

|                          |   |                            |   |
|--------------------------|---|----------------------------|---|
| <b><u>No:</u></b>        | <b>BH2024/00969</b>   | <b><u>Ward:</u></b>        | <b>Rottingdean &amp; West<br/>Saltdean Ward</b> |
| <b><u>App Type:</u></b>  | <b>Full Planning</b>  |                            |   |
| <b><u>Address:</u></b>   | <b>95 Marine Drive Rottingdean Brighton BN2 7GE</b>   |                            |   |
| <b><u>Proposal:</u></b>  | <b>Demolition of existing building and erection of building with 9no flats (C3) with lower ground floor parking and associated works.</b> |                            |   |
| <b><u>Officer:</u></b>   | Chris Swain<br>tel: 01273 296744  | <b><u>Valid Date:</u></b>  | 05.06.2024                                      |
| <b><u>Con Area:</u></b>  | N/A   | <b><u>Expiry Date:</u></b> | 31.07.2024                                      |
|                          |   | <b><u>EOT:</u></b>         |   |
| <b><u>Agent:</u></b>     |   |                            |   |
| <b><u>Applicant:</u></b> | Fortitudo (Marine Drive) Limited 153 Commercial Road Poole BH14 0JD   |                            |   |

## 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 a **s106 agreement** on the Heads of Terms set out below and the following Conditions and Informatives as set out hereunder, **SAVE THAT** should the s106 Planning Obligation not be completed or significantly advanced, on or before the **6 May 2026** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out at the end of this report:

### **Section 106 Head of Terms:**

#### **Affordable housing:**

- Viability Review mechanism

#### **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.

| <b>Plan Type</b>        | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|-------------------------|------------------|----------------|----------------------|
| Proposed Drawing        | 101              | J              | 05-Feb-25            |
| Proposed Drawing        | 201              | K              | 05-Feb-25            |
| Location and block plan | 000              | J              | 05-Feb-25            |
| Proposed Drawing        | 202              | K              | 05-Feb-25            |
| Report/Statement        | BNG METRIC       |                | 29-May-25            |

|                  |                   |  |           |
|------------------|-------------------|--|-----------|
| Report/Statement | BNG<br>ASSESSMENT |  | 29-May-25 |
| Report/Statement | PEA               |  | 29-May-25 |

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 samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
  - a) Samples/details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
  - b) samples of all cladding to be used, including details of their treatment to protect against weathering
  - c) samples/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 policies DM18 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.
  
4. The development hereby permitted shall not be occupied until the dwelling(s) hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy DM1 of Brighton & Hove City Plan Part 2.
  
5. 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.
  
6. 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 to comply with policy DM44 of the Brighton & Hove City Plan Part Two.

7. Prior to occupation, the vehicle parking area(s), including the disabled bay, as shown on the approved plans shall be fully implemented. They shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One, policy DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.
8. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.
9. Access to the flat roof over the first-floor accommodation hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.  
**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with Policies DM20 and DM21 of Brighton & Hove City Plan Part 2.
10. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with Policies DM18 and DM21 of 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.
11. The Biodiversity Gain Plan shall be prepared in accordance with the BNG Assessment prepared by Ecosupport, May 2024, and a full Statutory Metric by prepared by Katalin Balazs dated 17/04/24.  
**Reason:** To ensure the development delivers a biodiversity net gain on site 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.
12. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) detailing measures to protect Brighton to Newhaven Cliffs Site of

Special Scientific Interest and safeguards for badgers and breeding birds has been submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following:

- a) risk assessment of potentially damaging construction activities;
- b) identification of "biodiversity protection zones";
- c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) the location and timing of sensitive works to avoid harm to biodiversity features;
- e) the times during construction when specialist ecologists need to be present on site to oversee works;
- f) responsible persons and lines of communication;
- g) the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) use of protective fences, exclusion barriers and warning signs.

The approved biodiversity CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

**Reason:** To ensure that any adverse environmental impacts of development activities are mitigated in accordance with 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.

13. No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site to provide at least 10% biodiversity net gain (BNG), broadly in accordance with the details provided in the BNG Assessment (Ecosupport, May 2024) has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a) purpose and conservation objectives for the proposed works;
- b) review of site potential and constraints;
- c) detailed design(s) and/or working method(s) to achieve stated objectives;
- d) extent and location /area of proposed works on appropriate scale maps and plans;
- e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
- f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- g) persons responsible for implementing the works;
- h) details of initial aftercare and long-term maintenance;
- i) details for monitoring and remedial measures;
- j) details for disposal of any wastes arising from works.

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

**Reason:** To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, and to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 180 and 186 of the National

Planning Policy Framework, Policy CP10 of the Brighton & Hove City Council City Plan Part One and Policy DM37 of the City Plan Part Two.

14. A landscape and ecological management plan (LEMP) shall be submitted to, and approved in writing by, the local planning authority prior to the occupation of the development. The content of the LEMP shall include the following:
- a) description and evaluation of features to be managed;
  - b) ecological trends and constraints on site that might influence management;
  - c) aims and objectives of management;
  - d) appropriate management options for achieving aims and objectives;
  - e) prescriptions for management actions, together with a plan of management compartments;
  - f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
  - g) details of the body or organisation responsible for implementation of the plan;
  - h) ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plans shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

**Reason:** To ensure the long-term management of habitats, species and other biodiversity features in accordance with 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.

15. No development above ground floor slab level shall take place until details of at least eighteen swift bricks/boxes, nine bee bricks and six bat boxes, including number, type and location, has been submitted to and approved in writing by the local planning authority. The bricks should be integrated into the fabric of the building where possible, and should be retained in that manner thereafter.

**Reason:** To provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 180 and 186 of the National Planning Policy Framework, Policy CP10 of the Brighton & Hove City Council City Plan Part One and Policy DM37 of the City Plan Part Two.

16. The development hereby permitted shall not be commenced (other than demolition works and works to trees) 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. The approved drainage system shall be implemented in accordance with the approved detailed design

**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.

17. No development above ground floor slab level of any part of the development hereby permitted shall 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. The development shall be carried out in accordance with the approved scheme and timetable.

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

18. 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) The phases of the Proposed Development including the forecasted completion date(s)
- (ii) A scheme 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) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
- (iv) Details of hours of construction including all associated vehicular movements
- (v) Details of the construction compound
- (vi) A plan showing construction traffic routes

The construction shall be carried out in accordance 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.

19. 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.

20. 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 comply with policies DM22 of Brighton & Hove City Plan Part 2, and CP12 and CP13 of the Brighton & Hove City Plan Part One.

21. The dwellings hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans 101J received on 4th November 2025. The internal layouts shall be retained as first implemented thereafter.

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

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act.
3. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
4. 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") that development may not begin unless:

- i) A Biodiversity Gain Plan has been submitted to the planning authority, and
- ii) The planning authority has approved the plan.

The planning authority is Brighton & Hove City Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found in the legislation.

5. The Biodiversity Gain Plan must relate to development for which planning permission is granted, and specify the following matters:
  - i) Information about the steps taken or to be taken to minimise the adverse effect of the development on biodiversity,
  - ii) The pre-development biodiversity value of the onsite habitat,
  - iii) The post-development biodiversity value of the onsite habitat,
  - iv) Any registered offsite biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development,
  - v) Any biodiversity credits purchased for the development.

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 relates to a detached house on a wide plot on the northern side of Marine Drive (coastal road) set back from the road. The property presents as a single storey dwelling from the front and two storey at the rear. The property sits elevated behind a distinctive coarse pebble-dash front boundary wall. There is a detached pitched roof garage in the north eastern corner of the site.
- 2.2. Marine Drive is the main coastal road connecting Rottingdean and Saltdean running along the seafront. This section of Marine Drive is characterised by a mixture of residential properties ranging from low-level blocks of flats, bungalows and two and three storey detached houses. A variety of architectural styles are evident including traditional, art deco and more contemporary forms. There are also examples of recent flatted development in the area.
- 2.3. Land levels rise from the south to north with the properties set back and elevated over the highway. There is also a rise in levels from east to west. Despite the variation in building type and style, there is some consistency to development in the area derived from a strong building line and rooflines stepping up to respect the level changes from east to west.

- 2.4. The site is not located within a Conservation Area and does not lie adjacent or in close proximity to any listed buildings which would be affected by the development.

### 3. RELEVANT HISTORY

- 3.1. **PRE2023/00131** Demolition of existing buildings and construction of new apartment building comprising 9 dwellings, with associated parking. Preapplication advice issued 13.9.2023.

### 4. RELEVANT HISTORY AT OTHER SITES

#### 99 Marine Drive

- 4.1. **BH2017/02928** Demolition of existing building and erection of 3 storey building comprising of 4no self-contained flats with associated parking and storage. Approved 11.12.2017.

### 5. APPLICATION DESCRIPTION

- 5.1. The application proposes to demolish the existing house and out-building and erect a four-storey block comprising of nine (9) residential flats (consisting of 7 x 2 bedroom and 2 x 2 bedroom flats).
- 5.2. The building would be constructed in a mix of brick and composite cladding with aluminium windows and would otherwise have an overall modern appearance. Parking is proposed at lower ground floor level and would provide partially subterranean car parking facilities with the provision of 9 vehicle parking spaces overall and one disabled parking space. Cycle and refuse storage are proposed to the front of the site.
- 5.3. Amended plans were received during the course of the application process to address concerns over the design and prominence of the building. The amended drawings have reduced the depth of the front balconies. Further amendments were then made to reduce the height of the development by approximately 1 metre. This has been achieved by a small reduction in the floor to ceiling heights and by setting the building slightly lower into the ground.

### 6. REPRESENTATIONS

- 6.1. **Six (6)** representations have been received **objecting** to the proposal for the following reasons:
- Loss of view
  - Overshadowing and loss of light
  - Loss of privacy and overlooking
  - Noise
  - Poor design / inappropriate height

- Impact on Conservation Area
- Too close to the boundary
- Impact on property value
- Unviable / no affordable housing
- Overbearing / overdevelopment
- Access and Traffic considerations
- Impact on property value
- Lack of car parking / no disabled parking or EV charging
- Impact on ecology not fully considered
- No Landscaping Plan
- Lack of detail in respect of sustainable building
- No information in regard to Sustainable Urban Drainage

6.2. **Rottingdean Parish Council** objects to the development for the following reasons:

- Out of Scale / overdevelopment of the site
- Poor design
- Out of character with the surrounding area
- Loss of light / overshadowing
- Loss of privacy
- Excessive footprint and height
- Impact on wildlife and biodiversity
- Contrary to policies within the Rottingdean Neighbourhood Plan

6.3. **Councillor Bridget Fishleigh** has objected to the development and copy of this representation is appended to the report.

6.4. Full details of all representations are publicly available on the planning register.

## 7. CONSULTATIONS

Internal:

7.1. **Ecologist** No objection

7.2. **Private Sector Housing** No comments to make

7.3. **Sustainable Drainage Strategy** Comment

The development indicates Sustainable Urban Drainage Strategy would be used however no information has been supplied. Further information is required in respect of, a foul water drainage strategy, Agreement, in principle, with Southern Water, for foul water discharge, A surface water drainage strategy, and supporting information. This information may be controlled by planning conditions.

7.4. **Transport Planning** No objection  
External

7.5. **Natural England** No objection

- 7.6. **Southern Water Comment**  
Development would be over a public apparatus and may require diversion. Further information required regarding sustainable urban drainage (SUDS).
- 7.7. **Viability Comment**  
The proposal has been independently assessed and could not viably support any level of affordable housing.
- 7.8. Full details of all consultee comments are publicly available on the planning register.

**8. MATERIAL CONSIDERATIONS**

- 8.1. 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.
- 8.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
  - Brighton & Hove City Plan Part Two (adopted October 2022);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013 updates October 2024);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017 );
  - Shoreham Harbour JAAP (adopted October 2019)
  - Rottingdean Neighbourhood Plan (made March 2024)

**9. RELEVANT POLICIES & GUIDANCE**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One:

|      |  |
|------|--|
| SS1  | Presumption in Favour of Sustainable Development |
| CP1  | Housing delivery                                 |
| CP8  | Sustainable buildings                            |
| CP9  | Sustainable transport                            |
| CP10 | Biodiversity                                     |
| CP11 | Flood risk                                       |
| CP12 | Urban design                                     |
| CP13 | Public streets and spaces                        |
| CP14 | Housing density                                  |
| CP19 | Housing mix                                      |

Brighton & Hove City Plan Part Two:

|      |                                 |
|------|---------------------------------|
| DM1  | Housing Quality, Choice and Mix |
| DM18 | High quality design and places  |

|      |   |
|------|---|
| DM20 | Protection of Amenity   |
| DM21 | Extensions and alterations  |
| DM33 | Safe, sustainable and active travel                               |
| DM36 | Parking and servicing   |
| DM37 | Green Infrastructure and Nature Conservation                      |
| DM40 | Protection of the Environment and Health - Pollution and Nuisance |
| DM44 | Energy Efficiency and Renewables                                  |

Rottingdean Neighbourhood Plan

|    |                              |
|----|------------------------------|
| S1 | The Plan's Spatial Framework |
| H1 | Balancing the Housing Mix    |
| H2 | Design                       |

Supplementary Planning Documents:

|       |                                   |
|-------|-----------------------------------|
| SPD03 | Construction & Demolition Waste   |
| SPD11 | Nature Conservation & Development |
| SPD14 | Parking Standards                 |
| SPD17 | Urban Design Framework            |

## 10. CONSIDERATIONS & ASSESSMENT

- 10.1. The main considerations relating to the determination of this application are the principle of the proposed development, design and the impact upon the character and appearance of the surrounding streetscene, impact on neighbouring residential amenity, the standard of accommodation proposed, and sustainability, biodiversity and highways implications.

### **Principle of the Development**

- 10.2. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. The local housing need figure for Brighton & Hove using the standard method is 2,487 homes per year. A 20% buffer is then applied to this figure to reflect the most recent Housing Delivery Test measurement (published in December 2024) for the council being less than 85%.
- 10.3. The council's most recent housing land supply position is published in the SHLAA Update 2025 which shows a five-year housing supply shortfall of 10,442. This is equivalent to 1.5 years of housing supply.
- 10.4. 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).

- 10.5. The proposal would result in a net gain of eight new dwellings. Increased weight is given to housing delivery as the council is currently unable to demonstrate a five-year housing land supply.
- 10.6. City Plan policies do not specify a required housing mix, however Policy CP19 of the Brighton and Hove City Plan Part One states that developments will be required to demonstrate that proposals have had regard to housing mix considerations and have been informed by local assessments of housing demand and need.
- 10.7. The Rottingdean Neighbourhood Plan (NP) seeks to balance the housing mix by encouraging a specific proportion of dwelling types in new developments of five or more homes. The goal is to provide a mix of housing that meets a range of needs, from one-bedroom flats to family units. Housing mix policy H1 specifies the following.
- 10% one-bedroom properties
  - 35% two-bedroom properties
  - 35% three-bedroom properties
  - 20% four or more-bedroom properties
- 10.8. The development seeks consent for 9 flats: 7 two-bed flats (78%) and 2 3-bed flats (22%). The development does not deliver the one bed and 4 bed units as sought by Policy H1. However, the mix of units does allow for smaller occupation as well as units suitable for small families. Whilst overall, the proposal contains a relatively modest number of larger, 3 or 4+ bedroom units, it is acknowledged that that the nature of flatted developments do not lend themselves as well to larger, family sized units as would a more standard scheme for regular housing. It is also understood that a higher number of larger units will inevitably erode the viability of the scheme and ultimately reduce the deliverability of the scheme. Given that the scheme is already struggling in terms of viability and having regard to immediate local surroundings, the proposed housing mix for this development is considered broadly acceptable, in accordance with policy CP18.

#### **Affordable Housing Considerations**

- 10.9. Policy CP20 of the Brighton & Hove City Plan Part One requires a provision of 20% onsite affordable housing on sites of 5-9 dwellings. The applicant has provided a viability assessment which concludes affordable housing would be unviable for the site. An independent assessment of the scheme in terms of viability has been undertaken. Whilst not all of the valuation figures put forward by the applicant were agreed upon, the independent review did conclude that applicant's approach to the viability assessment was overall sound. The independent assessment commissioned by the LPA also concludes the development would be unviable with affordable housing delivered, or with a financial contribution towards affordable housing in the city. In this instance therefore it is acceptable to consider the redevelopment of the site without an affordable housing provision.
- 10.10. Given the scheme is some distance from being able to viably support an affordable housing contribution, the latest revisions to reduce the height of the

scheme and introduce greater excavation are not considered to be of the magnitude which would result in such changes to viability which would enable an affordable housing contribution to be feasibly provided.

- 10.11. Whilst it is disappointing that the proposal is not providing any affordable housing, a s106 legal agreement would be required should planning permission be granted with an obligation for a late-stage review of the financial viability of the scheme. The review mechanism would be able to reassess the viability of the scheme at a later date when actual costs and sales figures are known to test whether there would be a development surplus which could go towards affordable housing provision in the city. Subject to this review mechanism the non-provision of affordable housing in this instance is considered to be acceptable.

### **Design and Appearance**

- 10.12. The existing dwelling house is a single storey bungalow with an attached pitched roof garage, likely dating from the 1950s. Due to its height and set back from the road it makes a very modest contribution to the street scene. The existing building is flanked by larger more modern development either side of the site. The development of the adjacent plots further reduces the visual presence of the existing house in the street scene. There is no objection to the demolition of the existing building which is noted to be of limited architectural quality, and it is acknowledged there is an opportunity to make more efficient use of the land through redevelopment.
- 10.13. The proposed building would be 4 storeys in height with a lower ground floor entrance and car parking spaces to the front. To the rear of the plan form would be the central staircase and elevator run. The upper floors would have outlook to the front and rear.
- 10.14. The resultant building would be higher than the existing building on site. However, it would accord with Paragraph 125(e) of the Framework which gives general support to the use of extending upwards above existing properties as an efficient use of land. Policy DM18 of the Brighton and Hove City Plan Part Two advises that what matters is not so much the absolute size of a new building or development, but its size relative to its surroundings, and how apparent the scale of a building or development would be.
- 10.15. The building would appear as an expansive block, however there would be a central section of the building projecting forward which would give some articulation to the front elevation and adds a degree of visual interest in design terms which is welcome. This element would also echo some features of the more modern development in the immediate vicinity of the site. In addition, the angled roof line to this element of the design adds a further point of difference and visual interest.
- 10.16. Revisions to the scheme have reduced the overall height of the scheme by approximately 1m in comparison to the originally submitted scheme. The overall height is considered appropriate for its setting and importantly, the height of the

roof of the development would maintain the stepped heights of the properties within the locality which rise with the natural ground levels east to west.

- 10.17. The amended plans received have also reduced the depth to the front balconies of the block to ensure these features do not contribute to an overdeveloped appearance to the front elevation of the property. The reduced depth also ensures that the building line of the development would respect that of the neighbouring properties giving the new building a strong and established reference within the local street scene. Accordingly, despite the marked increase in building bulk when viewed from the street, the development would not appear as an unduly incongruous form of development in the Marine Drive street scene.
- 10.18. Although the proposed building is wider than the existing dwelling, it would maintain a 1m gap to each side boundary, thereby retaining some spacing within the streetscene. In regard to the width of the building, this degree of site coverage to the side boundaries would appear expansive. The top floor of the block would, however, be set in slightly to provide some relief in the bulk of the upper floor. Notwithstanding this, when the width is viewed in combination with the height, the block of flats would be seen as a substantial scale, and towards the limits of acceptability. However, elements of the design are otherwise well considered with the height, form and building line respecting the character of the area, the resulting block would not be a harmful addition to the street scene or wider area. Given that some excavation would be required, it is considered that a levels condition, also showing spot heights to neighbouring properties, would be necessary to ensure the visual scale is delivered as represented in the application drawings.
- 10.19. In regard to materials the submitted drawings and information in the application show a combination of brick work and cladding is proposed for the elevations in a pale / neutral colour pallet. The full details of the materials have not been specified at this stage, but this general approach is considered to be acceptable. The proposed contemporary appearance and materials are considered appropriate in this setting and reflect the modern appearance of other near-by properties such as 93, 99 and 107 Marine Drive. Full details are recommended to be secured by condition.
- 10.20. The front boundary of the site and general landscaping of the front curtilage is considered important to deliver the success of the design overall. The proposed site location plan shows the existing pebble and render wall outside the red line of the application site. This is shown retained but modified. Given the level changes from the highway, a retaining wall behind this feature would be required. Full details of hard and soft landscaping details are recommended to be secured by condition.
- 10.21. Overall, it is recognised that the proposal has sought to maximise the quantum of development on site. The building would appear relatively large and expansive, even when compared to the other recent development on this section of Marine Drive. Nevertheless, both the height and building lines are considered acceptable in this case and the modern design appropriate and would not appear out of character in it's setting. On balance therefore, the redevelopment of the

site as proposed can be supported on design grounds. Given the importance of the provision of much needed housing, any harm to the appearance and character of the site and surrounding area would not be so significant to outweigh these clear public benefits.

### **Standard of Accommodation**

- 10.22. Policy DM20 of the Brighton and Hove City Plan Part Two seeks to ensure a good standard of amenity for future occupiers of the proposed development and this requirement is one of the core planning principles of the NPPF. Indeed, the updated NPPF requires that all developments provide a 'high' standard of accommodation. This is reflected in Policy DM1 which also adopts the Nationally Described Space Standards (NDSS) for dwellings. The schedule of accommodation is as follows:

#### Ground Floor

- Unit 1 - 3 bedrooms, 85.9 square metres.
- Unit 2 - 2 bedrooms, 4-person 85.3 square metres
- Unit 3 - 3 bedrooms 85.9 square metres.

#### First Floor

- Unit 4 - 2 bedrooms 85.9 square metres
- Unit 5 - 2 bedrooms 85.3 square metres
- Unit 6 - 2 bedrooms 85.9 square metres

#### Second Floor

- Unit 7 - 2 bedrooms 71.3 square metres
- Unit 8 - 2 bedrooms 71.3 square metres
- Unit 9 - 2 bedrooms 71.3 square metres

- 10.23. The sizes and layouts of the accommodation show clear a majority have compliance with the NDSS with the exception of the 3 bed units on the ground floor. These units are not 4 person units as specified, but 5 person units, due to bedroom 2 being of a size to support double occupation. The NDSS for a 3 bed, 5 person unit is 86sqm. The accommodation schedule in the application lists these units as 85.9sqm. So, the 3 bed units are technically falling below the NDSS. That said, a 0.1sqm margin of error is considered to be within reasonable tolerances and no other concerns are raised in this respect.
- 10.24. The general layout of the flats would provide an overall good standard of accommodation. Natural light, ventilation, and outlooks can be achieved to all significant rooms in the flats with the internal proposed layout otherwise appearing practical and well-considered.
- 10.25. Policy DM1 states that all new residential development will be required to provide useable private outdoor amenity space appropriate to the scale and character of the development. All flats would have a small south facing balcony or terrace. There would be a sizeable area to the rear of the building which, it is assumed, would be communal amenity space for the occupiers. Given the constraints of the site, the amount and quality of the amenity space offered for future residents is considered acceptable in this instance.

10.26. Overall, the proposed development, would deliver an acceptable standard of accommodation, which would comply with policies DM1 and DM20 of the Brighton and Hove City Plan Part Two and the core planning principles of the NPPF.

**Impact on Amenity**

10.27. Policy DM20 of the Brighton and Hove City Plan Part Two states that planning permission for any development or change of use will not be granted where it would cause unacceptable loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

10.28. Revisions have been sought during the life of the application to reduce the overall height of the building.

10.29. Notwithstanding these revisions, the proposed development would still result in a significant increase in height and bulk compared to the existing house on site. The works would have a demonstrable impact on the occupiers of 2 and 2a Lenham Road West which are modest family dwellings to the rear (north) of the site.

10.30. The proposed rear building line of the new block would allow for back- to-back separation distances of approximately 17 metres for 2a Lenham Road West and 21 metres for 2 Lenham Road West. This separation is considered sufficient to mitigate some of the impact of the taller re-development. The amended plans received during the course of the consideration process has resulted in a reduction in the height of the proposed building, and this in turn also results in an improved relationship between the development and the properties to the rear.

10.31. It should be noted that the existing occupiers at the rear of the site would experience a much more developed outlook to the rear and some degree of enclosure from the bulk, form and massing of the new development. This would present as a significant change given the open outlook which is afforded over the site at present and towards the sea. However, loss of view is not a material consideration for the determination of the application. It is also noted that rear planting along the boundary is proposed as part of the application and the properties of Lenham Road West sit on higher ground than the application site. Given the separation distances, proposed planting and land levels the extent of the harm to the occupiers to the rear is considered to be not so significant as to warrant refusal of the application.

10.32. In regard to privacy, none of the new units would have a principal outlook to the rear. Living spaces in the new flats have been designed to maximise the sea-front location with open aspect to the south. Nevertheless, a significant number of windows on the rear elevation are proposed. The occupiers to the rear would experience a perception of increased overlooking from the development. The proposed rear windows would serve bedrooms in the development. Notably there are no balconies on the rear elevation and therefore prolonged overlooking

would be avoided. Together with the proposed planting and land levels the majority of the built form would be acceptably mitigated in view from the rear with the exception of the upper most storey. With the top floor of the building set back from the main rear elevation, a flat roof condition would be required to ensure access to the space is restricted to maintenance only. The separation distances between the rear elevation of the new apartment block and the rear elevation of the neighbouring properties at the rear of the site would be sufficient to prevent any actual loss of privacy to rooms in these properties. Side windows in the development would face on to side elevations of the neighbouring properties in Marine Drive but would not cause a significant loss of privacy.

- 10.33. The development would deliver a building taller and bulkier than the existing property on site and as such it would result in some loss of light and overshadowing to neighbouring properties. This impact would primarily be to the two adjoining properties to the north, at the rear of the proposal. Any overshadowing would though largely just impact the garden spaces and not significantly overshadow or cause a loss of light to the rear windows of these properties. Given the separation distances to the properties at the rear and land levels, it is not considered that the impact would be significant in terms of loss of light. The two adjoining properties that directly flank the side elevations of the proposal (93 and 97 Marine Drive) have their primary windows site to the front and back facades and overall, the development would not result any significant loss of light to these properties. The depth and siting of the proposed development is not dissimilar from these two adjoining properties and overall, there would not be any significant overshadowing to the gardens of these properties.
- 10.34. Overall, the combination of the scale of the development and the positioning of a number of windows on the rear elevation would undoubtedly create some impact for adjacent occupiers in Lenham Road West. The significance of this impact is noted, however on balance the impact on the amenity of these properties is not considered so significant to justify refusal of the application on amenity grounds subject to the recommended conditions.
- 10.35. In terms of the impact on the residential amenity of occupiers on either side of the development site, the increase in the bulk, form and massing of the property relative to the existing house on site would enclose any side facing windows on neighbouring properties. This would also restrict the levels of light into the side windows on the neighbouring properties. Nevertheless, windows on the side elevations of the neighbouring properties are not likely to serve principal rooms within these developments and therefore the impact on these windows would not be so great as to warrant refusal of the application.
- 10.36. In regards to potential for noise and disturbance, the increase in the number of residential units on site and the subsequent increase in number of occupants would involve some increase in noise levels and general activity arising from the site. This would not however be out of character with the other residential uses which adjoin the application site and is overall considered to be acceptable in this location where other flatted developments exist adjacent to the busy coastal road.

- 10.37. Noise and disturbance through construction is not a material planning consideration for this development.
- 10.38. Overall, whilst acknowledging that the development would impact neighbouring occupiers to a degree, it is considered on-balance that, subject to the recommended conditions the impacts would not be so significant to warrant refusal given the clear public benefits of the redevelopment of the site for additional housing.

### **Sustainable Transport**

- 10.39. There would be no change to the public highway access from the proposed development which would re-use the existing crossover.
- 10.40. Given the marked increase in the number of units being proposed for the site the development is likely to increase the number of trip generations to the site however not to an extent which would cause a capacity issue on the local highway. The Sustainable Transport Team have been consulted on the application and have not raised an objection.
- 10.41. In regard to car parking provision, SPD14 operates maximum parking standards for the city. The applicant is proposing 9 car parking spaces in the lower ground floor, and 3 spaces in the front curtilage of the property. One of these would be a disabled space. This is in accordance with the maximum parking standards set out in SPD 14 and is considered acceptable. Electric Vehicle car charging points would be required to satisfy building regulations.
- 10.42. In regard to cycle parking the applicant is proposing 12 cycle parking spaces on a shared cycle store at the front of the site. The amount and the location of this cycle store is considered to be acceptable. To be in accordance with Policy DM33 of the Brighton and Hove City Plan Part Two cycle parking wherever possible must be universally accessible, undercover secure and well lit and as close to the main entrance as possible. Further details of the cycle storage are recommended to be secured via condition.
- 10.43. Marine Drive is a classified road, and given its significance in the local highway network, the Sustainable Transport Team have requested a Construction Environmental Management Plan (CEMP) which will help to ensure that disruption to the highway network is minimised during the course of the construction process.

### **Sustainability**

- 10.44. The proposed development would make efficient use of land in a sustainable location with good access to public transport and local amenities.
- 10.45. The development does not incorporate sustainable energy technologies which, whilst regrettable, is not a policy requirement for minor development. Policy DM44 of the Brighton and Hove City Plan Part Two requires new build residential to achieve a minimum energy Performance Certificate EPC rating 'B'. This is

proposed to be secured by condition. Water efficiency is also recommended to be secured by condition also.

- 10.46. The development would be required to use a sustainable drainage strategy and this is recommended to be submitted for approval by way of a pre-commencement condition.
- 10.47. A refuse and recycling storage facility is shown the front curtilage of the property which is considered sufficient and acceptable for the development proposed.

### **Ecology and Biodiversity**

- 10.48. The site is in close proximity to the Newhaven cliffs site of Special Scientific Interest (SSSI) which lies 15 metres to the South across the A259. As the proposed development lies within the impact risk zone of the SSSI and the proposed development could impact this area during construction, Natural England were consulted on the application they raised no objection to the development. The County Ecologist has stated that appropriate safeguards could be secured through the Construction Environmental Management Plan for biodiversity (CEMP) and given the proximity of the main road and the inaccessibility of the SSSI, significant impacts on this area are not envisaged in this instance.
- 10.49. The Preliminary Ecological Appraisal (PEA) which assessed the site found moderate bat roost potential. Emergent surveys were subsequently carried out in accordance with best practise, and no bats were recorded emerging from the main dwelling or the garage, and bat activity generally was low. It was recommended that any external lighting should take in accordance with best practice for ecology.
- 10.50. In regards to Biodiversity Net Gain (BNG), the existing site provides very little on-site habitat. The development seeks to provide statutory BNG on site and the County Ecologist is in agreement with the general approach taken for the site. They have also indicated that monitoring of BNG management is not required for this development due to the fact gains will come from modified grassland, trees and hedgerows. A Landscape Management Plan should be monitored for 5 years and this can be secured by condition.
- 10.51. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bees and swifts. It is recommended in the PEA (Preliminary Ecological Assessment) to provide 9 bee bricks which is supported. The PEA specifies 6 swift bricks, but this would need to be increased to 18 to be in accordance with SPD 11 and this is recommended to be secured by condition.
- 10.52. Overall, the proposed development would improve biodiversity and habitat opportunities for the site in accordance with National and Local Planning Policy subject to the recommended conditions.

### **Other Matters Raised in Representations**

- 10.53. Loss of view is not a material planning consideration for this minor application, however the impact on outlook has been fully considered above. Loss of property value is not a material consideration for this application.
- 10.54. The development does not lie within a designated conservation area however the proposal has been fully assessed in terms of its design and appearance and its impact on the local street scene.

## **11. CONCLUSION**

- 11.1. The development is considered to be, on balance, acceptable in terms of the design and scale, and in regards to its impact on occupiers to the rear of the site. Whilst the development would have a strong visual impact, and some impact on neighbouring amenity, neither of these aspects are considered so harmful to justify refusal of the application in this case. Furthermore, any harm much be weighed against the public benefits of the provision of the net gain of 8 residential units, all providing a good quality level of accommodation for future occupiers. Given the City's significant housing shortfall and the engagement of paragraph 11 of the NPPF, the adverse impacts of the scheme would not significantly and demonstrably outweigh the benefits of the scheme overall.
- 11.2. The development would deliver much needed housing and planning conditions are recommended to ensure environmental sustainability and to deliver the improvements to biodiversity and habitat potential.

## **12. BIODIVERSITY NET GAIN**

- 12.1. 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 because none of the statutory exemptions or transitional arrangements are considered to apply.

## **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 that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

- 13.3. Access to the site is steeply sloped from the highway. Level access can be achieved from the car parking area and all floors accessible from the elevator.

#### **14. COMMUNITY INFRASTRUCTURE LEVY**

- 14.1. 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 would be confirmed in the CIL liability notice which would be issued as soon as it practicable after the issuing of planning permission, if granted.

#### **15. S106 AGREEMENT**

- 15.1. In the event that the S106 agreement has not been signed by all parties by the date set out above, the application shall be refused for the following reason:

##### Review mechanism:

1. The proposed development fails to provide a mechanism (via a Section 106 legal agreement) to review the viability of the scheme at a later date to establish whether 40% affordable housing can be provided within it, and to reassess if changes to costs and values would allow for an affordable housing contribution to be provided, contrary to policies SS1, CP1, CP7, CP19, CP20 of the Brighton and Hove City Plan Part One, DM1 of the Brighton and Hove City Plan Part Two, the Council's Developer Contributions Technical Guidance and the NPPF.