

<u>No:</u>	BH2025/00532	<u>Ward:</u>	Whitehawk & Marina Ward
<u>App Type:</u>	Council Development (Full Planning)		
<u>Address:</u>	Land North of Swanborough Drive Brighton		
<u>Proposal:</u>	Erection of 2no residential blocks incorporating a community space, landscaped public frontage and associated works. (For information: The proposed residential blocks incorporate 36no flats (C3).)		
<u>Officer:</u>	Ben Daines,	<u>Valid Date:</u>	20.03.2025
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	19.06.2025
<u>Listed Building Grade:</u>	N/A		
	<u>EOT:</u>		
<u>Agent:</u>	Mackellar Schwerdt Architects Lyell House Davey's Lane Lewes BN7 2BQ		
<u>Applicant:</u>	Brighton And Hove City Council Hove Town Hall Norton Road Hove East Sussex BN3 3BQ		

1. RECOMMENDATION

1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to the applicant entering into a Memorandum of Understanding or a decision taken by the Cabinet/Director of Property and Finance of the council to ensure delivery of the Heads of Terms set out below, and also subject to the following Conditions and Informatives as set out hereunder.

Heads of Terms:

Employment and Training

- Submission and approval of an Employment & Training Strategy

Ecology

- A fee for the Council to monitor BNG provision over a 30 year period (fee TBC).

Transport

- A fee for the Council to monitor the Travel Plan (fee TBC).

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Location Plan	9177 - MSA - XX - XX - DR - A 01	06	26-Feb-25
Proposed Drawing	9177 - MSA - Z1 - GF - DR - A 30	14	13-Jan-26
Proposed Drawing	9177 - MSA - Z1 - 01 - DR - A 31	15	13-Jan-26
Proposed Drawing	9177 - MSA - Z1 - 02 - DR - A 32	12	11-Aug-25
Proposed Drawing	9177 - MSA - Z1 - 03 - DR - A 33	11	26-Feb-25
Proposed Drawing	9177 - MSA - Z1 - 04 - DR - A 34	11	26-Feb-25
Proposed Drawing	9177 - MSA - Z1 - 05 - DR - A 35	11	26-Feb-25
Proposed Drawing	9177 - MSA - Z1 - 06 - DR - A 36	10	11-Aug-25
Proposed Drawing	9177 - MSA - XX - ZZ - DR - A 06	08	13-Jan-26
Proposed Drawing	9177 - MSA - XX - ZZ - DR - A 20	09	26-Feb-25
Proposed Drawing	9177 - MSA - XX - ZZ - DR - A 21	04	26-Feb-25
Proposed Drawing	9177 - MSA - XX - ZZ - DR - A 22	04	26-Feb-25
Proposed Drawing	9177 - MSA - XX - ZZ - DR - A 23	04	26-Feb-25
Proposed Drawing	9177 - MSA - Z1 - ZZ - DR - A 45	11	29-Aug-25
Proposed Drawing	9177 - MSA - Z1 - ZZ - DR - A 46	09	26-Feb-25
Proposed Drawing	9177 - MSA - Z1 - ZZ - DR - A 47	09	26-Feb-25
Proposed Drawing	9177 - MSA - ZZ - ZZ - DR - A 65	09	26-Feb-25
Proposed Drawing	9177 - MSA - Z3 - GF - DR - A 50	13	13-Jan-26
Proposed Drawing	9177 - MSA - ZZ - 01 - DR - A 51	14	13-Jan-26
Proposed Drawing	9177 - MSA - Z2 - 02 - DR - A 52	11	26-Feb-25
Proposed Drawing	9177 - MSA - Z2 - 03 - DR - A 53	11	26-Feb-25
Proposed Drawing	9177 - MSA - Z2 - 04 - DR - A 54	12	11-Aug-25
Proposed Drawing	9177 - MSA - Z2 - 05 - DR - A 55	07	26-Feb-25
Proposed Drawing	9177 - MSA - ZZ - GF - DR - A 10	17	13-Jan-26

Proposed Drawing	9177 - MSA - ZZ - 01 - DR - A 11	18	13-Jan-26
Proposed Drawing	9177 - MSA - ZZ - 02 - DR - A 12	14	11-Aug-25
Proposed Drawing	9177 - MSA - ZZ - 03 - DR - A 13	12	26-Feb-25
Proposed Drawing	9177 - MSA - ZZ - 04 - DR - A 14	11	11-Aug-25
Proposed Drawing	9177 - MSA - ZZ - ZZ - DR - A 15	14	11-Aug-25
Proposed Drawing	9177 - MSA - XX - GF - DR - A 25	11	29-Aug-25
Proposed Drawing	9177 - MSA - ZZ - ZZ - DR - A 40	10	29-Aug-25
Proposed Drawing	9177 - MSA - ZZ - ZZ - DR - A 41	09	26-Feb-25
Proposed Drawing	9177 - MSA - ZZ - ZZ - DR - A 42	09	26-Feb-25
Proposed Drawing	9177 - MSA - ZZ - ZZ - DR - A 43	08	26-Feb-25
Proposed Drawing	9177 - MSA - ZZ - ZZ - DR - A 44	08	26-Feb-25
Proposed Drawing	9177 - MSA - ZZ - ZZ - DR - A 60	08	26-Feb-25
Proposed Drawing	9177 - MSA - ZZ - ZZ - DR - A 61	10	26-Feb-25
Proposed Drawing	9177 - MSA - ZZ - ZZ - DR - A 62	10	26-Feb-25
Proposed Drawing	9177 - MSA - ZZ - ZZ - DR - A 63	09	26-Feb-25
Proposed Drawing	9177 - MSA - XX - GF - DR - A 08	04	26-Feb-25
Proposed Drawing	9177-P-26	01	13-Jan-26

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

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

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

- Samples/details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- samples of all cladding to be used, including details of their treatment to protect against weathering
- samples/details of all hard surfacing materials

- d. samples/details of the proposed window, door and balcony treatments
- e. samples/details of all other materials to be used externally

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

Reason: To ensure a satisfactory appearance to the development and to comply with policy DM18 of the Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.

4. Notwithstanding the details shown on the approved plans, no development above ground floor slab level shall take place until typical bay studies showing full details of doors, windows and their reveals and cills, and balconies, including 1:20 scale elevational drawings and sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure a satisfactory appearance to the development and to comply with policy DM18 of the Brighton & Hove City Plan Part 2 policy CP12 of the Brighton & Hove City Plan Part One.

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

Reason: To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies DM18 of the Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.

6. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

- a. details of all hard and soft surfacing to include the type, position, design, dimensions and materials and any sustainable drainage system used;
- b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including food-bearing plants, and details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- c. details of all boundary treatments to include type, position, design, dimensions and materials;

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of the Brighton & Hove City Plan Part 2, and CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

7. The development hereby permitted shall not be occupied until a scheme for the storage and collection of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with Policies DM18 and DM36 of the Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
8. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Above Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with Policies DM18 and DM20 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.
9. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
10. The development hereby approved should achieve a minimum Energy Performance Certificate (EPC) rating 'B'.
Reason: To improve the energy cost efficiency of existing and new development and help reduce energy costs and enhance sustainability, to comply with policies DM44 of the Brighton & Hove City Plan Part Two and CP8 of the Brighton & Hove City Plan Part One.
11. Within 6 months of first occupation of the community building hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the building has achieved a minimum BREEAM New Construction rating of 'Very Good' shall be submitted to, and approved in writing by, the Local Planning Authority.
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.

12. The development hereby permitted shall not be first occupied or brought into use until an External Lighting Design Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include any proposed lighting, lamps and luminaires erected as part of the development and shall:
 - a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed and light spill minimised (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places, and that impacts on neighbouring residents have been minimised.
 - c) include details of levels of luminance, hours of use, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation, design and appearance and details of maintenance;
 - d) include evidence to demonstrate that the predicted illuminance levels have been tested by a competent person to ensure that the illuminance levels agreed in part c) are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part c);
 - e) demonstrate that the external lighting installations comply with the recommendations of the Institution of Lighting Professionals (ILP) Guidance Notes for the Reduction of Obtrusive Light (2011), or similar guidance recognised by the council;
 - f) demonstrate that the lighting has had regard to, and will not unduly impact, the South Downs National Park Dark Skies Reserve status.

All external lighting shall be installed, operated and maintained in accordance with the specifications and locations set out in the approved Strategy, and these shall be maintained thereafter in accordance with the approved Strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to safeguard the setting of the South Downs National Park and its Dark Skies Reserve status to comply with policies CP10 and CP16 of the Brighton and Hove City Plan Part One and DM40 of the City Plan Part Two and to protect species and wildlife habitats as many species active at night (e.g. bats and badgers) which are sensitive to light pollution. The introduction of artificial light might mean such species may be disturbed and /or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation and would be contrary to policies CP10 of the Brighton and Hove City Plan Part One and policies DM20, DM40, and DM37 of the Brighton and Hove City Plan Part Two.

13. The wheelchair accessible dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b)

(wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance from the appointed Building Control body shall be submitted to the Local Planning Authority prior to first occupation.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy DM1 of City Plan Part 2.

14. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until the protection measures identified in the submitted Tree Protection Drawing RCo500/03 are in place and retained throughout the construction process. The fences shall be erected in accordance with British Standard BS5837 (2012) 'Trees in Relation to Design, Demolition and Construction – Recommendations' and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10 and CP12 of the Brighton & Hove City Plan Part One and SPD06: Trees and Development Sites.

15. No development, including demolition, shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
 - (i) Timescales for the Proposed Development including the forecasted completion date;
 - (ii) Details of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
 - (iii) Measures to minimise disturbance to neighbours regarding issues such as noise and dust management, vibration, site traffic, and deliveries to and from the site;
 - (iv) Measures to prevent mud/dust from tracking onto the highway;
 - (v) Details of hours of construction including all associated vehicular movements
 - (vi) Details of the construction compound including plant and material storage and manoeuvring areas;
 - (vii) A plan showing construction traffic routes.

The construction of the development shall be carried out in full compliance with the approved CEMP.

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies DM20, DM33 and DM40 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East

Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

16. The development hereby permitted shall not be occupied until a Travel Plan to promote sustainable transport to and from the site has been submitted to and approved in writing by the Local Planning Authority. The Scheme should include but not be limited to:
 - Discounted bus tickets for residents
 - Cycle and electric bike vouchers
 - Commitment to provide car club space and explore car club membership options

The Travel Plan measures shall be implemented in accordance with the approved Travel Plan.

Reason: To ensure the development maintains a sustainable transport strategy and to comply with policies SA6, CP7, CP9, CP12, CP13 and CP15 of the City Plan Part One and DM35, DM33 of the Brighton & Hove City Plan Part Two.
17. Notwithstanding the details on the plans hereby approved, the development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
18. The community space hereby approved shall not be used outside the hours of 08.00 to 22.00 Monday to Saturday and 10.00 to 16.00 on Sundays.
19. Any plant or machinery associated with the development, including air source heat pumps and similar, shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest noise sensitive premises, shall not exceed a level equal to the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142: 2014.
20. The noise mitigation measures set out in Section 5 of the submitted Noise Impact Assessment dated February 2025 shall be implemented prior to the first occupation of the development and shall thereafter be retained as such.

Reason: To protect the amenity of future residents and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.

21. The development hereby permitted shall not be commenced (other than demolition works) until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water. The approved drainage system shall be implemented in accordance with the approved detailed design and thereafter retained.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.

22. Notwithstanding any of the details shown on the approved plans, the development hereby permitted (including any demolition, ground works, site clearance) shall not take place until a drainage strategy detailing the proposed means of foul water disposal and an implementation timetable, has been submitted to and approved in writing by the Local Planning Authority in consultation with the sewerage undertaker. This strategy shall also set out a method for how the rate of foul water entering the sewer will be controlled to reduce discharge rates and ensure it does not exceed sewer capacity. The development shall be carried out in accordance with the approved scheme and timetable and thereby retained and maintained.

Reason: To ensure adequate foul sewage capacity in the network and to comply with policy DM42 of Brighton & Hove City Plan Part 2.

23. The development shall not be brought into use until the windows on the southern elevation of the south-east block shown as obscurely glazed and fixed shut (other than those parts of the windows which are 1.7m above the floor of the room in which the windows are installed) on drawing number 9177-MSA-ZZ-ZZ-DR-A-40 Rev 10) shall thereafter be retained.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with Policies DM20 and DM21 of Brighton & Hove City Plan Part 2.

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

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policies DM31 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

25. No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post-investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that phase has been completed and approved in writing by the Local Planning Authority. The archaeological site investigation and post - investigation assessment will be undertaken in accordance with the programme set out in the written scheme of investigation approved under condition.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy DM31 of the City Plan Part 2.

26. Notwithstanding the provisions of Part 16 of the Town and Country Planning General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no communications infrastructure shall be installed on any of the buildings hereby approved without planning permission being obtained from the local planning authority.
Reason: The Local Planning Authority considers that further development could cause detriment to the character of the area and for this reason would wish to control any future development to comply with policy DM18 of the Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.
27. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policies DM41 and DM20 of the Brighton & Hove City Plan Part 2.
28. The development hereby permitted shall not exceed ground floor slab level until a written scheme has been submitted to the local planning authority for approval which demonstrates how and where ventilation will be provided to each flat within the development including specifics of where the clean air is drawn from and that sufficient acoustic protection is built into the system to protect end users of the development. The approved scheme shall ensure compliance with Building Regulations as well as suitable protection in terms of air quality and shall be implemented before to occupation and thereafter retained.
Reason: To safeguard the amenities of the occupiers of the development and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
29. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the construction of the green roofs have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme. The roofs shall then be constructed in accordance with the approved details and shall be retained as such thereafter.
Reason: To ensure that the development contributes to ecological enhancement and sustainability on the site and in accordance with Policy DM37 of Brighton & Hove City Plan Part 2, Policies CP8 and CP10 of the

30. All ecological measures and/or works, including a pre-commencement check for badger setts, precautionary vegetation clearance and general precautionary construction working methods relating to excavations, materials etc, shall be carried out in accordance with the details contained in the Ecological Impact Assessment (CSA Environmental, July 2025, Rev A), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, and to provide a net gain for biodiversity as required by paragraphs 187 and 193 of the National Planning Policy Framework 2024, Section 40 of the Natural Environment and Rural Communities Act 2006, Policy CP10 of the Brighton & Hove City Plan Part One and Policy DM37 of City Plan Part Two.

31. Prior to the commencement of any development hereby permitted a Reptile Mitigation Strategy and programme of works for the creation of a receptor site (including surveys to confirm carrying capacity) and translocation of reptiles shall be submitted to and approved in writing by the local planning authority. The content of the Reptile Mitigation Strategy shall include:

- a) purpose and objectives for the proposed works;
- b) evidence that the HGBI (1998) requirements for receptor sites have been followed;
- c) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- d) extent and location of proposed works shown on appropriate scale maps and plans;
- e) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- f) persons responsible for implementing the works;
- g) initial aftercare and long-term maintenance of receptor site (including an annual work plan);
- h) disposal of any wastes arising from the works.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To protect species identified in the ecological surveys from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, as amended.

32. No development shall take place until details of the construction of a biodiverse green roof, in general accordance with the Ecological Impact Assessment (CSA Environmental, July 2025, Rev A) and Biodiversity Net Gain Assessment: Design Stage (CSA Environmental, July 2025) have been submitted to and approved in writing by the local planning authority. As far as possible the roof shall be designed to replicate lowland calcareous grassland and to support an invertebrate assemblage characteristic of this habitat. The details shall include a cross section, construction method statement,

seed/planting mix, substrate type/s and depths, features to meet additional criteria of the Statutory Biodiversity Metric's condition assessment, irrigation details (where required during establishment and drought conditions) and a maintenance programme. The roof shall then be constructed in accordance with the approved details and shall be retained as such thereafter and maintained in accordance with the approved scheme.

Reason: To ensure that any adverse environmental impacts of development activities on Habitats and Species of Principal Importance under Section 41 of the NERC Act 2006 can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this.

33. No development shall take place until an ecological design strategy (EDS) in general accordance with the Ecological Impact Assessment (CSA Environmental, July 2025, Rev A) and including details of compensatory onsite habitat for chalk grassland invertebrates including grassland and green roof creation and a minimum of 36No. swift nesting cavities, 36 No. bee bricks, 2No. bat boxes, 2No. invertebrate boxes and 2 No.log piles has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:
 - a) purpose and conservation objectives for the proposed works;
 - b) review of site potential and constraints;
 - c) detailed design(s) and/or working method(s) to achieve stated objectives;
 - d) extent and location /area of proposed works on appropriate scale maps and plans;
 - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - g) persons responsible for implementing the works;
 - h) details of initial aftercare and long-term maintenance;
 - i) details for monitoring and remedial measures;
 - j) details for disposal of any wastes arising from works;
 - k) Details for monitoring of invertebrates in years 1, 3 and 5 (following completion of habitat creation), including:
 - o Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the work can be measured;
 - o Methods for data gathering and analysis;
 - o Location, timing and duration of monitoring;
 - o Review, and where appropriate, publication of results and outcomes, including when monitoring reports will be submitted to the local planning authority; and
 - o How contingencies and/or remedial action will be identified, agreed with the local planning authority and implemented so that the original aims/objectives of the approved scheme are met.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure that any adverse environmental impacts of development activities on habitats and species can be mitigated, compensated and restored

and that the proposed design, specification and implementation can demonstrate this.

34. Deemed Biodiversity Gain Plan Condition: No development (including any demolition, site clearance or enabling works) shall take place until:
 - A) A Biodiversity Gain Plan (BGP) has been prepared in broad accordance with the Biodiversity Net Gain Assessment and Ecological Impact Assessment, both dated July 2025 and prepared by CSA Environmental); and
 - B) The BGP has been submitted to and approved in writing by the Local Planning Authority.

Reason: Based on the information available, this permission will require the approval of a Biodiversity Gain Plan by the local planning authority before development is begun [and before each phase of development where development is phased] because none of the statutory exemptions or transitional arrangements are considered to apply. The effect of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 is that planning permission granted for the development is deemed to have been granted subject to the condition (“the biodiversity condition”).

35. The development hereby permitted shall not be first occupied until a Completion Report, evidencing the habitat enhancements set out in the approved Biodiversity Gain Plan and Habitat Management and Monitoring Plan, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development delivers biodiversity net gain in accordance with Schedule 7A of the Town and Country Planning Act, Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

36. The development hereby permitted shall not be first occupied until a Completion Report, evidencing the habitat enhancements set out in the approved Biodiversity Gain Plan and Habitat Management and Monitoring Plan has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development delivers biodiversity net gain in accordance with Schedule 7A of the Town and Country Planning Act, Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

37. The development hereby permitted shall not be commenced until the scheme for the provision of affordable housing has been submitted and approved by the Local Planning Authority. The scheme shall demonstrate that a minimum of 40% of the residential accommodation to be provided will be affordable housing and will include details regarding the exact numbers, type, tenure and location of the affordable housing units.

Reason: To ensure the development delivers affordable housing in accordance with Policy CP20 of the Brighton & Hove City Plan Part One

38. No development shall take place until a Habitat Management and Monitoring Plan (HMMP) has been submitted to and approved in writing by the Local Planning Authority. The HMMP shall accord with the approved Biodiversity Gain Plan (BGP) and include:

- i. A non-technical summary
- ii. The roles and responsibilities of the people or organisations delivering the HMMP
- iii. The planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan
- iv. The management measures to maintain habitat in accordance with the approved BGP for a period of 30 years from practical completion (unless otherwise agreed) of the development
- v. The monitoring methodology and frequency in respect of the created or enhanced habitat
- vi. Provision for the identification, agreement and implementation of contingencies and/or remedial actions where the results from monitoring show that the conservation aims and objectives of the HMMP are not being met.

The created/enhanced habitat specified in the approved BGP shall be provided and thereafter managed and maintained in accordance with the approved HMMP. The habitat monitoring shall be submitted to and approved in writing by the Local Planning Authority in accordance with the methodology and frequency specified in the approved Habitat Management and Monitoring Plan.

Reason: To ensure the development delivers biodiversity net gain in accordance with Schedule 7A of the Town and Country Planning Act, Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

Informatics:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The water efficiency standard required by condition is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

3. The applicant is advised that Part L – Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.
4. The applicant is advised that Part L – Conservation of Fuel and Power of the Building Regulations 2022 now requires non-residential development to have achieved a 27% improvement on the carbon emissions against Part L 2013.
5. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites (www.breeam.org).
6. The applicant is advised under Part S of the Building Regulations that new dwellings providing a parking space now require an EV charging point.
7. The applicant is advised that Part O of Building Regulations 2022 has been introduced. This standard is aimed at designing out the need for mechanical air conditioning systems in dwellings that would otherwise be prone to overheating and limiting unwanted solar gains. There are optional methods to demonstrate compliance through the Building Regulations.
8. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the provisions of the Environmental Protection Act 1990, should any complaints be received.
9. The applicant is advised that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or www.southernwater.co.uk
10. The Biodiversity Gain Plan must relate to development for which planning permission is granted, and specify as a minimum the following matters:
 - i) Information about the steps taken or to be taken to minimise the adverse effect of the development on biodiversity,
 - ii) A completed Metric tool calculation
 - iii) The pre-development biodiversity value of the onsite habitat (shown on scaled plans),
 - iv) The post-development biodiversity value of the onsite habitat (shown on scaled plans),
 - v) Any registered offsite biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development,
 - vi) Any biodiversity credits purchased for the development.
 - vii) Any such other matters as the Secretary of State may by regulations specify including the requirements of Article 37 C of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

Commencing development which is subject to the biodiversity gain condition without an approved Biodiversity Gain Plan could result in enforcement action for breach of planning control.

2. SITE LOCATION

- 2.1. The application site comprises a 0.27 hectare plot of land on the northern edge of Whitehawk. To the west and south of the site are residential flat blocks, to the south-east is Swanborough House (a brain injury rehabilitation centre), and to the north are allotments and community orchards set within the Whitehawk to Race Hill Local Nature Reserve and Nature Improvement Area. The South Downs National Park is located further to the north and north-east.
- 2.2. The site itself is located within but on the edge of the Built Up Area Boundary and formerly incorporated a playground which was relocated in 2015. Since that time the site has had some biodiversity interventions including the creation of an invertebrate bank. Whilst the site is designated as open space, this designation has been superseded by an allocation for 39 homes in policy H1 of the City Plan Part Two.
- 2.3. The topography of the site slopes steeply upward from south to north/east to west. The site is located within an archaeological notification area.
- 2.4. The site is relatively remote in terms of services and facilities and some way from the City Centre, but there is a local shop (Kestrel Mini Market) within walking distance of the site and a primary school (City Academy Whitehawk) about 0.6 miles from the site. There is also a bus stop immediately adjacent the site and another just to the south of the site which is served by a number of buses including the 1 and 21 bus services, both frequent services that go through the City Centre and as far west as Portslade and Hove respectively.
- 2.5. The part of Swanborough Drive that the site is located on is one way for vehicular traffic with double yellow lines and the aforementioned bus stop on the north side of the road, and predominantly on street parking taking place on the south side.

3. RELEVANT HISTORY

- 3.1. There are no relevant planning applications relating to the site but there have been a number of pre-application discussions as follows:
- 3.2. **PRE2023/00128, PRE2024/00061, and PRE2024/00152** – Pre-application discussions took place between 2023 and 2024. A number of alterations to the scheme have been made during this time including the following:
 - The building mass has been reduced in height and broken up from one large building on the site to two separate buildings with a green corridor between the buildings.

- The amount of car parking on site has been reduced and relocated so that it does not dominate the frontage of the proposed development.
- The standard of accommodation has been improved significantly to ensure nearly all dwellings are dual aspect.
- The overall number of dwellings has reduced from 39 to 36 to allow for the provision of a community space on the site.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks permission for 36 new affordable rented residential flats and a community space. The development takes the form of two residential blocks with the north-western block 4 storeys high and the south-eastern block 6 storeys high. However, due to the topography of the site and the fact the proposed building would be sunken into the site as the land level rises from south to north, the buildings would appear as 3 and 4 storey from the rear.
- 4.2. Cumulatively the two blocks contain the following mix of flats:
 - 12 x 1 bed 2 person flats
 - 15 x 2 bed 3 person flats
 - 1 x 3 bed 4 person flats
 - 8 x 3 bed 5 person flats
- 4.3. Each residential unit would have outdoor space in the form of internal balconies/terraces.
- 4.4. The proposed community space would have a gross internal area of 204sqm and would be located at the ground level of the north-western block, accessed via Swanborough Drive, with a separate pedestrian access to the residential component.
- 4.5. With regard to materials, the blocks would be comprised of a mix of red brick and buff brick to help break up the overall massing of the building. Coloured elements would also be incorporated into the development through the use of coloured fibre cement panels in the windows, window reveals and the soffits of the balconies.
- 4.6. A landscaped area comprising soft and hard landscaping would be provided across the frontage of the site with hedgerows to the site boundaries and a green corridor running between the two main blocks. There is also landscaped amenity green space to the rear of the site.
- 4.7. Access to the site would be via Swanborough Drive. The development would effectively be car free with the exception of six accessible parking spaces and 5 motorcycle spaces for residents within a ground floor undercroft car park. A car club space and accessible parking space would also be provided adjacent to the community space. 44 covered cycle spaces would be provided for residents along with external visitor cycle spaces and a bikeshare hub.

4.8. The bus stop at the front of the site would be relocated slightly further north-west to allow for the new access to be created and to allow for adequate visibility for cars exiting the new vehicular access.

5. REPRESENTATIONS

5.1. Objections were received from **13 individuals** and a **petition with 37 names** was also received. The objections relate to the following:

- Loss of biodiversity and green space. The site has naturally rewilded over the years into a thriving wildflower meadow.
- The existing space offers mental and physical health benefits to residents, especially those with limited access to private gardens or nature.
- Swansborough Drive is a narrow one-way residential street that already struggles with congestion and was not designed to handle the increased traffic that would result from the proposed development.
- No plans for additional parking provision. Parking is already scarce and often contested.
- The removal of the 1A bus has cut reliable links to key parts of the City and the 1X excludes Whitehawk altogether.
- The density and height of the proposed development is not in keeping with the residential blocks to the north of Swansborough Drive. The units are crammed together with little regard for space, character or community.
- The standard of accommodation is poor – there is no daylight on stairs and landings between floors and no daylight in toilets.
- Housing and community use do not mix and no need has been demonstrated for a community use.
- The proposal will adversely affect the Racehill Community Orchard to the rear.
- Impact on residents during build phase.
- There is already a lack of facilities and excessive demand on infrastructure in the area.
- Inadequate consultation and concerns raised by residents appear to have been ignored.
- The proposal, particularly during construction, will risk the recovery and wellbeing of residents at Swansborough House.
- Brownfield sites should be considered instead.
- The surrounding buildings are at risk of collapse and construction works will worsen this situation

6. CONSULTATIONS

Internal Consultees

6.1. **Arboriculture: No objection**

6.2. **Air Quality: No objection**

6.3. **Employment Strategy:** Comment. Local employment and training should be sought.

6.4. **Environmental Health:** No objection subject to planning conditions relating to contamination, noise mitigation and ventilation.

6.5. **Planning Policy:** No objection but make the following comments:

- The site is allocated City Plan Part 2 policy H1 for residential use. The principle of residential development has therefore been established and the loss of open space has been accepted through the allocation process.
- Provision of a community use is considered acceptable in principle providing amenity impacts on adjacent residents are found acceptable. Opening hours of the community use should be secured by condition.
- 36 affordable dwellings would make a welcome contribution towards the housing target, to local affordable housing need, would exceed density targets and is considered an acceptable amount based on the design input undertaken at pre-application stage.
- The dwelling mix is considered acceptable and reflective of local needs
- Standard of accommodation in terms of meeting DM1 requirements should be verified by the case officer
- It is regrettable that the proposal would result in a net loss in biodiversity. Comments from the County Ecologist should be sought in this regard particularly in relation to securing off-site units from a site that is not yet registered as a formally Registered Site for off-site BNG.

6.6. **Strategic Housing and Development:** No objection but make the following comments:

- The scheme will be expected to meet Secure by Design standards.
- Given that the scheme includes 24 flats that are likely to accommodate at least one child it would be good to see part of the outside area fenced for secure play for children living in the blocks or using the community space.

6.7. **Sustainable Drainage:** No objection subject to planning conditions relating to the following:

- A final drainage layout showing the location, size and specifications of all drainage elements proposed.
- A maintenance and management plan for all proposed drainage elements.
- Confirmation of foul discharge rates- showing that they will not exceed 0.33l/s.

6.8. **Urban Design:** No objection but makes the following comments:

- The proposed scheme improves upon the adjacent housing development by incorporating an undercroft parking strategy for blue badge holders and cyclists, allowing space for landscaping.
- The inclusion of community facilities is welcomed.
- New development should not inhibit future opportunities to improve the informal
- footway to the allotments and beyond to the west of the site.

- The applicant is encouraged to scope out options, identify a preferred option and implement an alternative roof design to reduce the volume of plant on the roof.
- The internal circulation (staircases and hallways) are bereft of daylighting and outlook.
- The energy statement needs updating and should set out how the scheme performs against BREEAM v6.1 Residential standard and the incoming Future Homes and Building Standard 2025.
- The principle of south facing inset balconies is supported and works well.
- All materials and finishes should be secured by planning condition.

6.9. **Sustainable Transport: Objection** based on the following grounds:

The proposals do not adequately mitigate the lack of parking in this 'car-lite' scheme to an acceptable level, that is in an unrestricted area where parking demand has been surveyed previously to be high. Whilst it is acknowledged that there is data that suggests car ownership is lower in flats/ affordable housing and there are regular buses stopping outside of the site, this is unlikely to fully offset the relatively remote and hilly location in the city, and the 45% of residents that census data suggests will travel by/own a car or van.

6.10. Parking spaces that involve a charge, as proposed, are not considered to be a solution as residents can still park on-street free of charge. It is also unclear if these spaces will be available long term.

6.11. Previous surveys suggest that parking is in high demand and it has not been demonstrated that there won't be significant impact on street with its resulting road safety issues. It is therefore not considered to be policy compliant with City plan policies DM33, CP9, SPD14 and NPPF.

6.12. The LHA is likely to support these proposals if the following were submitted as part of these proposals:

- i. Car parking spaces on site (or on another nearby site under their control) that are free of charge to residents and their number secured via condition. The amount of parking would need to be appropriate and justified by car ownership levels at similar sites in the city, and managed so as not to undermine the sustainable travel and 'car-lite' objectives.
- ii. A car club bay be located on site or on another nearby site. It is stated that the site has constraints, however there are two vehicle access points being proposed and no existing structures that will be retained on site that would create constraints. It is stated that the Housing department's preference is for any car club provision to be located on the public highway rather than on Housing land. We would recommend this position to be reassessed.
- iii. A bikeshare docking station up to seven bikes be located on site near the community facility, or on another nearby site under the applicant's control.
- iv. There is a firm commitment for cycle and electric bike vouchers/ bikeshare bundles /discounted bus tickets and car club membership discount to be provided to first residents. Due to the hilly topography of

the site motorised forms of transport are likely to be more attractive or only option for some residents.

- 6.13. Accident / collision data has not been provided and this would usually be detailed and discussed in the transport statement. Until this is received, we cannot fully accept that the increased trips on the highway network are acceptable, and this is requested prior to determination.
- 6.14. Amended plans have been received and updated comments from the Transport team will be updated in the Additional Representations list.

External Consultees

- 6.15. **County Archaeologist:** No objection subject to conditions securing the implementation of a programme of archaeological works in accordance with a written scheme of investigation and an archaeological site investigation.
- 6.16. **County Ecologist:** No objection subject to conditions relating to the following:
 - Compliance with existing reports and plans
 - Reptile mitigation strategy
 - Biodiverse green roof
 - Ecological Design Strategy
 - Lighting design strategy for biodiversity
- 6.17. **Health & Safety Executive:** No comment
- 6.18. **Natural England:** No objection
- 6.19. **South Downs National Park:** No objection but make the following comments: The application is supported by a Landscape and Visual Impact Assessment which includes views of the South Downs National Park from publicly accessible areas within the site and in close proximity of the site.
- 6.20. The site is located in a valley slope with the land rising as it approaches the National Park boundary and beyond. The land form, alongside the context of other existing high rise buildings in the locality assists in mitigating impacts that could otherwise arise from the height and scale of the buildings. The breaking up of development into two buildings and varied presentation of the north-eastern elevations towards the countryside edge also assist in breaking up the appearance of their massing.
- 6.21. The LVIA identifies that bridleway BW B41a falls within the SDNP and assesses a single Viewpoint 05 from within the National Park. Whilst the assessment would have benefited from a larger range of viewpoints to demonstrate impacts, it is nonetheless the case that the building, albeit tall, would be seen within the context of other tall buildings in close proximity on the urban edge of the city. The Authority therefore agree that landscape character impacts upon the setting of the South Downs National Park would be relatively minor.

6.22. It is recommended that consideration be given to dark night skies, which are a special quality of the National Park. The South Downs National Park is a designated International Dark Sky Reserve and dark skies and tranquillity are a special quality of the National Park which need to be protected. The updated Lighting Assessment does not appear to assess potential impacts on the International Dark Skies reserve. The dark skies core or Intrinsic Zone of Darkness is located only 2km from the site. Paragraph 198(c) of the NPPF outlines that development should limit the impact of light pollution on intrinsically dark landscapes and nature conservation. Whilst there is likely to be pre-existing lighting associated with the residential and employment uses in the locality, the SDNPA would encourage any new development to have a sensitive approach to light. Rooflights and lighting columns should be avoided, and a sensitive scheme of external lighting and use of low transmission glazing should be secured via condition. Any external lighting should also take into account the biodiversity sensitivities of the site and not disturb or harm wildlife. The Council's biodiversity officer should be able to advise further in this regard.

6.23. **Southern Water:** No objection but require a formal application for a connection to the public sewer to be made by the applicant or developer.

7. MATERIAL CONSIDERATIONS

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

7.2. The development plan is:

- Brighton & Hove City Plan Part One (March 2016);
- Brighton & Hove City Plan Part Two (October 2022)
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour Joint Area Action Plan (JAAP) 2019.

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton and Hove City Plan Part One:

CP1 Housing Delivery

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
CP16 Open Space
CP19 Housing Mix
CP20 Affordable Housing

Brighton and Hove City Plan Part Two

DM1 Housing Quality, Choice and Mix
DM9 Community Facilities
DM18 High Quality Design and Places
DM19 Maximising Development Potential
DM20 Protection of Amenity
DM22 Landscape Design and Trees
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
DM43 Sustainable Drainage
DM44 Energy Efficiency and Renewables

Supplementary Planning Documents

SPD03: Construction and Demolition Waste
SPD11: Nature Conservation and Development
SPD14: Parking Standards
SPD17: Urban Design Framework

9. CONSIDERATIONS & ASSESSMENT

9.1. The main considerations in the determination of this application relate to the following: the principle of development; design, appearance, layout, scale and massing; housing mix and tenure; standard of accommodation; impact on residential amenity; sustainable transport; sustainability; landscape, arboriculture and biodiversity; and sustainable drainage.

Principle of Development

Housing

9.2. Policy CP1 of the 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 2,498 homes per year. A 20% buffer is applied to this figure to reflect the most recent Housing Delivery Test measurement (published in December 2024) for the council being less than 85%.

- 9.3. The council's most recent housing land supply position is published in the SHLAA Update 2024 which shows a five-year housing supply shortfall of 10,643. This is equivalent to 1.4 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 provision of 36 affordable dwellings would make a notable contribution to reducing the housing supply shortfall.
- 9.6. Although it is acknowledged that the site comprises designated open space, the principle of redevelopment of the site for residential use has been established through the allocation of the site for 39 homes in policy H1 of the City Plan Part Two (CPP2) and the loss of open space has therefore already been accepted through the adoption of the City Plan Part Two.
- 9.7. The principle of residential development on the site is therefore clearly established.

Community Space

- 9.8. Whilst there is no reference to the provision of community space within Policy H1, the applicant has stated that the proposal to incorporate community space into the development is a result of pre-application community consultation where the desire for such a space was expressed by a number of residents. Policy DM9 of the CPP2 supports delivery of new community facilities where the following criteria are met:
 - a) the proposed use is compatible with adjoining and nearby uses;
 - b) the site is close to the community it serves and is readily accessible by walking, cycling and public transport; and
 - c) where feasible and appropriate, community facilities have been co-located to maximise their accessibility to residents and reduce the need for travel (for example at Community Hubs)
- 9.9. Criteria (c) is not considered to apply in this case due to the modest size of the community space. With regard to criteria (a) community uses are generally considered to be compatible with residential uses and in this case the community space has a separate entrance to the residential component of the development which would help to maintain a degree of separation between the two uses. Restrictions on operating hours of the community space would be secured by condition to protect the amenity of residents.
- 9.10. The principle of providing community space is therefore considered to be acceptable and would not conflict with policy H1 or DM9. Whilst the provision of community space does result in a slight under delivery of residential units on the site as measured against the 39 dwellings referenced in the policy, a potential reduction of three dwellings is considered negligible and, when

balanced against the benefits of providing a community space, is considered acceptable.

Design, Appearance, Layout, Scale and Massing

9.11. Policy CP12 (Urban Design) of the City Plan Part 1 states, amongst other things, that all new development will be expected to:

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

9.12. Policy DM18 (High Quality Design and Places) of the City Plan Part 2 reinforces Policy CP12 and seeks to ensure that development considers and responds positively to the local context in respect of layout, scale of buildings, materials and architectural detailing.

9.13. The proposed development is separated into two main blocks. The north-western block is 4 storeys in height and includes a community space at ground floor level with residential units above. The community space has a separate entrance to the main residential units. The south-eastern block is 6 storeys in height and is entirely residential. Due to the topography of the site, which slopes steeply from south to north, the buildings are partly sunken into the ground and the larger eastern block would appear as a four-storey building from the rear and the western building would appear as three storeys. Both blocks include some additional volume on the roof, housing lift overruns and access to the roof to allow for maintenance, as well as parapet walls around the perimeters of the roofs which further increase the height of the buildings.

9.14. The scale of the proposal has partly been informed by the high-rise buildings to the south, which includes Heron Court and Kestrel Court, the latter being 11 storeys high (but sitting on a notably lower ground level than the application site). The buildings on the northern and eastern side of Swanborough Drive are of a significantly lesser scale than the aforementioned high-rise blocks. Swanborough House to the east of the site is only three storeys in height and Linchmere to the west is 4 storeys. Therefore the proposal, particularly the eastern block, would represent a significant change in the scale and density of buildings on the north and east side of Swanborough Drive. However, given the siting of the high-rise blocks to the south of the site, it is considered that the scale of the proposed development would not appear incongruous in the

wider streetscene as this part of Swanborough Drive is very much characterised by tall buildings. The overall scale and density is therefore considered acceptable

- 9.15. The planning application is supported by both a Tall Buildings Assessment and a Landscape and Visual Impact Assessment (LVIA). The LVIA identifies eight key viewpoints and considers the impact of the development on them. The impact on four of these viewpoints is considered to be 'Negligible/Neutral'. These are the more distant viewpoints where it is difficult to see the proposed development due to the fact that the site is located on a valley slope and the land rises as it approaches the National Park. A 'Major/Adverse' impact is identified from viewpoints in closer proximity to the site such as from the Public Right of Way to the north-east and north-west of the site, south of the racecourse, and views from Swanborough Drive itself. However, this is mainly because the site doesn't currently have any built form on it so the impact of two substantial blocks would inevitably be quite high when compared with the baseline situation. Additionally, the LVIA notes that in these closer views, the surrounding context is defined by the high-rise buildings of Heron Court, Falcon Court, Kestrel Court and Kingfisher Court. The South Downs National Park Authority have also concluded that the impact of the proposed development on the National Park would be limited and have raised no objection to the application. It is therefore considered that the overall impact on the landscape as a result of the scale and design of the proposal is considered to be acceptable despite the fact that it would be highly visible in close views.
- 9.16. The front façade of the taller eastern block is stepped to address the curve of the site. The proposed buildings are contemporary in appearance and would incorporate a range of materials, including a combination of red and buff brick, to help break up the overall volume of the development so that each block is not viewed as a single mass. Elements of colour are added to the development through the use of coloured cement fibre panels in the windows, window reveals and the soffits of the balconies. Further details of materials would be secured by planning condition but the indicative materials shown are considered appropriate and would not appear incongruous within the streetscene which comprises a range of materials including brick and cladding.
- 9.17. The community space at ground level on the north western block is clearly differentiated from the residential component through the use of different brick types, colour and additional glazing.
- 9.18. The two blocks are separated by a green corridor linking the soft landscaping at the front and rear of the site and providing a degree of visual permeability to allow some views of the allotments/community gardens to the north and help provide a sense of place. The retaining wall between the buildings that forms part of the green corridor comprises flint filled gabions filled with material from the site.

9.19. Both blocks would incorporate green roofs. A combination of soft and hard landscaping would be provided at the front of the site, hedgerows at the boundaries and grassland and tree planting to the rear.

9.20. Car parking on site has been kept to a minimum and an undercroft parking area is located at ground floor level to reduce its prominence on the streetscene and to prevent the development appearing dominated by private cars.

9.21. Whilst the location of the substation so close to the pavement is not considered to be ideal and would give it undue prominence, opportunities to relocate the substation are limited. Additionally, access by UKPN is required at all times so it has to be sited in a readily accessible location. The appearance of the substation would be partially softened by vegetative screening. It is therefore not considered so harmful as to warrant a refusal of planning permission.

9.22. The scale, design and layout of the proposed development and its impact on the landscape is therefore considered to be acceptable and it is not considered that the proposal would conflict with policies CP12 of the City Plan Part One or DM18 of the City Plan Part Two.

Housing Mix and Tenure

9.23. Policy DM1 (Housing Quality, Choice and Mix) of the CPP2 states that the Council will seek the delivery of a wide choice of high-quality homes which will contribute to the creation of mixed, balanced, inclusive and sustainable communities. This is supported by policy CP19 (Housing Mix) of the CPP1 which aims to improve housing choice and ensure an appropriate mix of housing is achieved across the City.

9.24. Policy CP20 (Affordable Housing) of the CPP1 states that on sites of 15 or more (net) dwellings, 40% affordable housing will be required.

9.25. The proposed development forms part of the Council's New Homes for Neighbourhoods programme. The application proposes 100% affordable rented housing which, given the significant need for affordable housing in the City, is strongly supported. A minimum of 40% affordable housing (15 units) would be secured via a planning condition in line with Policy CP20.

9.26. Having regard to the housing mix, the proposal would provide the following:

- 12 x 1 bed 2 person flats (33%)
- 15 x 2 bed 3 person flats (42%)
- 1 x 3 bed 4 person flats (3%)
- 8 x 3 bed 5 person flats (22%)

9.27. This mix closely reflects the preferred affordable housing mix for the City in Policy CP20 of the CPP1 which requires 30% one bed units, 45% two bed units and 25% 3+ bedroom units and is therefore supported.

9.28. Four of the units would meet Building Regulations M4(3) 'wheelchair accessible' standard and the remaining units would meet Building Regulations M4(2) 'accessible and adaptable' standard, in accordance with Policy DM1.

Standard of Accommodation

9.29. Policy DM1 (Housing Quality, Choice and Mix) of the CPP2 requires that all new residential units should meet the Nationally Described Space Standards (NDSS). The proposed residential units would comply with this policy and meet or exceed the minimum floor areas required by the NDSS.

9.30. All residential units would have dual aspect and would therefore benefit from an acceptable level of outlook.

9.31. Sunlight and Daylight assessments have been submitted with the planning application to assess the amount of light available to the proposed residential units. These assessments have been independently assessed by BRE and, following a number of revisions, are now considered to be robust. The findings of the assessments are set out below:

- 37 of the 69 (54%) proposed bedrooms would meet the daylight target for a bedroom. 22 of the 36 (61%) of the proposed living/dining/kitchen areas would meet the daylight target for a living room. 17 of these (47%) would meet the daylight target for a kitchen.
- 27 of the 36 (75%) living areas would meet at least the minimum sunlight requirement and 29 of the 36 (80%) units would have at least one habitable room able to meet the recommendations.

9.32. Whilst the sunlight/daylight performance of these units on the whole is slightly disappointing, the majority of units (with the exception of the kitchens) do meet the BRE's sunlight/daylight targets. It is acknowledged that in large developments it is unrealistic to expect all units to be able to meet the BRE recommendations, particularly in respect of sunlight as there will usually be a number of north facing units. That said, this does weigh against the proposed scheme.

9.33. Given that all the proposed units have been designed to be dual aspect and all living/kitchen/dining areas are also dual aspect, there are limited options to improve the sunlight/daylight performance of the proposed development. The proposed internal balconies are likely to have some impact on the light available to the units but the removal of these balconies would have other detrimental impacts on the overall standard of accommodation and to amend the balconies to external uncovered balconies would impact their overall usability and leave them more exposed to the elements.

9.34. Other factors that may be reducing the light to the proposed units include the proposed blocks themselves and their proximity to each other, as well as the 11 storey Heron Court to the south. Given the limited size of the site and the desire to maximise affordable housing provision as well as get close to achieving the indicative allocation requirement of 39 units on the site, there

are limited opportunities to relocate or significantly reduce the height of the proposed blocks on the site.

- 9.35. Whilst the standard of accommodation does weigh against the proposal, having regard to the need for affordable housing and the fact that the balconies add to the reduced calculations, which in themselves improve the standard of accommodation by providing amenity space, it is not considered that the standard of accommodation in respect of the light received to the proposed units would warrant a refusal of planning permission.
- 9.36. Whilst, it is regrettable that the hallways and internal stairways do not benefit from windows or natural light, again it is not considered that this would warrant a refusal of planning permission, particularly given all the residential units themselves are dual aspect and reasonably lit.
- 9.37. Every property would benefit from a private terrace/balcony and the vast majority of the balconies provided would be internal to provide some degree of protection from the elements and increase their usability.
- 9.38. In addition to the private terraces / balconies there is also communal greenspace at the rear and centre of the development. The overall usability of this communal green space would be limited due to the fact that it would slope upwards significantly from south to north and would be in shade for much of the day due to its orientation north of the proposed blocks. Nevertheless, the space would provide some informal amenity benefits along with visual and ecology benefits.
- 9.39. The standard of accommodation is therefore considered to be acceptable and would accord with Policy DM1 of the CPP2.

Impact on Amenity

- 9.40. Policy DM20 of the CPP2 states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.41. The closest properties to the proposed development are Linchmere to the north -west of the site, Swanborough House to the south-east, and Heron Court to the south and these properties are therefore likely to be most impacted by the proposed development.
- 9.42. Given that Swanborough House is located mainly to the south of the application site there would be no impact on the sunlight available to this property. The main outlook from Swanborough House is in an east-west direction rather than towards the application site so it is considered that impacts on the daylight and outlook available to Swanborough House would not be significant and would not warrant a reason for refusal of planning permission.

9.43. With regard to privacy, there are a number of windows proposed on the side elevation of the south-eastern block facing towards Swanborough House. It is proposed that a number of these windows, specifically those on the eastern end of the southern elevation that would otherwise overlook the rear amenity space of Swanborough House are obscurely glazed and fixed shut up to 1.7m above finished floor level. This would be secured by planning condition.

9.44. The eastern elevation of Linchmere features a number of windows serving habitable rooms that face directly towards the application site and as a result the outlook from a number of flats within Linchmere would be impacted. However, the proposed development is set off the boundary and is about 15.5m from Linchmere at its closest point, although the main bulk of the nearest building would be almost 17m from Linchmere. Additionally, the proposed building closest to Linchmere is the lower of the two buildings and at 4 storeys is a more comparable scale to Linchmere. It is therefore not considered that the impact on the outlook available to Linchmere would be so harmful as to warrant a reason for refusal.

9.45. The Sunlight and Daylight Assessment submitted with the planning application assessed the impact of the proposal on Linchmere to the west. The results show that daylight to two windows at Linchmere would be impacted and daylight available to these windows would therefore be below the BRE guidelines. These windows are to the east side of the south facing façade adjacent to the application site. The extent of the impact is considered to be 'minor adverse'. Whilst any impact is regrettable, a minor adverse impact on two windows is not considered to be sufficiently harmful to warrant a refusal of planning permission.

9.46. Having regard to privacy impacts on Linchmere, windows are proposed on the western elevation of the north-west block that would face Linchmere. However, these have been located to minimise impacts on privacy by avoiding a direct line of sight to the windows on Linchmere and the distance between the facing windows of the proposed development and Linchmere is just under 17m which is considered to be acceptable in this context.

9.47. Whilst there would be no outlook or privacy impacts on Heron Court due to the relative distances involved (approx.30m between the proposed buildings and Heron Court), the Sunlight and Daylight Assessment has identified a loss of daylight to four windows on the east elevation (3 at ground floor level and 1 at first floor level) and four windows on the north façade of Heron Court (two at ground floor level and two at first floor level). Whilst individually the impact on these windows is 'minor adverse', given a number of these windows are likely to serve the same flat there is the potential for the development to have a cumulative moderate adverse impact.

9.48. Overall, it is not considered that the impact of the proposed development would be so harmful as to warrant a refusal of planning permission. The impacts on the outlook and privacy available to neighbouring properties are not considered to be significant. Whilst there are some impacts identified in respect of loss of daylight, the vast majority of windows serving neighbouring

properties are unaffected, and the degree of harm on the impacted windows is not considered to be excessive. Any impact also needs to be weighed against the benefits of providing 36 new affordable residential units and a community space and this balance is considered further in the conclusion of this report.

Sustainable Transport

9.49. National and local planning policies seek to promote sustainable modes of transport and to ensure highway safety. In accordance with paragraph 109 of the National Planning Policy Framework, development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The NPPF states that the use of sustainable modes of transport should be pursued (paragraph 102). Policy CP9 (2c) of the CPP1 is also relevant in that it requires all new major developments to submit a Transport Assessment to identify the likely effects of the demand for travel they create and include measures to mitigate their impacts by reducing car use, implementing agreed travel plans and making appropriate contributions towards sustainable transport measures.

9.50. The main vehicular access to the site would be via Swanborough Drive. This access leads to an undercroft parking area at ground floor level for residents of the proposed development comprising 6 accessible parking spaces and 5 motorcycle spaces.

9.51. Amendments to the proposed access have been made over the course of the application in order to ensure that visibility when exiting the site is not hindered by buses in the relocated bus stop. This has been achieved by extending the access/egress point further into Swanborough Drive as well as moving the bus stop slightly to the north-east. The Local Highway Authority have confirmed that the proposed amendments to the access are now acceptable as they provide sufficient visibility.

9.52. The Local Highway Authority have raised an objection to the amount of car parking provision on the site serving the residential units. Six accessible blue badge undercroft parking spaces are proposed on-site for residents. Whilst six blue badge spaces are sufficient to meet the needs of the four M4(3) units proposed and meet the requirements of SPD14:Parking Standards with regard to provision of accessible spaces, the Local Highway Authority consider that six spaces will not be sufficient to meet the overall parking requirements of the residential component of the development, particularly given the site is within the Outer Zone of City, remote from the City Centre. There are no parking controls on Swanborough Drive or in the immediate vicinity and a parking capacity survey of the area submitted with the planning application indicates that there is very limited capacity on-street to provide additional parking. The applicant has stated that there are available car parking spaces (16 in total) within the adjacent car parks serving the Council-owned housing surrounding the site. However, the Local Highway Authority do not give these available spaces significant weight as the Council charge a fee for these spaces to be used and the Local Highway Authority consider that residents are less likely to use them if there is a charge. However, the Local Planning Authority take

the view that the fact that such spaces are available to use does carry some weight when assessing the acceptability of the scheme in relation to parking provision.

- 9.53. An accessible parking space is also provided adjacent to the community centre.
- 9.54. Having regard to more sustainable forms of transport as an alternative to the use of a private car, 5 motorcycle spaces are provided within the undercroft parking area and 44 cycle spaces are also provided which is in accordance with SPD14: Parking Standards. The site also benefits from a bus stop directly outside it which is served by a number of buses including the 1 and 21 bus services, both frequent services that go through the City Centre and as far west as Portslade and Hove respectively. The site is therefore considered to be well connected in terms of sustainable transport, despite its relatively remote location.
- 9.55. In order to reduce parking demand further, the applicant has agreed to provide a car club space as requested by the Local Highway Authority. However, the use of this space for a car club is dependent on a car club provider being willing to take it on but this will be explored further following any grant of planning permission. A bikeshare hub would also be provided, details of which would be secured via planning condition.
- 9.56. A Travel Plan would also be secured by planning condition. This would include the provision of up-to-date public transport information within the proposed buildings, sustainable transport promotional material, and discounted bus tickets for residents.
- 9.57. Whilst the overall lack of parking on-site and limited off-site parking availability raises some concerns, the applicant is unwilling to increase the amount of parking on site as the provision of further undercroft parking is likely to impact the viability of the scheme and the provision of further parking at ground floor level outside of the undercroft area would result in a reduction in the amount of residential units proposed and available space for landscaping. Additionally, as set out above, alternative forms of travel are readily available. The NPPF states that 'development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.' It is not considered that lack of parking and potential overspill would result in an unacceptable impact on highway safety or have a severe impact on the road network. Additionally, any impacts on the highway network would need to be weighed against the benefits of providing 36 affordable residential units and this balance is considered further in the conclusion of this report.

Sustainability

- 9.58. Policy CP8 of the City Plan Part One requires that all developments incorporate sustainable design features to avoid expansion of the City's ecological footprint and mitigate against and adapt to climate change. This

policy is partly expanded upon and updated via DM44 of the City Plan Part Two.

- 9.59. In addition to meeting Part L of the Building Regulations, which requires a 31% reduction in carbon emissions against Part L 2013 standards, the proposed development will also provide Air Source Heat Pumps on the balconies of every property. Whilst PV panels are not shown on the submitted drawings, the submitted energy statement states that the roof will be designed to accommodate a future solar photovoltaic system.
- 9.60. Conditions would also be added to any planning consent to ensure that the residential units and community space achieve a minimum EPC rating 'B', the residential units achieve an indoor water efficiency standard of no more than 110 litres per person per day, and the community use achieves BREEAM 'Very Good Standard'.

Biodiversity, Landscape and Arboriculture

- 9.61. Policy DM37 (Green Infrastructure and Nature Conservation) of the CPP2 states that 'development proposals will be required to demonstrate that they safeguard or and/or contribute positively to the existing multifunctional network of Green Infrastructure that covers all forms of green and open spaces; the interrelationship between these spaces and; ensure that the natural capital of the area is retained, enhanced and complements UNESCO Biosphere objectives.'
- 9.62. The policy goes on to state that 'where practicable, green infrastructure should be integral to the design and layout of the scheme ensuring it is planned and managed to realise current and potential value to communities and to support the widest delivery of linked environmental, social and economic benefits.'
- 9.63. The policy also states that all development should seek to conserve and enhance biodiversity and to ensure that a net gain in biodiversity is achieved.
- 9.64. Given the proposed development is classified as a 'major' development, there is a requirement to provide 10% Biodiversity Net Gain (BNG).
- 9.65. Policy DM22 (Landscape Design and Trees) of the CPP2 states, amongst other things, that 'development proposals will be required to retain, improve and wherever possible provide appropriate landscape elements/landscaping, trees and planting as part of the development.
- 9.66. The site comprises lowland calcareous grassland which is a Habitat of Principal Importance under Section 41 of the NERC Act 2006. The site was also assessed in relation to the following species:
 - Bats: No bat records were returned within the search area. There are no buildings or trees on site, and it therefore offers no opportunities for roosting bats. The Ecological Impact Assessment submitted with the application considers the site to offer moderate value as a foraging resource for bats, being relatively small and impacted by surrounding urban development but likely to be rich in insect prey.

- Hazel Dormouse: there are no local dormouse records and patches of bramble and buddleia scrub in the northern part of the site are considered too small and fragmented to provide suitable habitat.
- Badgers: The Ecological Impact Assessment states that no signs of badgers were found onsite although they are likely to be present in the wider landscape.
- Great crested newt: The scrub and grassland on site provide some suitable terrestrial habitat for Greater Crested Newts, however there are no local records and the site lies within an area indicated to have low suitability and low probability of Greater Crested Newt presence.
- Reptiles: surveys in 2024 confirmed the presence of a high population of slow worms and a medium population of common lizard.
- Invertebrates: a total of 244 invertebrate species were identified to be using the site, of which 23 are species with some level of conservation status including three Species of Principal Importance under Section 41 of the NERC Act.
- Breeding birds: The scrub on the site has potential to support breeding birds although it is acknowledged that the site is largely unsuitable for ground-nesting species due to its small size and relatively high levels of recreational disturbance.
- Other species: The site is unlikely to support any other species although the County Ecologist states that it should be assumed hedgehogs are on the site given the site's urban fringe location.

9.67. The proposed development would result in a loss of 77% of the habitat on the site, even when factoring in proposed soft landscaping for the site and green roofs. This therefore requires the provision of 4.16 units of Low Calcareous Grassland off-site to achieve a 10% net gain in biodiversity. The intention is to provide this through a new Council owned habitat bank located in the north-western section of the Whitehawk / Race Hill LNR. The County Ecologist raises no in-principle objection to the use of this location to provide BNG.

9.68. Given the reptiles present on site and the loss of reptile habitat, all reptiles will be translocated to an off-site receptor site located within the adjacent LNR.

9.69. Therefore, subject to the provision of appropriate off-site BNG and suitable conditions to ensure it is delivered, along with relevant conditions to maximise on-site biodiversity where possible, the proposal is considered to be acceptable on ecological grounds.

9.70. Having regard to the proposed soft landscaping on site, the application proposes a combination of tree planting (incorporating fruit trees), native hedgerows and species rich grassland areas to the front and rear of the proposed buildings, native trees and hedgerows to the north-western boundary, and mixed species, native shrubs and trees to the south-east boundary. Both blocks would also incorporate green roofs, further details of which would be secured by planning condition.

9.71. In respect of hard landscaping, contrasting paving would be used at the front of the site to delineate the main access routes to the community space and

residential entrances from the general paving to the remainder of the frontage area.

9.72. The proposed approach to landscaping is considered acceptable but further details would be secured by planning condition. The proposal is therefore not considered to conflict with policies DM22 and DM37 of the CPP2.

Sustainable Drainage

9.73. Policy DM43 (Sustainable Drainage) states that '*The design and layout of all new buildings, and the development of car parking and hard standing, will be required to incorporate appropriate Sustainable Drainage Systems (SuDS) capable of ensuring that there is a reduction in the level of surface water leaving the site unless it can be demonstrated not to be reasonably practicable.*'

9.74. The site is located within Flood Zone 1 and is considered to be at negligible risk of flooding from all sources. No flooding has been reported on the site.

9.75. The proposed drainage system is for surface water to be captured, attenuated and treated by a proposed basin, green roofs, permeable paving and filter strips. It is proposed to be infiltrated by a deep borehole soakaway at the front of the site. Raingardens are also proposed at the front of the site.

9.76. Foul water is proposed to be discharged to the adjacent public sewer in Swanborough Drive via new connection. Correspondence with Southern Water indicates that capacity is available in the drainage using an assumed discharge rate of 0.33l/s.

9.77. The Council's sustainable drainage team have raised no objection to the proposed drainage strategy which is considered to accord with policy DM43 of the CPP2.

10. PLANNING OBLIGATIONS

10.1. In order to appropriately mitigate the impacts of the development and to comply with planning policy, the council's Developer Contributions Technical Guidance and BNG legislation, payment of monitoring fees for BNG and the Travel Plan need to be secured, and an Employment and Training Strategy. See the Heads of Terms set out Section 1:Recommendation of this report.

10.2. As the applicant in this case is the Council itself, it is not possible for the Council to enter into a section 106 agreement with itself to secure such measures. Section 106 of the Town and Country Planning Act 1990 provides for any person interested in land to enter into a planning obligation with the local planning authority, enforceable as a deed executed between the parties. However, as both the applicant and the enforcing authority would be the Council, the statutory mechanism for a section 106 agreement cannot operate in its usual form.

- 10.3. In these circumstances, it is proposed that a Memorandum of Understanding (MoU) be entered into, or alternatively a decision is taken by the Cabinet/Director Property and Finance, which will secure the mitigation measures that would ordinarily be achieved by a s106 agreement. While such a Memorandum/Decision does not have the status of a planning obligation under s106 and cannot run with the land, it represents a clear and public commitment by the Council, in its capacity as applicant, to provide the necessary mitigation. The MoU/record of decision of Cabinet/Director will be appended to the planning permission and will specify the measures and delivery mechanisms to ensure that the development is carried out in accordance with the agreed mitigation, as would be the case with a s106 agreement. This approach, while not conferring the same statutory enforceability as a section 106 agreement, reflects good practice where the Council is both applicant and local planning authority.
- 10.4. The MoU/Decision will set out also that in the event the land with the benefit of planning permission resulting from this or any subsequent application is to be sold by the Council to a third party, the Council as landowner/seller will require any future purchaser to enter into an appropriate s106 agreement (or a covenant/unilateral undertaking) with the Council as local planning authority, to secure the required mitigation measures.

11. CONCLUSION

- 11.1. Paragraph 11 of the NPPF makes it clear that planning application decisions should apply a presumption in favour of sustainable development.
- 11.2. The principle of residential development on the site is clearly established through its allocation for 39 homes in policy H1 of the CPP2. Whilst the proposed community use is not specifically included in policy H1, it is considered to be complementary to the main residential use and has been proposed following community consultation where the desire for a new community space was clearly presented to the applicant.
- 11.3. The scale, design and layout of the proposal is considered to be acceptable given the significant need for housing in the district, the topography of the site, and the scale of surrounding buildings.
- 11.4. All the proposed residential units would be affordable rented which is welcomed as this would exceed the policy requirement of 40% affordable housing as set out in Policy CP20 of the CPP1.
- 11.5. The proposed housing mix closely aligns with the preferred affordable housing mix for the City as set out in Policy CP20.
- 11.6. The Standard of Accommodation is considered acceptable as all units would meet the Nationally Described Space Standards, would include private balconies, would have outlook, and would, on the whole, receive adequate light.

- 11.7. Although there would be a significant loss of biodiversity on site, 10% BNG can still be gained through the provision of off-site BNG and a suitable site for such provision has been identified. Monitoring of the BNG would be suitably secured.
- 11.8. Whilst it is acknowledged there would be some impact on the amenities of neighbouring properties including a loss of daylight, it is not considered that the impacts would be so harmful as to warrant a refusal of planning permission.
- 11.9. It is also acknowledged that the Local Highway Authority have raised concerns throughout the course of the planning application that insufficient on-site parking is being provided, particularly given the overall lack of available off-site parking. This impact has been partly offset through the potential provision of a car club and bike share hub which will help to reduce the parking demand, as well as the fact there is some available car parking capacity at other Council owned residential blocks in the immediate vicinity of the application site. A Travel Plan and associated monitoring would be suitably secured. An Employment and Training Strategy would also be suitably secured.
- 11.10. Any detrimental impacts and shortcomings of the proposal need to be weighed in the planning balance against the benefits of providing 36 new affordable houses and a community space in a City with a 1.4 year housing supply. As stated above, increased weight therefore needs to be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11) and in this case, it is considered that the benefits of the proposal, which are significant, outweigh the impacts of the proposal.
- 11.11. It is therefore considered that the proposed development would not conflict with national and local planning policies and planning permission is recommended subject to the conditions within the report.

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 exact amount will be confirmed in the CIL liability notice which will be issued as soon as practicable after the issuing of planning permission. However, the proposed development comprises affordable housing and community uses (both of which are exempt from CIL), it is anticipated that there will be no CIL liability for this proposed development.

13. EQUALITIES

- 13.1. 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.
- 13.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined through an Equalities Impact Assessment that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.
- 13.3. Having regard to accessibility, level accesses are provided to the residential blocks as well as the community space. Three lifts are also provided – two in the south eastern block and one in the north-western block. Four of the units would meet Building Regulations M4(3) 'wheelchair accessible' standard and the remaining units would meet Building Regulations M4(2) 'accessible and adaptable' standard, in accordance with Policy DM1. In line with the Council's Parking Standards SPD, 1 accessible parking space would be provided for each M4(3) unit as well as two accessible visitor spaces.