the overall City Plan housing target of 13,200 new homes over the period 2010-2030 and would in principle accord with CP1 Housing Delivery.
- 6.101. With regards to dwelling mix and the requirements of Policy DA2 and CP19 Housing Mix the reduction in proportion of 1 bed units in market housing is welcomed. The revisions have sought to address the concerns raised with the dwelling mix through an increase in the number of 3 bed units and 3–4-bedroom town houses which is considered to better reflect the market demand for 2/ 3-bedroom units. In light of the considerable affordable housing need in the city, the council would be looking for the maximum possible the site could deliver in line with requirements of Policy CP20 Affordable Housing. The applicant submitted a Financial Viability Assessment (FVA) that concludes that it would not be possible to provide any affordable housing contribution. This has been agreed by the DVS. A viability review mechanism should be secured via the s106 agreement.
- 6.102. It is noted however that the applicant has been exploring funding options to address the Council's affordable housing targets and this is welcomed. The applicant is indicating that once built the proposed development will deliver 198 (40%) affordable homes, delivered in partnership with a Registered Provider with Homes England funding. 109 (55%) of these homes will be for affordable rent and 89 (45%) will be for Shared Ownership which would meet the preferred tenure split set out in the council's Affordable Housing Brief. In principle this would accord with Policy CP20 Affordable Housing. Further information should be provided by the applicant.
- 6.103. The revised Planning Statement (December 2023) indicates the proposed affordable housing mix to be: 39% 1 bed, 54% 2 bed and 7% 3 bed units. The Applicant also aims that 10% of the grant-funded homes will be designed to be M4(3) wheelchair adaptable dwellings. The revised scheme could be improved by a greater number of affordable 3 bed units to better accord with CP20.

6.104. The Planning Statement indicates that each residential unit will benefit from its own private amenity space in the form of balconies, private terraces or gardens which is welcome and in principle would meet the requirements of Policy DM1.f.

Open Space and Sports Provision

6.105. With respect to Policies CP16 Open space and CP17 Sports Provision, it is accepted that it would not be practicable to meet all the quantitative open space requirements on the site. The case officer should consider the nature, location and useability of the spaces provided on-site and the accessibility to existing offsite provision in the local area (as well as their quality and minimum site sizes).

6.106. **Private Sector Housing:** No objection

It has been confirmed that sprinkler systems will be in operation throughout the development. The proposed layouts are considered acceptable.

6.107. **Sustainability:** No objection subject to suggested conditions

A revised Energy Statement has been submitted which updates proposals for the energy strategy at this development. This includes:

- Improved energy efficiency in building fabric
- Heating and hot water 100% supplied by renewable energy through Air Source Heat Pumps, eliminating the gas boilers which were previously proposed to provide 20% of the capacity.
- A commitment to installation of solar PV panels across available roofs, to reduce energy use across the site, other than roof space needed for heat pump equipment.
- Brown roofs will be planted alongside the solar PV panels.

6.108. In summary, this will result in a reduction in carbon emissions by 78.4% in residential accommodation and 40.7% in non-residential areas – an average of 77.3% across the site, in comparison with Part L Building Regulations (2013). This is an excellent building performance and will future proof the development against future climate and energy supply conditions, as well as meeting (anticipated) Future Homes and Future Buildings Standards. An Overheating Assessment demonstrates that all the dwellings will not overheat – using both 2030 and 2050 climate forecasts. There is no updated statement on BREEAM, so it is assumed that the previous BREEAM proposals from 2022 are retained and will be implemented to the required 'Excellent' standard.

6.109. Conditions are recommended on water use, BREEAM and solar panels.

6.110. **Sustainable Drainage:** No Objection subject to suggested conditions

It appears that the drainage strategy will remain the same as previously proposed, and the updated proposals contain nothing that could alter the development's risk of flooding. Therefore, our previous comments regarding surface water drainage and flood risk remain valid. The Sustainability Statement, and the Drainage Strategy Report both indicate that the proposed drainage is designed for a 1 in 100 year+45% Climate Change design storm.

6.111. We recommend the application for approval subject to conditions requiring final detailed designs of the surface water and foul water drainage strategies.

6.112. **Public Health Team:** No objection

No additional concerns were identified within the scope of the revised Health Impact Assessment (HIA).

6.113. **Transport:** No objection subject to recommended conditions

The scheme is considered acceptable in highway safety terms. The proposal is not considered to result in an increased number of vehicular trips in the AM and PM peak hours and as such the impact on the road network is considered acceptable.

6.114. 179 carparking spaces are proposed and this is considered to strike an acceptable balance between the promotion of sustainable transport modes and the provision of sufficient parking to help mitigate the potential for significant overspill parking.

6.115. There are policy compliant levels of long stay cycle parking within ground floor integrated cycle stores. Whilst the visitor parking levels are below policy levels these are accepted subject to the provision of a bike share station on or adjacent to the site and a review of cycle parking levels within the Travel Plan. The provision of 'end of trip' cycle facilities are welcomed.

6.116. The delivery and servicing proposals for the site do not raise any specific concerns. A comprehensive CEMP will be required for the demolition and construction period.

6.117. Overall, the proposal is considered acceptable subject to conditions for cycle parking and shower facilities, car park management plan, servicing and delivery management plan, CEMP and obligations for car club and bike hub provision, highway improvements on Marina Way and Boundary Road, bus stop improvements, addition of toucan crossing on A259 and residential and commercial travel plans.

6.118. **Urban Design:** No objection

It is considered that the most recent revised proposals present a number of changes to the scheme that go some way to addressing concerns raised previously, and indeed addresses some of the more significant concerns, which is welcome.

6.119. Proposals continue to present a number of positive design attributes including:

- a masterplan layout that clearly responds to its surroundings, with clear and high-quality pedestrian / cyclist routes and destinations through the site, provides a key link between the seafront and the South Downs and has the potential to respond to environmental conditions such as sunlight, wind etc.
- well considered landscape proposals that pick up on nearby characteristics such as the South Downs, a relatively high amount of planted surface including trees, podium gardens and brown roofs which provide opportunity for improving biodiversity; successfully creating a journey from the South Downs to the seafront through the planting design and public realm

destinations; a variety of spaces for different types of activity; provide a clear distinction between private and public areas; and are visually appealing;

- massing and built form on the South and West of the site which appears relatively comfortable in townscape terms, subject to some minor recommendations detailed on further pages,
- appearance and materiality to the South and West of the site which responds well to nearby urban design characteristics and is visually appealing,
- the masterplan takes into consideration potential future development on neighbouring land parcels to the North and South of the site and provides options for either buildings or infrastructure / public realm enhancements which may be required to support these proposals,
- the public art strategy is well-integrated into the site strategy and character areas,
- appearance and form of a 'gateway building' to the north-east which references the social memory of the gas holders in its' unique design.

6.120. Some concerns are still noted including:

- the general massing composition is considered dense and while some concerns regarding townscape and spaces between buildings have been responded to in regard to Block F and the centre of the site, there remains some concerns in regard to townscape, particularly from the North.
- although slightly improved since previous iterations, some external spaces and some private external amenity areas do not meet the BRE guidelines for sunlight provision as a result of the proposed masterplan, including gardens to the townhouses. Furthermore, the proposed development will have a negative impact on some neighbouring properties in regard to a loss of daylight / sunlight despite slight improvement since the previously revised scheme.

6.121. There are some further minor concerns including:

- wayfinding could be enhanced, especially at the southern end of the site where the Green Link meets the Seafront Gardens, to make moving through the site clearer and improve how people experience the site,
- the proposed residential floor layouts still result in a high ratio of single aspect dwelling units which have a negative impact on outlook, natural ventilation and daylight / sunlight in certain locations, and increases the potential risk of overheating in hot weather. It is acknowledged the actual number of single aspect dwellings has reduced since originally submitted.

6.122. To conclude, it is considered that the proposals have sought to address most of the key issues identified in previous comments. Whilst some concerns do remain, the scheme can be supported overall in urban design terms.

Full details of all consultation responses can be found on the planning register.

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.

- 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 JAAP (adopted October 2019).

8. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One:

SS1	Presumption in Favour of Sustainable Development
DA2	Brighton Marina, Gas Works and Black Rock Area
SA1	The Seafront
SA5	The Setting of the South Downs National Park
SA6	Sustainable neighbourhoods
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 & Hove City Plan Part Two:

DM1	Housing Quality, Choice and Mix
DM2	Retaining Housing and residential accommodation (C3)
DM3	Residential conversions and the retention of smaller dwellings
DM9	Community Facilities
DM11	New Business Floorspace
DM18	High quality design and places
DM19	Maximising Development Potential
DM20	Protection of Amenity

DM22	Landscape Design and Trees
DM23	Shopfronts
DM28	Locally Listed Heritage Assets
DM29	The Setting of Heritage Assets
DM31	Archaeological Interest
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
DM43	Sustainable Drainage
DM44	Energy Efficiency and Renewables
DM45	Community Energy
DM46	Heating and cooling network infrastructure

Supplementary Planning Document:

SPD02	Shop Front Design
SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD11	Biodiversity and Nature Conservation
SPD14	Parking Standards
SPD16	Sustainable Drainage
SPD17	Urban Design Framework

Other Documents

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
PAN 07:	Local List of Heritage Assets
PAN 10:	Public Art

Urban Characterisation Study 2009

Developer Contributions Technical Guidance

Special Guidance A: Swift Boxes and Bricks for New Developments

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

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to:
- Principle of development and policy considerations
 - Design, density, appearance and impact on the setting of heritage assets and the South Downs National Park,
 - Standard of accommodation,
 - Impact on neighbouring amenity,

- Public realm and landscaping
- Land contamination,
- Highways, parking and delivery and servicing
- Air Quality,
- Biodiversity, Ecology and Sustainability

Principle of development

- 9.2. 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 2,333 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.
- 9.3. The council's most recent housing land supply position is published in the SHLAA Update 2023 which shows a five-year housing supply shortfall of 7,786 (equivalent to 1.7 years of housing supply).
- 9.4. 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).
- 9.5. The proposal meets the minimum employment and housing requirements within an allocated, brownfield site and as such a mixed-use redevelopment of the site is acceptable in principle. The key determining factors in the acceptability of the scheme in respect of national and local planning policy, planning legislation and material planning considerations are considered below.

Planning Policy Policy DA2

- 9.6. The policy seeks to address the deficiencies of the Marina and the wider area to facilitate the creation of a mixed-use area of the city. This will be achieved through the generation of a sustainable high quality marina environment with mixed use development with residential, leisure, employment and retail uses. Key aims are to revitalise the Marina and wider area with quality townscape and improvements to connectivity, legibility and sustainable transport infrastructure.
- 9.7. The Brighton Gas Works Site is a strategic site allocation in the adopted City Plan Part 1 as one of three sites allocated within the DA2 Brighton Marina, Gas Works and Black Rock Area.
- 9.8. DA2.C.2 requires approximately 2,000 sqm of high-quality business floorspace to the north of the site and a minimum of 85 residential units and ancillary retail development.
- 9.9. The key criteria against which proposals will be assessed are:

- a) Employment provision - development should provide an appropriate mix of employment floor space of varying sizes that cater for business uses ranging from office to light industrial, including small starter units or managed units,
- b) Housing mix – development should provide for a mix of dwelling type, tenure and size to cater for a range of housing requirements and to improve housing choice.
- c) Design – development proposals should demonstrate high quality design which positively contribute to the varying character of existing residential and commercial properties in the vicinity to create a cohesive and attractive urban environment;
- d) Connectivity – development proposals should enhance existing links between the Marina, Gas Works and Black Rock and contribute to the creation of safe links and coherent integration between the Gas Works site and the surrounding neighbourhood;
- e) Land contamination – development proposals should undertake and submit to the Local Planning Authority evidence to support uses where possible land contamination and remediation may prohibit the delivery of the above uses and amounts;
- f) The developer will enter into a training place agreement to secure training for local people.

9.10. Policy DA2 also sets out the general requirements for the area, local priorities and site-specific criteria.

9.11. The site is 'nil-CIL' rated along with the wider Marina allocation meaning that no Community Infrastructure Levy payments will be required, acknowledging the 'abnormal' costs associated with bringing the site forward, particularly due to contamination.

Employment

9.12. Policy DA2 sets out that a minimum of 2000sqm of 'business floorspace' is required, with up to 2,791sqm of commercial floorspace proposed to be located throughout the development at ground floor level, according with this requirement.

9.13. The scheme has been designed with a mix of units of varying sizes with frontages onto the public realm, and include a double-height unit in Block B. The units around 'The Yard' have taller floor to ceiling heights and are located close to the Boundary Road, opposite the Bell Tower Industrial Estate. They have hardstanding areas for servicing requirements and would be more suitable for light industrial or creative uses. There are other units clustered around the central Circus and with a mix of units around the Green Link which runs from northeast to southwest.

9.14. The units are all considered to be flexible through the provision of high floor to ceiling levels and adequate lighting. Internal layouts of the units have not been provided, or information as to whether units can be easily amalgamated or split up to accommodate different occupiers as their circumstance's changes. It is considered important that the units are provided with an internal fit-out to an

appropriate standard to attract new occupiers and marketing is targeted appropriately. As such, it is necessary to require a comprehensive marketing strategy as a condition, to be agreed by the Council in advance, to help ensure a successful take up of the employment units with business operators, in accordance with DM11 New Business Floorspace.

- 9.15. As existing, there are a number of commercial operators on the site, including vehicle parking maintenance, servicing and storage and more general container storage, estimated to support approximately 25 full time equivalent (FTE) jobs. The applicant's Economic Statement has set out a likely net increase of between 21-195 FTE jobs as a result of the scheme, and depending on the likely mix and set out that the likely yield would likely be somewhere in the middle at about 110 FTE.
- 9.16. The development would also allow for a wide range of other uses within the Use Class E. This could include a café or restaurant, medical or health services, fitness or gym uses, creche or day centre or space for consultancy services such as solicitors or insurance brokers. It is considered that the different uses have the potential to create a vibrant community and enliven the public realm.
- 9.17. The site is close to the Whitehawk area, which is one of the most deprived parts of the city. The potential for a significant net increase in jobs is a clear public benefit of the scheme and would make a positive impact both locally and for the wider city.
- 9.18. Paragraph 86 of the NPPF sets out that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 9.19. As well as the increase in jobs once the scheme is built, there would be a significant number of jobs created as well as a positive economic benefit for the city during the construction phase. It is also noted that a financial contribution of £180,260 towards the Local Employment Scheme as well as the submission of an Employment & Training Strategy would be secured in the s106. Local residents would be prioritised for jobs and training as part of the construction process. Overall, the economic and social benefits of the scheme in respect of increased jobs and training opportunities as well as the financial boost to the city are considered clear public benefits of the scheme.
- 9.20. Subject to compliance with the suggested condition securing a minimum of 2000sqm of employment floorspace, including all of the units in the Yard and an employment floorspace Marketing Strategy, as well as an Employment & Training Strategy and required employment financial contribution the development is considered the development is in accordance with policies DA2, CP3 and DM11.

Housing

- 9.21. Policy DA2.C.2 sets out a housing figure of 85 units to be provided, expressed as a minimum requirement. This minimum would ensure that a certain quantum of housing was provided if a more employment-focussed scheme came forward

on the site. The evidence base that informed the nil-CIL rating for the site set out the high remediation costs for developing the site and it was acknowledged that a scheme which is housing would likely be required in viability terms. The most recently published SHLAA 2023 (April 2024) acknowledged the potential for the site to deliver a higher amount of residential and indicates a potential of 340 units to be delivered between 2027-2030 (following reconsideration of the site potential through the Housing and Employment Land Availability Assessment 2018, a background evidence document to CPP2).

- 9.22. The city has a very substantial 5-year housing supply shortfall and therefore national planning policy indicates that housing provision carries increased weight within the planning balance (as set out in NPPF Paragraph 11). The provision of 495 residential units would make a significant contribution towards the overall City Plan housing target of 13,200 new homes over the period 2010-2030 and would in principle accord with CP1 Housing Delivery.
- 9.23. The site is located outside of a designated Tall Building Area and as such the appropriateness of delivering a high-density scheme with a number of tall buildings has to be considered against the requirement of the policy to also deliver 2000sqm of business (class E(g)) floorspace. The other requirements of the site allocation and wider Development Area priorities must also be taken into account, along with other key requirements such as high-quality design, the impact of the proposal on the character and appearance of the locality on heritage assets and on amenity.

Unit Mix

- 9.24. City Plan Policy CP19 (Housing Mix) states that applications 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. Policies SA6 and DA2 also set out a requirement to create balanced communities with a mix of dwelling sizes and tenures.
- 9.25. The proposed unit mix overall is:
- 26 x studio (5%),
 - 142 x one bed unit (29%),
 - 265 two bed unit (54%),
 - 48 x three bed unit (10%) and
 - 14 x 3/4 bed townhouses (3%)
- 9.26. The mix has improved through revisions to the scheme with a reduction in studio / 1 bed units and an increase in 3 bed and 3/4 bed townhouses and this is welcomed. Whilst overall, the proposal still contains a relatively limited number of larger, 3 or more-bedroom units, it is acknowledged that the brownfield sites in the city are expected to deliver high density development and that the nature of flatted developments do not lend themselves as well to larger, family sized units. It is also understood that a higher number of larger units will inevitably erode the viability of the scheme and ultimately reduce the deliverability of the scheme.

9.27. Overall, the proposed mix is considered to be acceptable, in accordance with policies SA6, DA2 and CP19.

Affordable Housing and Viability

9.28. City Plan Policy CP20 requires housing development of over 15 units to provide 40% affordable housing. The 40% target may be applied more flexibly where the council considers this to be justified, as set out in the policy. Of consideration in particular is the financial viability of developing the site (as demonstrated through the use of an approved viability model).

9.29. The applicant has provided a Financial Viability Assessment (FVA) with the revised application which sets out that the proposal would not be able to viably provide any affordable housing.

9.30. The council have instructed the District Valuer Service (DVS) to undertake an independent assessment of the applicant's viability case. The DVS have assessed the FVA in accordance with the following;

- The 'National Planning Policy Framework', (NPPF)
- The 'National Planning Practice Guidance on Viability' (NPPG Viability).
- RICS Professional Standard (PS) 'Financial viability in planning: conduct and reporting'

9.31. It is noted there are representations questioning the applicant's FVA, including one prepared for AGHAST. The DVS was made aware of the AGHAST viability response prior to reviewing the applicant's revised FVA.

9.32. It is noted that the DVS have disagreed with a number of the applicant's assumptions. The DVS considered that the scheme would deliver a profit of £9.3M against a profit target of £51.2M.

9.33. The applicant has identified a profit of -£3.8M, against a target of £55.14M.

9.34. These figures differ for a number of reasons, including the assumed profit level, which the applicant has set out as 19.86%, whilst the DVS has allowed for 18.39%. Planning Policy Guidance: Viability identifies a 'suitable return to developers' is 15-20% of Gross Development Value (GDV).

9.35. Nonetheless, the DVS is in agreement overall with applicant's viability conclusion overall, that the scheme cannot viably provide affordable housing. It is acknowledged that remediation and abnormal costs are higher than in a standard brownfield development.

9.36. The DVS recommended a review mechanism is included as a s106 obligation to reevaluate the scheme at a later date, to allow the Council to receive a contribution towards affordable housing if the viability position improves when actual costs and values are known.

9.37. The applicant has made a robust case that the development cannot viably provide affordable housing, as set out in criterion iii) of Policy CP20, and as such

a proposed development that contains no affordable housing would still accord with the development plan.

- 9.38. Notwithstanding the viability position, the applicant has undertaken discussions with registered providers and Homes England investigating the possibility of providing the CP20 target level of affordable housing in the scheme with the aid of grant funding.
- 9.39. The applicant and Council officers have agreed that it is appropriate for the applicant to use 'reasonable endeavours' to secure policy compliant affordable housing for the site (with Homes England funding) after any grant of planning permission.
- 9.40. These reasonable endeavours would seek to sell 40% of the market homes to a Registered Housing Provider (RP) who would purchase the homes with the benefit of grant funding, for use for Shared Ownership and Affordable Rent.
- 9.41. The affordable homes could not be secured as an obligation within the s106 agreement using this model, as Homes England are clear that outside of London, funding will only be provided for additionality, and is not available for affordable homes already secured through a s106 legal agreement as a necessary planning policy requirement.
- 9.42. The applicant has set out that the affordable housing which they are aiming to provide would have a tenure split of 55/45 affordable rent / shared ownership as set out in the Councils Affordable Housing Brief. It would consist of 198 affordable homes with a mix of 77 x 1 bed (39%), 107 x 2 bed 54% and 14 x 3 bed units (7%). 10% of the homes would be accessible wheelchair units.
- 9.43. The 'Reasonable Endeavours' wording in the s106 legal agreement would set out stringent criteria which would have to be met over a defined period of time before the implementation of the scheme. It would have to be demonstrated that reasonable endeavours had been undertaken to secure the affordable housing, before the scheme could be first implemented.
- 9.44. If the applicant was unable to sell 40% of the scheme to an RP (benefiting from grant funding) a review of viability would be activated to reassess the costs and values of the scheme to ascertain whether an affordable housing contribution could now be provided.
- 9.45. The Strategic Housing & Development Team sets out that whilst a higher proportion of three bed units would be preferred that they support the applicants proposed model for providing affordable housing in the scheme with the benefit of grant funding.
- 9.46. Whilst the scheme is policy compliant without any affordable housing, given the importance of affordable housing provision in the city, the applicants approach to use 'Reasonable Endeavours' to secure such provision is considered to be a material consideration that has some weight in the planning decision process.

9.47. In this case, the affordable housing has not been secured so there is no legal certainty, but a legal agreement would require the applicant to use 'Reasonable endeavours' to sell 40% affordable housing to an RP with the benefit of Homes England grant funding.

9.48. Overall, the scheme is in accordance with policy CP20.

Design and Appearance and Impacts on Heritage Assets and Landscape:

9.49. National and local policies seek to secure good quality design which respects general townscape and the setting of heritage assets. Taller and higher density development than that is typically found in an area can be considered appropriate in the right location.

9.50. Policies CP12 and DM18 both set out that proposals should demonstrate a high standard of design and make a positive contribution to a sense of place and the visual quality of the environment.

9.51. Policy DA2 sets out development proposals should demonstrate high quality design which positively contribute to the varying character of existing residential and commercial properties in the vicinity to create a cohesive and attractive urban environment.

9.52. In accordance with SPD17: Urban Design Framework, the applicant has submitted a Tall Building Statement as part of their application. A 'tall building' is defined as any building over 18m in height. Identified buildings are then grouped in three ranges, Mid-Rise (6-8 storeys); Tall Building (8-15 storeys); and Very Tall Building (15+ storeys).

9.53. It is noted that the site is located outside of the any of the designated Tall Building areas, the closest of which is at the Marina. However, sites outside these areas may also potentially be suited for tall buildings but the threshold to prove the positive contribution of a tall building to the local townscape and community is higher.

9.54. The Gasworks site sits between two 'tall buildings' with the Courcels Building (8 storeys) to the west and Marine Gate (8-9 storeys) to the east. The rest of the immediate surrounding area is predominantly 2-3 storey dwellings, with a four-storey residential block directly to the north on Roedean Road and the four-storey French Convalescent Home to the southwest.

9.55. Prior to the original submission the applicant engaged in pre-application discussions with the Council, including two independent Design Review Panels, to agree broad design, layout and masterplan principles. It was established that, in principle, a high-density scheme with tall buildings could be acceptably accommodated on the site.

Original scheme

9.56. As originally submitted, on the southern frontage of the site, blocks of up to 10 storeys in height were proposed with a built form and light colour intended to reflect Regency style buildings. The built form then mediated to darker tones

with a more industrial character and taller buildings (up to 12 storeys) to the north. There were, however, concerns about the height, density and lack of permeability of the built form at the centre and the north of the site. There were also reservations with the architectural quality of the northern quarter which lacked a clear beacon to the northeast gateway. There were also shortcomings with inadequate sun light provision within the Circus and the lack of consideration of how the scheme could integrate with the adjoining council owned sites.

Revised November 2022 scheme

- 9.57. The revised scheme resulted in improvements, in respect of breaking up the form of buildings with more permeability and views provided through the scheme. There was also a reduction in height to some buildings to the north as well as improvements to the architectural form. The overall number of residential units was increased slightly to 565 with some of the buildings becoming wider and more squat and future options presented to demonstrate that the scheme would allow future integration with the Council owned land to the north and south.
- 9.58. Notwithstanding these changes Officers still had some underlying concerns that the overall density was too high, specifically within the north of the site which was impacting on surrounding townscape and on daylight in the centre of the site. Concerns were also raised that Block C was not working well enough architecturally in its key position at the 'gateway' to the northeast entrance to the site.

Design, appearance and townscape

- 9.59. The current scheme has been revised significantly in design, form and scale since it was originally submitted to take in the views of the Council officers, the Design Review Panel (who undertook a further review in October 2022) as well external consultees, amenity groups and residents, in order to achieve an acceptable development.
- 9.60. Blocks A, B, C fronting Roedean Road to the north have been revised in design terms to appear more clearly as three well defined standalone buildings, with Block B, reduced by a storey and Block C by two storeys. Block F, in the centre of the scheme has been reduced from 11 to 8 main storeys with a further set-in plant enclosure above. The shoulders of Blocks B and F, adjacent to the Circus have been reduced in height, whilst a gap has been created between G and H and 4 more townhouses added on Boundary Road reducing heights down from 6 to 3 storeys to the south of the site.
- 9.61. The scale, architectural form and materiality of the scheme has improved through these revisions and is now considered acceptable overall. The light tones and formal appearance of the seafront blocks are considered to transition appropriately to the darker materials of the more industrial blocks (A, B and D) to the north which all include a grid form with an expressed frame. Block F would align with the sandy colouration of the proposed Boundary Road buildings and provide a less dominant feature in the centre of the site. Block C in the north-eastern corner has been designed to reflect the circular gas holder it would

replace, which is considered to evoke the social memory of the site and provide a building of visual interest at the northern gateway of the site. The Urban Design Officer sets out that 'Its unique architectural expression and well composed elevational composition and materiality work to draw users into the site from the north-east and through the site from the South through the Green Link.'

- 9.62. There are still protruding balconies on some of the elevations which disrupt the facades of the buildings to a degree, though most on the corners of buildings and key public facing elevations are now mainly inset which has improved the architectural form and appearance of the buildings. The use of brick throughout the scheme as the predominant external material is welcomed and gives the scheme a robust appearance and should have longevity in the marine environment.
- 9.63. The ground floors have taller floor to ceiling heights to differentiate the commercial from the residential which is appropriate. The visuals show a bright colour palette to the ground floor which gives visual interest to the scheme, with details to be secured by condition.
- 9.64. It will be important to ensure that the detailing of the commercial frontage and residential entrances is well expressed in terms of quality and materiality and that servicing and plant entrances do not provide blank or uninviting features. Conditions are also proposed to ensure further large-scale details of ground floor frontages as well bay studies with window and façade details are submitted and agreed by the LPA, as well material samples / details to ensure a high-quality finish to the development is realised when implemented.
- 9.65. Nonetheless, it is undoubtedly still a very dense scheme, at nearly 250 dwellings per hectare (DPH). The height and massing of the scheme does still result in some limited harm to localised views from the north, though overall the proposal is now considered acceptable in townscape terms with permeability and views provided through the site from key viewpoints.
- 9.66. The development overall is considered to respect the character and appearance of the local area. As existing, the Gasworks site, presents somewhat as an island site, very different from the surrounding built form. It is an industrial plot which historically had a collection of impressive gas holders across the site, contrasting with the built form in the locality. Whilst only a single gasholder frame remains it still has a clear, industrial character, different from the surrounding urban context. The proposal is considered to respond to the context of the local area, with three storey development fronting Boundary Road and more prominent seafront buildings to the south, but also retaining some of its more imposing industrial character to the north. Whilst the scale, massing and density of the development to the north of the site is very different from that of the surrounding area it is not considered to be overly dominant or jarring, with the circular gas holder-inspired building softening the composition of built form when viewed from the north.
- 9.67. In respect of the master planning of the wider DA2 site, it is regrettable that the proposal does not include the council owned land parcels at the north and south,

but as noted above, this is beyond the control of the applicant. The revised proposal has though been designed to be compatible with some level of future development or works to these sites and as such does not significantly prejudice these land parcels. The southern parcel could be further landscaped to provide a larger area of public realm along the southern boundary. To the north, the applicant's Design and Access Statement (DAS) sets out potential options for a low-rise community building in the northeast corner as well as further landscaping. The northern elevation of the podium does still provide a somewhat hard edge to the scheme but has been detailed with an arch motif, picking up on the substation building which does enliven its appearance. Overall, the masterplan testing is considered to have adequately demonstrated that the development of the whole Gasworks site can be brought forward in a holistic manner as a coherent piece of urban planning in accordance with policy DA2.

- 9.68. It is noted that the proposals have gone through a rigorous external design review process and have addressed most of the key recommendations of the Panel. Whilst the Urban Design Team response sets out some further recommendations, they support the scheme overall and have highlighted many positive changes to the scheme as it has evolved.
- 9.69. Further, the County Landscape Architect notes that the proposed development "would represent a major change to the townscape and visual amenity of the local area. There would be some localised impacts on townscape character and views. On balance and in the longer term the proposed development would enhance the local townscape and provide an opportunity to create high-quality public realm."
- 9.70. Overall, the proposal is considered to strike an acceptable balance between maximising development of the site to ensure a deliverable scheme with significant amounts of housing and employment and achieving an appropriate scheme in townscape terms which does not detract from the appearance and character of the wider area.
- 9.71. It is considered that the proposal is in accordance with policies CP12, DM18 and DM19 and SPD17 and national planning policy.

Impacts on Heritage assets

- 9.72. The key designated heritage assets close to the site are the Grade II listed French Convalescent Home to the west of the site and then, further afield the Grade I listed Kemp Town Estate, including the associated Registered Park and Gardens, known as the Kemp Town Enclosures (Grade II). The estate sits within the Kemp Town Conservation Area which also includes the mews properties of Kemp Town Place to the west, and the Esplanade south of Marine Parade and the beach. The East Cliff Conservation Area is further to the west. The significance of the grade I listed Estate and Kemp Town Conservation Area is of the highest level, representing the height of Regency town planning and the boldness of speculative residential developments of that time.
- 9.73. In considering whether to grant planning permission for development 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.

- 9.74. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses should be given “considerable importance and weight”.
- 9.75. Policy CP15 and policies DM29 all set out that development should preserve and enhance the setting of heritage assets. Policy DM28 relates to locally listed and non-designated heritage assets.
- 9.76. SPD17 sets out that the DA2 area which include the Marina has specific sensitivity due to potential for views from the Kemp Town Conservation Area and from hillsides to the north. The PAN 04 for Brighton Marina requires development to preserve and / or enhance the setting of historic buildings and conservation areas nearby, as well as wider historic landscape and the city skyline including views from the National Park
- 9.77. The NPPF is clear that, 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. 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.
- 9.78. These benefits are defined in the Planning Policy Guidance (PPG) as ‘anything that delivers economic, social or environmental objectives, as described in the NPPF (paragraph 8)’. The benefits of the development should be ‘of a nature or scale to benefit the public at large and not just be a private benefit’.
- 9.79. Impacts on non-designated heritage assets should also be assessed having regard to the scale of any harm or loss and the significance of the heritage asset.
- 9.80. The Council Heritage Team set out that the proposed development will form a backdrop to the roofscape of the Grade II listed French Convalescent home. The roofscape is already impacted to a degree by the existing Courcels building and is considered to cause less than substantial harm to its significance at the lower end of the scale.
- 9.81. This is the only designated heritage asset that the Heritage Team consider to be impacted.
- 9.82. This being the case, the public benefits of the scheme which includes a significant quantum of housing, as well as the potential for a net increase in jobs and public realm improvements is considered to outweigh the relatively limited heritage harm to the setting of the grade II listed building.
- 9.83. In addition to any impacts on designated heritage assets, there would be harm from the loss of some broad views of the locally listed Marine Gate, which contribute to its significance as a landmark building. However, this is considered to result in less than substantial harm to its significance at the lower end of the

scale. Further, it is considered that any largescale redevelopment of the Gasworks site would inevitably impinge on broad views to this undesignated heritage asset, and whilst this would impact the significance of this non-designated heritage asset any harm would be outweighed by the sizeable public benefits of the scheme.

- 9.84. The only asset of historic interest that would be physically affected by the proposed development is the flint boundary wall along Boundary Road. It is not nationally or locally listed but has historic interest through its origins as the boundary between Brighton and Rottingdean. The wall has been much altered over time with a patchwork of repairs and did not meet the criteria for local listing. It remains that the wall has townscape interest from its materials and the degree of enclosure it provides, and that this would be entirely lost as a result of the proposed development. While it is regrettable that none of its structure has been retained, it is an undesignated heritage asset so in accordance with the NPPF, a 'balanced judgement' is required, having regard to the scale of any harm or loss and the significance of the heritage asset.
- 9.85. In this instance, it is considered that the removal of the wall is justified in design and placemaking terms with the removal necessary to create an active frontage on Boundary Road, key to achieving an outward facing development. The removal of the wall allows for the widening of Boundary Road, the introduction of a pavement and tree planting and more space for cyclists and pedestrians. The retention of the wall would likely reduce the developable area of the site, reducing the density levels that could be achieved and thus reducing the deliverability of the site. Overall, the public benefits of creating a new high-quality streetscape on Boundary Road is considered to outweigh the harm resulting in the loss of the undesignated heritage asset. Some of the flints are proposed to be reused in front boundary walls and the condition securing a landscaping scheme will require a visual marker of the historic wall which will help to signpost the siting of the historic boundary. A further condition is suggested to ensure a full photographic record of the wall is undertaken before demolition and submitted to the LPA.
- 9.86. In respect of impacts on the Grade I listed Estate and Kemp Town Conservation Area, the Heritage Team note that *"the skyline of the eastern terraces would not be breached in views from Marine Parade and Chichester Terrace"* and that the development would progressively screen distant views of the South Downs at the end of the vista along Eastern Road but that *"this occurs at a level that does not impact the roofline of the estate and cannot be considered to affect the setting of the group."* They also noted that the scheme would provide a 'closer backdrop' to the northern and southern flanks of 41 and 40 Sussex Square respectively *"however these views are already developed, albeit to a lesser height."* Overall, they concluded that *"It is not considered that the proposed development would cause harm to the setting or would affect the significance of this group of listed buildings."*
- 9.87. These comments were made on the originally submitted scheme. Revisions since then have reduced the height and density of the scheme further, with less

development visible in the long views along Eastern Road from within the Kemp Town Conservation Area.

- 9.88. Notwithstanding the views of the Council Heritage Team, Historic England, whilst not objecting to the development, has commented in its role as a statutory consultee and set out concerns relating to impacts on the Kemp Town Conservation Area due to its tall, dense, city centre form and character which they consider would “erode the understanding of the origins of Kemp Town as an independent settlement surrounded by open space and sea”. They consider the harm identified would be less than substantial and at the lower end of that scale.
- 9.89. In addition, there have been objections to the scheme in respect of heritage grounds from a number of local amenity groups, including the Conservation Advisory Group (CAG) and the Gasworks Coalition group as well as national groups, Save Britain’s Heritage and the Georgian Group.
- 9.90. It is noted that the development would not be visible from within the key set piece enclosures within the Grade I listed Kemp Town Estate.
- 9.91. Other than the very limited, long-distance views from the Palace Pier, the scheme would be visible as a backdrop from the Grade I listed Kemp Town Estate and Kemp Town Conservation Area in views along Eastern Road and in limited views from the southwest of the site, above the French Convalescent Home and adjacent to the Courcels Building.
- 9.92. However, views from both of these areas already contain a backdrop of existing built form, including Marine Gate and the Courcels building, and it is not considered that the scheme would harm the significance of the setting of heritage assets in these views.
- 9.93. Whilst the Council does not agree that there is any harm to the Kemp Town Estate, the public benefits of the scheme, which include a significant amount of housing for the city, new employment space and improvements to public realm would clearly outweigh any limited harm identified.
- 9.94. Overall, in respect of heritage, the scheme is considered in accordance with policies CP15, DM28 and DM29 and as well as national policy and legislation.

Impact on Landscape and the South Downs National Park

- 9.95. The National Parks and Access to the Countryside Act 1949 defines the National Park purposes as being to conserve and enhance natural beauty, wildlife and cultural heritage and to promote opportunities for the understanding and enjoyment of the special qualities of the National Parks by the public.
- 9.96. Policy SA5, The Setting of the South Downs National Park set out that development must respect and not significantly harm the National Park and its setting, and that any adverse impacts must be minimised, and appropriate mitigation or compensatory measures included. Such measures should have regard to landscape character and impacts.

- 9.97. The NPPF sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. Development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.
- 9.98. It is considered that overall that the proposed scheme would impact the SDNP to a degree, this is due to a restriction of some views towards the sea and also the creation of a harder edge to the southern boundary of the Park where it meets the built-up urban area. In longer views the proposal is considered to sit quite comfortably within what is as existing an urban environment and the relationship between the Park and sea would not be materially harmed.
- 9.99. The SDNP Authority raises no objection to the scheme, noting that “the further changes made to the proposals are broadly welcomed in terms of mitigating potential harmful impacts upon the setting of the National Park and creating a more legible gateway into the National Park in this location.” The County Landscape Architect has assessed the scheme and also has no objection.
- 9.100. Any negative impacts to the Park, within closer views towards the scheme are considered to be relatively limited and would be significantly outweighed by the positive public benefits of the scheme.
- 9.101. Any harm is also further offset by the beneficial impact of opening up of a visual and landscaped link from the Park to the site and then through to the seafront. A condition is proposed to ensure appropriate lighting throughout the development to accord with the SDNP Dark Skies policy.
- 9.102. Overall, the proposed development is considered to be in accordance with the policies DA2 and SA5 of the CPP1 and the NPPF.

Amenity:

Standard of residential accommodation

- 9.103. DM1 Housing Quality, Choice and Mix set out 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. Key requirements are;
- All units as a minimum must be accessible and adaptable in accordance with Building Regulation M4(2);
 - 10% of affordable units and 5% of all residential units should be suitable for occupation by a wheelchair user in accordance with Building Regulation M4(3); and,
 - All new residential development must provide useable private outdoor amenity space.
- 9.104. SPD17 sets out design priorities which includes avoid deep and/or single aspect north facing units; avoid internal layouts with long double-banked corridors and minimise the number of units per core; optimise dual aspect units that achieve natural cross ventilation and good daylight and sunlight.

- 9.105. The proposed development contains a mix of units from studio, 1, 2 and 3 bed flats and some 3 /4 bed townhouses. All of the units meet or exceed the Nationally Described Space Standard (NDSS) and are considered to have acceptable layouts with good circulation space and storage. Generous floor to ceiling heights of 2.5m are proposed throughout.
- 9.106. 61% of units overall are dual aspect (i.e. have windows facing two different directions). Whilst an increase from 55% when originally submitted, this still results in a relatively large percentage of single aspect units throughout the site. While less than ideal, it is accepted that in a large, flatted development such as this it would not be possible to provide all flats as dual aspect, whilst making efficient use of the site and meeting other necessary requirements such as fire safety regulations.
- 9.107. Other improvements have resulted in only two north facing single aspect homes in the scheme and all of the three bed and town houses are dual aspect. All the units either have either a balcony or an external private amenity space.
- 9.108. Communal private amenity spaces are provided throughout that are well landscaped and include children's play areas as well as food growing areas.
- 9.109. The units to west fronting Boundary Road are set back sufficiently from the highway and adjacent properties. The 14 townhouses are the only properties at ground floor level and have small front garden areas to provide some separation from the street. All other units on this side are at first floor level or above with the high floor to ceiling heights of the ground floor commercial space lifting the residential floors and any associated balconies are comfortable height above street level. To the east of the development, the properties are all set back a sufficient distance from Marina Way, as well as at sufficient heights to afford them sufficient privacy from the street.
- 9.110. The distances between blocks within the development are generally sufficient to ensure that there are no significant issues in respect of overlooking, privacy or restricted outlook, or any areas that would feel overly enclosed with acceptable separation distances afforded between opposite blocks on both the Green link and the main communal amenity areas. Where there are tighter points between buildings, for example between A and B and also B and C, balconies and living areas have been designed so that windows and views are angled away from the neighbouring blocks. Angled oriel windows have also been included on Blocks A and B which direct views away from the adjoining block to ensure privacy and appropriate outlook.
- 9.111. Rather than utilising a single extended north / south orientated block, the built form of Blocks H, G and F has been opened up to allow additional light and views through the scheme and this is welcomed. This has though led to two pinch points between blocks, to the north and south of Block H. Whilst differing floor height levels and the orientation of the adjacent blocks does help to mitigate any privacy issues between different residential units it is considered that adding additional oriel windows to the north and south elevations of block G would

further improve residential amenity between these blocks. The Council has discussed with the applicant about this beneficial revision, and it is suggested that this is secured by condition to ensure sufficient privacy between properties. Overall, the general layout of the blocks is considered appropriate.

Sunlight and daylight

- 9.112. The applicant has submitted daylight and sunlight assessments for the proposed residential units as well as sun lighting information, for the private amenity spaces and public realm. The BRE has been instructed by the Council to undertake an independent review of the reports and consider the methodology that has been used to be robust.
- 9.113. In respect of daylight British Standard (BS) EN17037 recommends minimum, medium and high target illuminances for over at least 50% of a room.
- 9.114. The submitted assessments confirm that 72% of combined living areas (living/kitchen/dining rooms and studios) hit the highest target for kitchens of 200 lux. 85% of combined living areas (living/kitchen/dining rooms and studios) are able to meet the medium target of 150 lux for living rooms which is arguably a more appropriate target in flatted developments where the living area makes up the majority of the shared space. 96% of bedrooms hit the minimum target of 100 lux for bedrooms. Rooms that do not meet the target are predominantly at lower levels.
- 9.115. Whilst it is disappointing that some of the units on the lower levels have relatively poor daylighting the overall daylight provision for a high-density scheme such as this is considered acceptable. Every unit above podium level has a balcony which is welcomed in amenity terms but inevitably reduces daylight provision to units below (and also the host unit in respect of a 'set in' balconies). Increasing window sizes or providing additional openings can improve daylight but has to be weighed other issues in respect of architectural design, privacy or overheating issues. To gain notable improvements to daylighting to units at lower levels would require likely significant reductions in massing and height and would impact on the viability and deliverability of the scheme.
- 9.116. Paragraph 129c of the NPPF states that schemes should make efficient use of land and that daylight and sunlight guidance should be applied flexibly for housing applications 'where they would otherwise inhibit making efficient use of a site (as long as the resulting proposals would provide acceptable living standards)'.
- 9.117. In respect of sunlight The BRE guidance suggests that on 21 March that at least one habitable room to a dwelling, preferably a main living room, should meet at least the minimum 1.5 hours sunlight criterion. The recommendations apply to rooms of all orientations but those facing northerly are naturally limited and therefore would have less expectation of sunlight.
- 9.118. Overall, 70% of living areas would be able to meet at least the minimum sunlight recommendation. With 89% of dwellings having at least one habitable room meeting the guidance. As is the case for daylight, the worst performing units are

at lower levels. It is not considered that significant improvements could be made to sunlight at lower levels without making disproportionate alterations to overall height and massing. Removing balconies may improve some units, though this has to be weighed against the amenity benefit of a private balcony. Overall, though, the scheme is considered to have a good level of sunlight provision and indicative that north facing windows, which do not receive any sunlight have been kept to a minimum within the scheme.

Sunlight to private amenity areas

- 9.119. The BRE Report suggests that for a proposed open space to be well sunlit at least 50% of its area should be able to receive at least two hours of sunlight on 21 March. The submitted sunlight and daylight report uses this guidance to assess sunlight provision to proposed open spaces (private and public).
- 9.120. Revisions to the scheme have improved sunlight on the ground provision overall. In respect of the private communal amenity areas, these would all meet the BRE guidance overall, with just some limited pockets of space below the guidelines and this is considered to represent a good level of sunlight provision.
- 9.121. In respect of the townhouses, only one of the 14 individual gardens analysed would meet the BRE guidelines in respect of 50% of the space able to receive at least two hours of sunlight on 21 March. Whilst many of the gardens hit this target by the end of March or within April, the most southerly gardens especially are considered to perform poorly in respect of sunlight. Whilst the sunlight provision in the private gardens is considered disappointing, they are still considered to provide a beneficial amenity space for future occupiers, who still also have the option of also using the main communal gardens and the scheme is acceptable overall in respect to sunlight to private amenity areas.
- 9.122. Looking at the quality of accommodation overall, the high density of the scheme does result in some negative amenity impacts, including a relatively high number of single aspect units, some tight standoff distances between buildings and some poorer sunlight and daylight provision on lower levels. However, assessing the proposal as a whole, and noting the balance the applicant has had to strike in terms of a providing a deliverable scheme with a sufficient quantum of development, whilst ensuring an appropriate design, views through the site, impacts on neighbouring amenity and so forth the scheme is considered to deliver a very good standard of accommodation with acceptable sunlight and daylight provision overall, good unit sizes and layouts, private amenity space for every unit and high-quality communal landscaping throughout and public realm. The development is considered to result in a good quality of accommodation for future occupiers in accordance with policy DM1 and DM20 of the CPP2.

Impact of neighbouring properties

- 9.123. Policy DM20 of the Brighton and Hove City Plan Part Two states that planning permission for development will be granted where it would not cause unacceptable loss of amenity to existing, adjacent or nearby users, residents or occupiers or where it is not liable to be detrimental to human health. Policy DM40 seeks the protection of the Environment and Health through the suitable control of pollution and nuisance.

Daylight, Sunlight and Overshadowing

- 9.124. The applicant provided an assessment of the loss of daylight and sunlight to existing properties using BRE Report BR 209, 'Site Layout Planning for Daylight and Sunlight, a guide to good practice'.
- 9.125. There are a number of properties adjoining the north, east and west of the site that are potentially impacted by the scheme and have been assessed by the applicant in respect to loss of daylight to windows and also loss of sunlight to windows and private amenity areas.
- 9.126. The BRE has been instructed by the Council to review the applicant's assessment of sunlight and daylight on neighbouring properties. They consider the scope, methodology, assessment and conclusions to be robust.
- 9.127. The BRE Report states that where the loss of skylight or sunlight fully meets the guidelines, the impact is assessed as negligible or minor adverse.
- 9.128. Where the loss of skylight or sunlight does not meet the guidelines, the impact is significant and assessed as minor, moderate or major adverse. Factors tending towards a minor adverse impact include:
- Only a small number of windows are affected,
 - The loss of light is only marginally outside the guidelines,
 - An affected room has other sources of skylight or sunlight.
- 9.129. Factors tending towards a major adverse impact include:
- A large number of windows or large area of open space are affected,
 - The loss of light is substantially outside the guidelines,
 - All the windows in a particular property are affected,
 - The affected indoor or outdoor spaces have a particularly strong requirement for skylight or sunlight.

Vertical Sky Component

- 9.130. The amount of skylight that reaches windows is assessed by determining the Vertical Sky Component (VSC). It is a measure of sunlight falling on a vertical plane (i.e. a window) from an overcast sky. The guidelines set out,
- If the vertical sky component at the centre of the existing window exceeds 27% with the new development in place, then enough skylight should still be reaching the existing window.
 - If the vertical sky component with the new development is both less than 27% and less than 0.8 times its former value, then the area lit by the window is likely to appear more gloomy and electric lighting will be needed for more of the time.

Annual Probable Sunlight Hours

- 9.131. When considering the impact of a development on an existing dwelling, the sunlight to a "living space" received is considered to be adversely affected if:
- It receives less than 25% of annual probable sunlight hours and less than 0.8 times its former value or less than 5% of annual probable sunlight hours

between 21st September and 21st March and less than 0.8 times its former value during that period.

- And also has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

Loss of sunlight to gardens

- 9.132. The BRE Report states that existing gardens and open spaces should be checked via the calculation of hours of sunlight received on 21 March. If the space receives less than two hours of sunlight over less than half of its area with the proposed development in place and this area is less than 0.8 times the value currently, the loss of sunlight is likely to be noticeable.
- 9.133. The most impacted properties are the rear of the terraced properties on Arundel Street to the west of the site, that back onto Boundary Road, and to a lesser extent Marine Gate to the west.
- 9.134. The Arundel Street properties that would be impacted are generally three storey properties over basements, other than numbers 21-23 which are two storeys.
- 9.135. In respect of daylighting, seven properties on Arundel Street (Nos. 9, 12, 16, 17, 18, 22, 23) are considered to have a moderate adverse impact, 6 properties (Nos. 6, 8, 10, 11, 21 and 22) are considered to have moderate to major adverse impact and one property (No.7) is considered to have a major adverse impact.
- 9.136. In respect of sunlight, three properties (Nos. 9, 17, 23) are considered to have a moderate adverse impact, four properties (Nos. 6, 8, 11, 21) are considered to have moderate to major adverse impact and two properties (Nos 7 and 22) are considered to have a major adverse impact.
- 9.137. In respect of sunlight to gardens, two properties (Nos 9 and 21) are considered to have a moderate adverse impact and two properties (Nos 8 and 10) are considered to have a major adverse impact.
- 9.138. A number of other properties in Arundel Street would receive some minor impacts.
- 9.139. In respect of Marine Gate windows on the western flank, these would have a moderate adverse impact in respect of daylight, with this tending towards a major adverse impact for the lower floors. Sunlight would meet BRE guidance.
- 9.140. It is noted that the revisions to the scheme over the life of the application have resulted in marginally reducing these impacts.
- 9.141. The BRE notes that the impacts set out above are based on a mix of known, partial and estimated layouts and are considered likely a worst-case scenario. At some properties there is the potential for the impact to be reduced if non habitable rooms are involved or windows that would have a loss of sunlight do not light living areas. Existing overhangs or obstructions may also be a factor in larger relative losses of light in some cases. This is likely to be the case at Marine

Gate where some of their windows as existing site below balconies which already results in some loss of daylight.

- 9.142. The properties to the north of the site, (John Howard Cottages and the Lodge and Roedean Court) and the properties immediately adjacent to the west, (5 and 7 Roedean Road, 1 Marina Way and 14 and 20-34 (evens) Cliff Road) have all been assessed as having negligible or minor impacts.
- 9.143. Whilst acknowledged that the development would result in some significant impacts to sunlight and daylight to properties in Arundel Street and also to daylight on the western façade of Marine Gate it is acknowledged that these properties currently receive largely unrestricted daylight and sunlight from what is predominantly an empty site in terms of built form.
- 9.144. The site is allocated in DA2 for redevelopment and as such it is considered any deliverable development would have to be of a scale that would likely result in negative amenity impacts to neighbouring properties. Policies CP14, Density and DM19, Maximising Development Potential both set out that steps should be taken to ensure that brownfield sites are developed to their maximum potential whilst the NPPF also sets out planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework.
- 9.145. Much of the proposed development along Boundary Road has been designed at three storeys in height to mirror the existing built form of the terraced properties opposite which is considered an appropriate design approach.
- 9.146. It is also worth noting that these are dual aspect properties. Due to the orientation of the street, impacts to sunlight would be concentrated in the morning. The properties would still receive afternoon sun from their front (west facing) facades.
- 9.147. In respect of Marine Gate, they are also predominantly dual aspect properties which will also receive light from other facades.
- 9.148. Whilst the proposals as a whole result in some significant amenity harm to neighbouring properties in respect of sunlight and daylight, this has to be weighed against the aims of the DA2 site allocation which requires a deliverable redevelopment of the site, and overall, the proposal is considered to be acceptable in this regard.

Other amenity impacts

- 9.149. The proposed development would be set well away from neighbouring properties to the north on Roedean Road and there would no significant impact to these properties in respect of overlooking and loss of privacy, loss of outlook or any overbearing impact.
- 9.150. Similarly, the properties to the eastern side Marina Way (5 and 7 Roedean Road, 1 Marina Way and 14 and 20-34 (evens) Cliff Road and Marine Gate) are all separated by a busy public highway between the site and the proposed

development. Whilst there would clearly be a sizable visual change experienced by existing residents, the proposal would not give rise to any significant overlooking or overbearing impact or any loss of outlook.

- 9.151. The closest properties to the proposed development on Roedean Road and Marina Way are orientated east / west with blank side facades and any views to windows would be of an oblique nature and as such would not give rise to any loss of privacy.
- 9.152. The properties off Cliff Road and Marine Gate are separated from the development by 30m or more and there is not considered to be any significant overlooking to these properties.
- 9.153. There would be some long views into the gardens of the residential properties east of Marina Way but again, these are not considered to result in any loss of privacy that would be so significant as to warrant refusal.
- 9.154. There is considered sufficient separation distance from the proposal to the Courcels building to the southwest for there to be any material amenity impact to this building.
- 9.155. Turning to the properties on the rear of Arundel Street, these are considered to have the greatest level of change with the proposed development in situ.
- 9.156. The proposed development adjacent Arundel Street is predominantly three storeys in height, other than the 6 storeys block (E4) to the southernmost corner and has been designed to largely mirror the heights of the properties on Arundel Street.
- 9.157. The separation distances from the west facing façade of the proposed development and the main rear facades of Arundel Street range from approximately 15-18m which would reduce the potential for loss of privacy. Many of the properties also have either original outriggers or other later rear extensions and so, in some places there are closer separation distances with the closest of these being approximately 12.5m.
- 9.158. As a comparison the front elevations between the existing properties on either side of Arundel Street range from 13.5-15.5m.
- 9.159. The rear elevations of Arundel Street back onto Boundary Road and as such the rear windows and amenity areas are currently viewable from the public domain. Whilst the proposed blocks would introduce windows on the other side of a widened Boundary Road, the separation distances are considered to be acceptable, and the proposal is not considered to result in any overlooking or loss of privacy that would be so significant as to warrant refusal of the application. Proposed balconies have been inset to minimise any perceived or actual overlooking whilst the planting of street trees would further screen views.

- 9.160. Whilst there would be a significant change in how these residents would experience Boundary Road, the proposal is not considered to result in an overly dominant, overbearing or enclosing impact to the Arundel Street properties.
- 9.161. The upgrade to Boundary Road, with a formal pavement, planting, lighting and drainage is considered a significant benefit for adjoining residents. The proposed development would also result in natural surveillance and improved public safety for existing residents.
- 9.162. Considering neighbouring amenity as a whole it is clear that there would be some significant impacts in respect of a loss of light and sunlight to rear of the properties on Arundel Street and to a lesser extent daylight to the western elevation of Marine Gate. As an empty site, neighbouring properties benefit from levels of the light that not representative of an urban area. The scheme has been designed to minimise neighbouring amenity impacts, with built form of three storeys in height on most of the western boundary to mirror the existing development. Overall, it is considered that any viable development of this allocated site is likely to result in some negative amenity benefits. The harm to neighbouring amenity is not considered to warrant refusal of the application and the proposal is considered to be acceptable in accordance with policies DA2 and DM20.

Noise and disturbance

- 9.163. It is not considered that there would be any significant impacts to neighbouring amenity in respect of noise and disturbance resulting from the final use of the site. There would not be an increase in vehicular trips and there are not considered to be any significantly noisy uses proposed.
- 9.164. There will inevitably be some level of noise and disturbance during the construction phase. A CEMP will be conditioned to control hours of operation, deliveries times and construction practises to protect neighbouring amenity.
- 9.165. In respect of future occupiers, the potential for noise is likely to be from existing road noise, adjoining commercial uses or from the electric substation to the north of the site. Plant noise, opening hours and deliveries, floor and ceiling soundproofing, residential accommodation noise mitigation measures and lighting will all be controlled by condition and is not considered to result in amenity harm to neighbours or future occupiers.
- 9.166. Post completion testing of residential properties is considered to prudent to ensure appropriate internal noise levels have been successfully met and will be conditioned.
- 9.167. Overall, subject to the proposed conditions, the development is considered in accordance with DM20 in respect of noise and disturbance.

Impacts on Bell Tower Industrial Estate

- 9.168. The industrial estate is located immediately adjacent to the northwestern entrance to the site off Boundary Road. There would be some overshadowing,

loss of sunlight to the site in the morning, although the industrial nature of the uses is such that this is not considered to be a significantly detrimental impact.

- 9.169. There is a shortage of good quality industrial floorspace in the city. As such, it is important to ensure that the industrial estate is protected from potential noise complaints from future residents of the development which may impact on the operational viability of the various businesses. This is the 'agent of change' principle.
- 9.170. It is recognised that Block A is sited in close proximity to the Industrial Estate, introducing a new residential use in this location, and as such the glazing specification should be enhanced sufficiently to ensure acceptable noise impacts for future residents. Subject to the suggested conditions outlining suitable mitigation and post completion testing, it is considered that the Industrial Estate will be suitably protected from the potential for noise complaints and the application is acceptable in this regard.

Open Space, Landscaping and Sports Provision

- 9.171. Developments are expected to provide for high quality public realm and landscaping in accordance with policies CP13 and DM18 and DM22. The key public areas provided are considered to be the Circus, which is the focus point for the public realm in the northeast corner and has the potential for outdoor events, and then the Green Link which runs from north to south and exiting on Boundary Road. There would be different characteristics to landscaping with the north of the site picking up on the South Downs character, a woodland character within the centre of the Green Link and more formal garden layout at the south of the site. Eighty trees are proposed to be planted throughout the development as well as significant levels of lower-level planting in the form of bushes and shrubs. There would also be tree planting and landscaping along a remodelled Boundary Road.
- 9.172. Concerns were raised with the original application that the public realm, and especially the Circus would be poorly sunlit and quite enclosed, and thus, not an inviting place to spend time. Revisions to the scheme have reduced the overall height of buildings to the north of the site and have also lowered shoulder heights around the Circus which have improved the quality of this space. Whilst parts of this area would still receive fairly limited sunlight, overall, the space does meet the BRE guidance for sun on the ground and it is considered that the space would function acceptably.
- 9.173. Though the area to the west of Block I1 has the potential to be poorly sunlit, The Green Link meets BRE guidance sun on the ground guidance overall and is considered to be a good quality piece of public realm.
- 9.174. With respect to Policies CP16, Open space and CP17, Sports Provision, it is accepted that it would not be practicable to meet all the quantitative open space requirements on the site. No formal sports provision is proposed on the site, however there is existing provision within the accessibility standard of 960m for outdoor sport as defined in Policy CP17. The proposed play space for younger children has also been increased in the revised scheme from 688 sqm to 758

sqm through a mixture of natural play spaces and open lawn areas provided on each private residential podium garden and integrated into the public realm between the Circus and main Green Link.

- 9.175. Food growing provision has increased to 400sqm to be located within the residential gardens. The children's play and food growing areas will be secured by condition.
- 9.176. The wider landscaping proposals will be secured and funded via a LEMP to ensure that the amenity, biodiversity and ecological benefits are retained over time.
- 9.177. Overall, the proposal is considered to provide high-quality public realm and amenity spaces for both future occupiers and the wider locality. These provisions are considered to be a clear public benefit of the scheme and in accordance with local and national policy.

Land Contamination

- 9.178. Paragraph 124 of the NPPF sets out that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. Paragraph 189 sets out that adequate site investigation shall be undertaken to assess the risk of contamination and after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.
- 9.179. Paragraph 194 of the NPPF sets out that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.
- 9.180. The key local plan policy is DM41 - Polluted Sites, Hazardous Substances & Land Stability, which sets out that developments should not prejudice health, safety or the environment. Site investigations are required for sites with historic polluting uses. Any remediation required should address any hazardous substances and ensure any polluted sites are brought back into use with appropriate measures necessary to protect the environment, future users and surrounding occupants.
- 9.181. It is noted that there is significant public interest in the application in respect of land contamination issues with a large proportion of the objections received focusing on concerns around the remediation of the site, including from local campaign groups.
- 9.182. The Council understands the key issues relating to land contamination and the safe remediation of the site is of key importance.

- 9.183. The Council has instructed Leap Environmental Ltd (LEAP) and RSK Environment Ltd to provide expert advice on land contamination and air quality matters and to ensure the technical information with the applicant's land contamination information is robustly assessed. In this instance the consultants are acting as the Council Environmental Health Team.
- 9.184. LEAP reviewed the applicant's original ground conditions submission within the ES (Chapter 13 and associated appendices by Atkins) back in 2022 and whilst they were in broad agreement with the majority of the work undertaken, they identified some shortcomings in the ground gas and vapour risk assessments.
- 9.185. In response to consultee concerns as well those of local residents and groups the applicant submitted additional information by way of a Remediation Options Appraisal and Remediation Strategy and an Odour (ROARS) and an Air Quality and Odour Management Plan (AQOMP) as well as additional testing data for ground gas and vapours.
- 9.186. The Remediation Strategy includes key information on how gasholders 5 and 7 will be decommissioned (including the degassing, dewatering and desludging). The AQOMP sets out how the site monitoring will include a traffic light system with works to stop if certain emissions thresholds are breached during any remediation activities. This information has been reviewed by LEAP and RSK in their capacity as the Council Environmental Health Team.
- 9.187. Their overall conclusions set out the site is not a typical gasworks site in terms of contamination. After 1880 gas production ended and it was used predominantly for storage and as such contamination levels would generally be lower than other gasworks sites. The main gas production part of the site, gasholders 1-3 in the southwest has been previously remediated, with contamination removed in 2003. LEAP set out that existing contamination is predominantly shallow localised soil contamination of soil, soil contamination within gas holder 6 and residual deep contamination of the chalk in the southeast. Their conclusions set out:
- The investigation of the site is considered appropriate in terms of distribution, contaminants investigated and analysis. Additional vapour testing is recommended as part of the baseline monitoring for the Air Quality and Odour management plan.
 - There is inevitably a risk of unforeseen contamination, however the risk of this is low and this is addressed in the discovery strategy detailed in the remediation method statement and proposed condition.
 - The proposed Remediation Method Statement is considered appropriate for this site and proposed use.
- 9.188. Conditions are recommended to ensure that the development is carried out in accordance with the submitted Remediation Strategy and the Air Quality and Odour Management plan (with additional vapour test to feed into the baseline monitoring). A condition requiring the submission of a verification report is required prior to first occupation, a condition in relation to stockpiling of excavated made ground and also a discovery strategy condition (for any unforeseen contamination) and also recommended. Overall, the submitted land

contamination information is considered appropriate and the application is in accordance with the DM41 and the NPPF.

Impact on ground water

- 9.189. The Site is not located within a groundwater Source Protection Zone (SPZ), or a groundwater protected area. The Outer Zone (III) of an SPZ is located 2.25km north-east and the Inner Protection Zone (I) is located 2.5m to the northwest. The submitted assessment confirms that due to the depth of groundwater at the site (20 to 23m below ground level) it is expected that the proposed development will have limited interaction with groundwater during construction and operation. The development is not expected to affect the identified SPZs.
- 9.190. The Environment Agency is the statutory body for the protection of ground water in the UK. They are well informed on this specific site as they signed off the remediation of gasholders 1-3 in 2003 and have undertaken monitoring of the site since then. In earlier responses to this application additional information was requested of the applicant which they have provided as part of the most recently revised ES.
- 9.191. In respect of the current revised application, they have set out the following;
We would agree that significant amount of remedial works have been previously undertaken at this site and that significant investigation has taken place across the site. As such, contamination extents are likely be limited compared to many other gasworks and we would not expect substantial areas of undetected contamination to be encountered. Given the long history of the site as a gasworks, it is likely that some areas of unexpected will be encountered. This must be dealt with as unexpected contamination in line with the remediation strategy.
- 9.192. The EA have set out that overall, there is no objection to the scheme, subject to conditions relating to submission of a remediation strategy (if previously unidentified contamination is discovered), the submission of a verification report prior to occupation and the requirement for written consent from the LPA for any piling or deep foundations using penetrative methods.
- 9.193. As such, the proposed development is not considered to result in any significant impact to ground water and is in accordance with policies DM41 and the NPPF.

Sustainable Transport:

- 9.194. The NPPF directs new development to locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.195. City Plan Policy CP9 reflects the NPPF and states that the council will work with partners, stakeholders and communities to provide an integrated, safe and sustainable transport system that will accommodate new development; support the city's role as a sub-regional service and employment hub; and improve

accessibility. The policy seeks to ensure developments promote and provide measures that will help to manage and improve mobility and lead to a transfer of people and freight onto sustainable forms of transport to reduce the impact of traffic and congestion, increase physical activity and therefore improve people's health, safety and quality of life.

- 9.196. Policy DM33 requires that new developments are designed in a way that is safe and accessible for all users and encourages the greatest possible use of sustainable and active forms of travel. DM35 sets out the standard and scale of information required in assessing Highways impacts. DM36 sets standards for parking and servicing of new development.
- 9.197. The ES includes a specific highways chapter as well as a Transport Assessment (TA) and a Travel Plan. These have been assessed by the Local Highway Authority (LHA).
- 9.198. The site is designed to be landscape-led with cyclists and pedestrian taking priority over vehicles and no planned vehicular access routes through the site (other than for emergency vehicles). A new pedestrian and cycle route is proposed along the western side of Marina Way, north of the existing vehicular access and would provide a through route through the site with another access at the southwest corner of Boundary Road.
- 9.199. Boundary Road is to be widened and upgraded with a full pavement provided on the eastern side of the road, and widening of the existing pavement which extends down to the A259, Seafront Road. A new toucan crossing is proposed over the A259 to access the Marina and wider seafront. The site is considered to be located in a sustainable location with good bus links in close proximity.

Trip Generation

- 9.200. The TA sets out that the proposed development would result in a minimal decrease in overall vehicular trips to the site (residential, commercial and servicing / deliveries) compared to the existing situation in the AM and PM peak hours when the road network is at its busiest. A traffic distribution assessment has been undertaken that concludes most nearby junctions would see a reduction in vehicles during peak times. The LHA has fully assessed these assumptions, including undertaking their own data analysis and agree that the modelling is robust, and the proposal will not result in unacceptable stress on the road network including adjacent junctions.
- 9.201. There will be a significant increase in trips (compared to the existing situation) from sustainable modes (pedestrians, cycle and bus). Obligations are proposed to secure improvements to adjoining highways (Marina Way and Boundary Road) for pedestrians and cyclists, a new toucan crossing over the A259 to the south of Boundary Road.
- 9.202. Residential and Commercial Travel Plans, incentivising and monitoring sustainable travel modes will be secured by condition as part of the development to help ensure that that vehicular trips to the development are minimised as far as possible.

Vehicle and Cycle Parking and overspill

Car parking (total)	179 spaces
Car parking space per dwelling	0.36 spaces per dwelling
Disabled parking	31 spaces
Electric vehicle charging points	100% (50% active/50% passive)
Motorcycle parking	30 spaces
Car club	1 x car club car & bay
Long-stay cycle parking	584 spaces
Short-stay cycle parking	86 spaces

- 9.203. The proposed development would have 179 car parking spaces overall for both residential and commercial operators, 31 of which would be for disabled parking. There would also be 30 spaces reserved for motorbikes. No visitor parking is proposed. The parking is sited in two podiums both accessed via Boundary Road. The northern podium is set over two storeys with the southern podium being single storey. Approximately 1 in 3 residential units would have a car parking space with the larger residential units having priority. This is considered appropriate in what is a sustainable location with good bus services and cycling infrastructure. A car parking management plan will be secured by condition.
- 9.204. The roads in close proximity to the site generally have double yellow lines or are within a Controlled Parking Zone (CPZ) H, other than the central part of Boundary Road where there are no controls. A parking survey has been submitted by the applicant and sets out that there is some limited capacity for parking on surroundings roads. In respect of Boundary Road which has uncontrolled parking as existing, the parking survey states that approximately 15 vehicles are expected to be associated with nearby residents whilst some of the parking would be from users of the existing Gasworks site. There is expected to be some parking displacement for existing residents although there is expected to be some limited parking capacity nearby within the CPZ.
- 9.205. The LHA has indicated that the development itself will not be included in the CPZ and as such residents will not be able to apply for parking permits.
- 9.206. Furthermore, a car club bay will be secured on Boundary Road, subject to a TRO, as a planning obligation. The Travel Plan will monitor use and further car club bays will be expected to be provided if it is demonstrated that there is demand.
- 9.207. Overall, it is not considered that would be any significant level of overspill parking (either commercial or residential) in association with the proposed development.

- 9.208. A policy compliant level of long stay internal cycle parking within the scheme for both residential (560) and commercial (24) users is proposed, in accordance with SPD14 on Parking Standards. These are conveniently accessed close to residential and commercial entrances.
- 9.209. The applicant has also set out in a technical note, dated 12 March 2024 that further bike stands will be provided within the southern podium cycle stores to ensure that the townhouse occupiers also have an option of a communal bike store as well as specific internal bike storage within their properties. This satisfies any concerns raised by the LHA and Active Travel England (ATE).
- 9.210. Whilst short stay external storage is below policy levels it is recognised that on very large schemes such as these that the policy level of visitor parking is likely to be higher than is realistically necessary and would start to dominate the public realm in a negative way. As such, subject to the provision of a bike share hub near to the site (to be secured as a s106 obligation) which would provide additional cycling options for visitors, this has been deemed acceptable by the LHA. Full detail of the cycle parking will be secured by condition.
- 9.211. A dedicated 'end of trip' facility is proposed for use by commercial occupiers and sited within the Green Link. This would provide shower facilities, lockers and changing rooms for cyclists and pedestrians. This provision is welcomed and would help to facilitate sustainable trips to the development and is to be secured by condition.

Delivery and Servicing

- 9.212. The existing entrance off Marina Way will be retained and loading bays provided for waste and recycling and deliveries. The 'Yard' will also have an access off boundary Road for servicing and deliveries and a concierge office. Further delivery bays will be provided on Boundary Road. The LHA and City Clean are both satisfied with the servicing and delivery proposals. A Delivery and Servicing Management Plan is to be secured via condition.

Construction Impacts

- 9.213. Construction traffic would access the site predominantly via Marina Way, but also via Boundary Road. It would be expected that construction traffic would travel via the A27 arriving via Wilson Avenue. The LHA does not consider that construction traffic would result in any unacceptable impact on the road network, including from any cumulative traffic impacts alongside other committed developments in the wider area. A condition to provide a Construction and Environmental Management Plan (CEMP), prior to commencement is required.
- 9.214. Overall, the proposal would not result in additional vehicular trips on the road network during the AM and PM peak periods. The development would have adequate levels of car parking, including disabled parking and would not result in any significant overspill parking within the immediate area. The development would promote sustainable modes, with significant levels of cycle parking and improvements to cycling, pedestrian and bus infrastructure. Boundary Road

would be upgraded to provide a safe and welcoming environment for future occupiers. There are no objections from the LHA or ATE.

9.215. The applicant has sufficiently demonstrated that the proposal would not result in a severe impact upon the highways network or on highways safety. Subject to the recommended travel, and servicing management plans it is considered that the uses proposed can be appropriately serviced and managed and would be acceptable in Highways terms in accordance with CP9 of the Brighton and Hove City Plan Part One, DM33, DM35, DM36 of the Brighton and Hove City Plan Part Two and the requirements of the NPPF.

Sustainability:

9.216. City Plan Part One Policy CP8 requires major new non-residential development to incorporate significant sustainable measures and achieve a BREEAM standard of 'Excellent'. City Plan Part Two Policy DM43 requires new build non-residential development to achieve a minimum Energy Performance Certificate (EPC) rating of 'B'.

9.217. A revised Energy Statement has been submitted which updates proposals for the energy strategy at this development. This includes:

- Improved energy efficiency in building fabric
- Heating and hot water 100% supplied by renewable energy through Air Source Heat Pumps, eliminating the gas boilers which were previously proposed to provide 20% of the capacity.
- A commitment to installation of solar PV panels across available roofs, to reduce energy use across the site, other than roof space needed for heat pump equipment.
- Biodiverse roofs will be planted alongside the solar PV panels.

9.218. A Whole Life Cycle Carbon Emissions Assessment has been submitted with the scheme that sets Out 763kgCO₂/m² over 60 years are expected, which exceeds the current RIBA 2025 Challenge benchmark of <800kgCO₂e/m².

9.219. In respect of operational carbon, there would be a reduction in emissions by 78.4% in residential accommodation and 40.7% in non-residential areas, an average of 77.3% across the site, compared to Building regulations Part L, 2013. This is an excellent building performance and is considered to future-proof the development against future climate and energy supply conditions, as well as meeting anticipated Future Homes and Future Buildings Standards.

9.220. An Overheating Assessment demonstrates that all the dwellings will not overheat – using both 2030 and 2050 climate forecasts and will meet the relevant Building Regulations, Part O without requiring any active cooling measures.

9.221. There is the provision of rainwater gardens, blue roofs and sustainable drainage systems (SuDS) to manage water on the site.

9.222. The commercial floorspace will be required to meet BREEAM excellent targets.

- 9.223. Conditions are recommended on water consumption, BREEAM excellent for the commercial space, EPC ratings and solar panels.
- 9.224. Overall, the development is considered to result in excellent sustainability credentials in accordance with CPP1 policy CP8 and CPP2 policies DM43, DM44 and DM46 and the NPPF.

Wind Microclimate

- 9.225. As set out in SPD17, proposals that include tall buildings are required to provide an assessment of the impacts of the microclimate of the development and the adjacent surrounding areas in respect of safety as well as comfort / usability.
- 9.226. The submitted information by the applicant has been updated to take into account revisions to the scheme and provide additional information requested by the external reviewers (RWDI) instructed by the council.
- 9.227. The wind assessment considers the existing baseline conditions against the 'as built' scheme with embedded and soft land scaping mitigation. Mitigation measures include some balconies requiring solid and / or increased height to balustrades and also trees and planting within the amenity areas.
- 9.228. Revisions to the scheme include details of mitigation to balconies that was set out in the applicant's previous wind assessment of the scheme. These include the provision of taller balustrade heights on specific facades and the use of solid (glazed balconies) rather than railings in some of the more exposed areas.
- 9.229. The study sets out that with the full mitigation in place the public realm and private amenity spaces are all fit for purpose other than some of the balconies on Block H which require further mitigation, in respect of increased height to balustrades.
- 9.230. The peer review of the wind conditions for the site sets out that the methodology used for the computer-generated modelling is robust as well as the assessment criteria used. Historical wind data from the last 20 years has been taken from Shoreham Airport. This data is adjusted to account for differences in terrain from the airport and that of the development site and this approach is also considered robust.
- 9.231. The peer review sets out that consistent with the previous assessments, the inclusion of the development appears to have a generally positive (and at worst negligible) impact to conditions in the surrounding area, which would be expected as a result of the increase in shelter to an area that is otherwise quite exposed. Some uncomfortable conditions remain to the east of the site, but do not appear to be made materially worse by the inclusion of the development.
- 9.232. Subject to the additional mitigation measures proposed (including additional measures for Block H) the private and public areas are considered to result in acceptable conditions for future occupiers in respect of comfort and safety.

9.233. In summary, overall RWDI consider that the methodology used for the assessment, the results and conclusions are in keeping with what we would expect of a building with the massing and design of the proposed development in Brighton.

9.234. Subject to the suggested condition in respect of wind mitigation for the scheme is considered acceptable and accords with DM20 and SPD17.

Ecology and Biodiversity:

9.235. Policies CP10 and DM37 as well as SPD11 set out that development should conserve existing biodiversity whilst providing net gains for biodiversity by providing green infrastructure an ecological enhancement.

9.236. The proposed development site is not designated for its nature conservation interest, but Brighton to Newhaven Cliffs Site of Special Scientific Interest (SSSI) lies directly to the south and the development lies within the impact risk zone for the SSSI. The South Downs National Park lies approximately 60m to the northeast, and there are several Local Wildlife Sites (LWS) in the surrounding area, the closest being Sheepcote Valley LWS which lies approximately 125m east as the closest point. The County Ecologist has confirmed that providing standard safeguards in respect of pollution, dust and traffic control are secured via a CEMP that the proposed development is unlikely to have any significant impacts on the nature conservation interests of the National Park, SSSI or on the LWS's.

9.237. The site currently comprises hard standing with buildings/structures, with pockets of scrub across the site, and disturbed ground supporting tall ruderal and ephemeral vegetation. Overall, the habitats on site are of relatively low ecological value, although they have the potential to support protected species.

9.238. The submitted Ecological Assessment sets out details of ecological enhancement as well as an assessment of the site. The original assessment in 2020 set out that there was low bat roosting potential on the site. This assessment was updated with a further emergence/activity survey of the warehouse building (annotated as B4) in May 2024 which confirmed the findings of the original assessment.

9.239. The Assessment outlines ecological enhancement in respect of the provision of 140 swift bricks, 140 bee bricks and 6 bat boxes. Swift bricks are suitable for many other birds, such as house sparrows and starlings and these are welcomed.

9.240. Whilst the application was submitted prior to the introduction of a statutory requirement to deliver a 10% Biodiversity Net Gain (BNG) in accordance with the Environment Act 2021 the applicant has submitted a metric which sets out that will be well over 1000% increase in biodiversity on the site. This would be delivered through a comprehensive landscaping scheme, including 80 trees and the provision of biodiverse green roofs. It is noted that the existing site is of very low value, and any improvement would result in a high uplift. Notwithstanding this, the biodiversity enhancement of the site is considered to be significant

benefit of the scheme. An Ecological Design Strategy (EDS), a Landscape and Environmental Management Plan (LEMP), details of the biodiverse green roofs and also the bird, bat and bee bricks are to be secured by condition.

9.241. Overall, the proposal is in accordance with policies CP10 and DM37 and would result in an ecological and biodiversity enhancement to the site.

Air Quality:

9.242. Policy CP9 sets out that air quality issues from vehicular trips is a key priority. Policy DM40 sets out that development should ensure a safe environment for future occupiers and should ensure development should ideally have a positive impact on nearby Air Quality Management Areas.

9.243. The applicant has addressed air quality within chapter 9 of the ES and a detailed air quality technical assessment has been provided (Appendix 9.1 by Tetra Tech, Nov 2023).

9.244. The proposed development itself is set to be heated by heat pumps and as such no onsite emissions are expected in this regard. The proposed flats are set back sufficiently from street frontages and the air quality for future residents is considered to be acceptable.

9.245. The development, as built would result in a reduced number of vehicular trips into the key AQMA's, including AQMA 6 located along Eastern Road by the Royal Sussex Hospital.

9.246. The Air Quality Officer has no objection to the scheme and sets out the development would be 'air quality positive' in comparison to the existing site.

9.247. A condition is proposed to secure the use of heat pumps for the heating and hot water provision in the development and overall, the scheme is in accordance with policy DM40.

Other Considerations:

9.248. The application is acceptable in respect to archaeology, arboriculture and flood risk, subject to the suggested conditions. There are no objections from the HSE, or the East Sussex Fire and Rescue service and the application is considered acceptable in respect of fire safety.

10. CONCLUSION AND PLANNING BALANCE:

10.1. 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 either the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

- 10.2. As set out 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 out-of-date and the tilted balance of paragraph 11 must be applied.
- 10.3. When assessing the scheme overall, in applying the planning balance, there are a number of factors which weigh both for and against the scheme.
- 10.4. It is noted that great weight should be given to the protection of designated heritage assets. It is acknowledged that the proposal would result in less than substantial harm to the significance of the Grade II listed French Convalescent Home, as well as harm to the non-designated Marine Gate. Furthermore, there would be the full loss of the non-designated flint wall on Boundary Road.
- 10.5. Whilst the council Heritage Team do not consider that there would be any harm to the Grade I listed Kemp Town Estate and associated Kemp Town CA it is noted that Historic England have identified some harm to the setting of the conservation area.
- 10.6. As set out earlier in the report, any harm to designated heritage assets must be weighed against the public benefits of the scheme. Public benefits should be linked to the three overarching objectives: economic, social and environmental that together form 'sustainable development' as set out in the NPPF. It is considered that the provision of 495 homes, in the context of the city's significant housing shortfall, alongside the economic benefits of increased jobs and amenities, and the improvements to the environment and public realm, including the remediation of a contaminated site are clear public benefits of the scheme and are considered to outweigh any heritage harm.
- 10.7. Whilst it is regrettable that there will be some amenity harm to neighbouring properties, predominantly through the loss of sunlight and daylight to the backs of properties of Arundel Street and daylight to the west facing flank of Marine Gate, it is considered that any deliverable redevelopment of this allocated site would inevitably be of a density which result in some negative amenity impacts. The worst affected properties on Arundel Street currently back onto a largely empty site and whilst the scheme has been designed to largely mirror the height of the existing terrace, some loss of light over the existing situation is unavoidable. The LPA is mindful of the need to maximise this important brownfield site and achieve a viable and deliverable scheme and these impacts must also be weighed against the positive benefits of the scheme which are set out later in the conclusion.
- 10.8. The impacts on the SDNP have been fully assessed and whilst some limited impacts have been identified, the overall impact on views from the Park is considered acceptable. Neither the SDNPA nor the County Landscape Architect have objected to the scheme on landscape grounds and refusal would not be justified on these grounds.
- 10.9. Outlining the positives of the scheme, the public benefits include the remediation of a contaminated brownfield site, and the contribution of 495 much-needed

residential units towards the city's housing target, in a development area (DA2) that has been allocated through CPP1 for higher density, mixed use development.

- 10.10. Notwithstanding that the scheme has been independently assessed as being unable to viably provide affordable housing, the applicant has agreed to use reasonable endeavours to achieve policy-compliant affordable housing within the scheme, by selling 40% of the homes to a Register Provider, funded through Homes England grant. There is a significant need for affordable housing in the city and this is a material consideration that can be given some weight in the planning balance.
- 10.11. The application provides for up to 2791m² of modern, flexible, commercial floorspace exceeding the minimum amounts set out DA2 and will provide a net increase of local jobs as well as providing employment and training opportunities during the construction period as well as the economic benefits to the city overall, and this also weighs in favour of the scheme.
- 10.12. The design of the scheme has evolved positively during the pre-application and application stages, and the architectural form, detailing and materiality of the buildings are considered acceptable. Whilst it is a dense form of development it generally sits comfortably within the surrounding area. When assessed holistically and considering the need to maximise the potential of a complex brownfield site, mitigate other factors and deliver the significant public benefits of the proposed housing, the overall design approach and massing is found to be acceptable.
- 10.13. The quality of the accommodation is considered acceptable overall, with every property having its own private balcony or amenity area as well as access to the communal gardens. The scheme is considered to have excellent sustainable credentials throughout.
- 10.14. The redevelopment of the site will also result in a high-quality public realm with significant amounts of tree planting and new connections through the site, as well as significant improvements to Boundary Road.
- 10.15. Other factors including impacts relating to transport, ecology, arboriculture, archaeology, landscaping, flood risk, land contamination, wind and air quality have been assessed and have been considered acceptable.
- 10.16. it is considered that the public benefits of the scheme overall, which includes the provision of a significant amount of housing are such that they clearly outweigh the heritage harm identified, any limited impacts on landscape or townscape and the harm to neighbouring amenity.
- 10.17. It is notable that the positive benefits of the proposed development are such, that it would be considered acceptable, and in accordance with local and national policy if it were it to come forward without any affordable housing.

10.18. The proposed development will make a significant contribution towards sustainable development in the city and thus complies with the NPPF and contributes towards meeting the objectives of City Plan 1 and 2 and approval of planning permission is therefore recommended subject to the completion of a s106 planning legal agreement and to the conditions recommended above.

11. EQUALITIES

11.1. Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

11.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

11.3. Access to the site for disabled and less mobile users has been accommodated. This includes an accessible pedestrian lift in the northeast of the site. Wheelchair accessible housing (5%) and disabled car parking is to be incorporated throughout the scheme.

12. COMMUNITY INFRASTRUCTURE LEVY

12.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The Gasworks site sits within the wider Marina development area for CIL purposes and is within one of four specific areas within the city that are defined as NIL rated for CIL.

