

<u>No:</u>	BH2024/02608	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	41 - 44 Western Road Brighton BN1 2EB		
<u>Proposal:</u>	Demolition of the existing buildings and the erection of a new four-storey building plus basement to provide two Class E flexible units and 14no residential dwellings (C3), along with associated cycle parking, storage, amenity and associated works (amended drawings and description).		
<u>Officer:</u>	Mark Thomas, tel: 292336	<u>Valid Date:</u>	06.11.2024
<u>Con Area:</u>		<u>Expiry Date:</u>	05.02.2025
<u>Listed Building Grade:</u>		<u>EOT:</u>	14.03.2025
Agent:	WSP 70 Chancery Lane London WC2A 1AF2		
Applicant:	Rachel Charitable Trust C/O WSP 70 Chancery Lane London WC2A 1AF2		

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 and the following Conditions and Informatives as set out hereunder **SAVE THAT** should the s106 agreement not be completed or substantially progressed on or before 7/1/27 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 12 of this report:

S106 Heads of Terms

- A late-stage viability review to confirm whether a commuted sum amount can be paid towards affordable housing.
- Commitment to enter into a Section 278 agreement for Highway works to footways and carriageway to Clarence Square.
- An Employment & Training Strategy and a Local Employment Scheme contribution of £4400 prior to commencement of development.

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
Block Plan	WRB-AIN-ZZ-ZZ-DR-A-05 011	Rev: P5	16-Apr-25
Report/Statement	Daylight and Sunlight Report		21-Oct-24

Report/Statement	Energy and Sustainability Statement		21-Oct-24
Report/Statement	Financial Viability Assessment		21-Oct-24
Report/Statement	Heritage Assessment		21-Oct-24
Report/Statement	Phase I Contaminated Land Assessment		21-Oct-24
Report/Statement	Planning Statement		21-Oct-24
Report/Statement	Preliminary Ecological Appraisal and Preliminary Roost Assessment		21-Oct-24
Report/Statement	Transport Statement		21-Oct-24
Report/Statement	Noise Impact Assessment Report		21-Oct-24
Report/Statement	Breeam New Construction Report		21-Oct-24
Location Plan	WRB-AIN-ZZ-ZZ-DR-A-05 001	P5	16-Apr-25
Other	WRB-AIN-ZZ-ZZ-DR-A-05 010	P5	16-Apr-26
Proposed Drawing	WRB-AIN-ZZ-ZZ-DR-A-05 001	P7	16-Apr-26
Proposed Drawing	WRB-AIN-ZZ-ZZ-DR-A-05 300	P6	17-Sep-26
Detail	WRB-AIN-ZZ-ZZ-SH-A-05 4001	P5	16-Apr-26
Proposed Drawing	WRB-AIN-ZZ-ZZ-DR-A-05 101	P8	17-Sep-26
Proposed Drawing	WRB-AIN-ZZ-ZZ-DR-A-05 100	P9	03-Feb-26
Proposed Drawing	WRB-AIN-ZZ-ZZ-DR-A-05 102	P8	17-Sep-26
Proposed Drawing	WRB-AIN-ZZ-ZZ-DR-A-05 200	P7	03-Feb-26
Proposed Drawing	WRB-AIN-ZZ-ZZ-DR-A-05 201	P8	17-Sep-26
Proposed Drawing	WRB-AIN-ZZ-ZZ-DR-A-05 500	P5	03-Feb-26
Proposed Drawing	WRB-AIN-ZZ-ZZ-DR-A-05 501	P5	03-Feb-26
Proposed Drawing	WRB-AIN-ZZ-ZZ-DR-A-05 502	P5	17-Sep-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. The works of demolition hereby permitted shall not be begun until documentary evidence has been submitted to and approved in writing by the Local Planning Authority to show that contracts have been entered into by the developer to ensure that building work on the site the subject of this consent is commenced within a period of 6 months following commencement of demolition in accordance with a scheme for which planning permission has been granted.
Reason: As this matter is fundamental to the acceptable delivery of the permission to prevent premature demolition in the interests of the character and appearance of the Conservation Area and to comply with policies DM26 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.
4. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Above Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local

Planning Authority. The development shall then be implemented in accordance with the approved level details.

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with Policies DM18 and DM20 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.

5. No development, including demolition and excavation, shall commence until a Site Waste Management Plan setting out how waste to landfill will be minimised has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

Reason: To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policies DM18 of the Brighton and Hove City Plan Part Two, CP8 of the Brighton & Hove City Plan Part One, WMP3 of the Waste Plan (2013), and RM0 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan.

6. No development shall take place until a Demolition/Construction Environmental Management Plan (DEMP/CEMP) has been submitted to and approved in writing by the Local Planning Authority and the Highway Authority. The scheme 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 DEMP/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.

7. 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/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/details 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 and DM26 of Brighton & Hove City Plan Part 2 and CP15 of the Brighton & Hove City Plan Part One.

8. Prior to works commencing on the roof of the new building, full details of the lift overrun and east and west elevations of the roof shall be submitted to and approved by the Local Planning Authority in writing. Measures taken to minimise the visual impact of the overrun shall be submitted to and approved by the Local Planning Authority in writing. The works shall be carried out in accordance with the approved details. The works 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 and DM26 of Brighton & Hove City Plan Part 2 and CP15 of the Brighton & Hove City Plan Part One.

9. The development hereby permitted shall not be commenced until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, submitted to and been approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

In the event that contamination is found, no development other than that required to be carried out as part of an approved scheme of remediation shall take place until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and be approved in writing of the Local Planning Authority.

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policies DM20, DM40 and DM41 of the Brighton & Hove City Plan Part 2.

10. 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.
11. The development hereby approved should achieve a minimum Energy Performance Certificate (EPC) rating 'B' (for new build residential / non-residential development).
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.
12. Within 6 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built 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
13. Prior to first occupation of the development hereby approved, details of the proposed photovoltaic array referred to in the application including appearance (including protrusion and angle of the PV), siting, layout, number and output shall be submitted to and approved in writing by the Local Planning Authority. The photovoltaic array shall then be installed in accordance with the approved details.
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8, CP15 and CP12 of the Brighton & Hove City Plan Part One and DM26, DM18 and DM44 of the Brighton & Hove City Plan Part Two.
14. Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. This shall also include dimensions of the lift and all doorways and access corridors leading to the cycle store. 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 the Brighton & Hove City Plan Part Two.

15. Prior to the installation of any air source heat pump(s) a detailed scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall specify the appearance, siting and noise levels of the proposed unit(s) and provide details of anti-vibration mounts, or other noise attenuation measures. The scheme shall be approved in writing by the Local Planning Authority and implemented in full prior to first use and thereafter maintained as such.
Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
16. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS4142:2014-A1:2019 (or the relevant updated Standard). In addition, there should be no significant low frequency tones present.
Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
17. 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 first floor windows fronting Western Road are non-opening and fixed shut, ensure compliance with Building Regulations as well as suitable protection in terms of air quality and the ventilation scheme shall be implemented before 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.
18. 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 as per the recommendations of the Sustainable Drainage Report and Flood Risk Assessment received on 15th May 2026 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 Two and CP11 of the Brighton & Hove City Plan Part One and SPD16: Sustainable Drainage.

19. The development hereby permitted shall not be occupied until details showing the type, number, location and timescale for implementation of the compensatory bee bricks, and bird and bat boxes has been submitted to and approved in writing by the Local Planning Authority. This shall include a minimum of 16 bee bricks, 2 integrated bat boxes and 16 swift boxes/bricks. The scheme shall then be carried out in strict accordance with the approved details and shall thereafter retained.
- Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement 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.
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, 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 Brighton & Hove City Plan Part 2, and CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.
21. The dwelling(s) hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans WRB-AIN-ZZ-ZZ-DR-A-05 100 P9 received on 3 February 2026, and WRB-AIN-ZZ-ZZ-DR-A-05 102 P8 and WRB-AIN-ZZ-ZZ-DR-A-05 102 P8 received on 17 September 2026. 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.
22. The wheelchair accessible / adaptable dwelling hereby permitted as detailed on drawing no. WRB-AIN-ZZ-ZZ-DR-A-05 101 P8 received on 17th September 2026 shall be completed in compliance with Building Regulations

Optional Requirement M4(3)(2a) (wheelchair user dwellings - 'adaptable') 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 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 provide an overall mix of units, to comply with policy DM1 of Brighton & Hove City Plan Part 2 and CP19 of the Brighton and Hove City Plan Part 1.

23. No customers shall remain on the Class E premises outside the hours of 07:30 to 22:00 Monday to Friday and 07:30 to 22.30 on Saturdays and 07.30 to 22:00 on Sundays, Bank and Public Holidays. No activity within the commercial units shall take place between the hours of 23.30 and 06.30 daily.

Reason: To safeguard the amenities of nearby occupiers and the locality and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

24. Prior to the first occupation of the development hereby approved a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries will take place, and the frequency of deliveries shall be submitted to and approved in writing by the Local Planning Authority. All deliveries shall thereafter be carried out in accordance with the approved plan.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policy DM33 and DM36 of the Brighton & Hove City Plan Two.

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

Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One and DM42 and DM43 of the Brighton & Hove City Plan Part Two and SPD16: Sustainable Drainage.

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

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with 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.

27. Prior to development commencing, 1:5 scale drawings of the entire north and south elevations of the development shall be submitted to and approved by the Local Planning Authority in writing. The 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 and DM26 of Brighton & Hove City Plan Part 2 and CP15 of the Brighton & Hove City Plan Part One.
28. The commercial floor space as shown on the approved floor plans shall be fully built out to shell and core, including shop front detail and internal services, and shall be made available for use, prior to the occupation of any residential flats on site.
Reason: To ensure commercial offering is retained, and a satisfactory appearance to the development and to comply with policies DM12 of the Brighton and Hove City Plan Part 2 and SA2 and SR4 of the Brighton & Hove City Plan Part One.
29. Other than demolition work, no 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.
30. The noise reduction measures set out in the submitted Noise Impact Assessment Report (KP Acoustics, 09/04/2024) shall be implemented prior to occupation of the residential units hereby approved and thereafter retained.
Reason: To safeguard the amenities of the occupiers of the proposed dwellings and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
31. Prior to the use of the Class E units hereby permitted, detailed drawings demonstrating suitable staff facilities (such as W.C.s and kitchenettes) within the Class E units shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be implemented prior to occupation of the units and thereafter retained.
Reason: To ensure a viable commercial offering is provided, and to comply with policies DM12 of the Brighton and Hove City Plan Part 2 and SA2 and SR4 of the Brighton & Hove City Plan Part One.
32. No development to the Western Road and Clarence Square façade shall take place until full details of all new windows to this façade and their reveals and cills including 1:20 scale elevational drawings and 1:1 scale section details have been submitted to and approved in writing by the Local Planning

Authority. The windows shall be metal with no visible trickle vents, unless otherwise agreed 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 policies DM26 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply. These can be found in the Environment Act 2021.
The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that, unless an exception or a transitional arrangement applies, the planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless:
 - (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
 - (b) the planning authority has approved the plan.
3. Based on current CPZ permit take-up data for parking zone M, the development will not be eligible for parking permits. You are advised that details of the development will be passed to BHCC as Traffic Authority so they can determine prior to first occupation if occupiers should be eligible for residents' parking permits.
4. To align with Policy DM33 of the Brighton & Hove City Plan Part Two, cycle parking must be secure, convenient (including not being blocked in a garage for cars and not being at the far end of a rear garden), accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. The Highway Authority will not approve vertical hanging racks as they are difficult for many people to use and considered to be contrary to local policy and the Equality Act 2010. The LHA approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22. We will also consider other proprietary forms of covered, illuminated, secure cycle storage including the 'slide cycle in' type cycle store seen in railway stations, the 'lift up door' type cycle store, the metal Police approved 'Secure-By-Design' types of cycle store, the cycle 'bunker' type store and the 'two-tier' type system seen at railway stations. Provision should be made for tricycles, reclining cycles and 'cargo bikes'.

5. The applicant is advised that this planning permission does not override the need to go through the Highway Authority's Approval in Principle (AIP) process for all necessary works adjacent to (that is, within 3.66m) and within the highway (including under and over) and gain any appropriate licences, prior to the commencement of any construction works. The applicant is further advised that they must contact the Council's Civil Engineering team (transport.projects@brighton-hove.gov.uk 01273 294570) and Streetworks team (permit.admin@brighton-hove.gov.uk 01273 290729) for further information at their earliest convenience to avoid delay.
6. In the absence of local guidance, the highway authority requests that the applicant consult Transport for London guidance on the contents and production of their CEMP which is described as a Construction Logistics Plan here <https://tfl.gov.uk/info-for/urban-planning-and-construction/transport-assessment-guide/freight> and here <https://content.tfl.gov.uk/clp-guidance-clocs.pdf> Developers are liable to fund highway repairs for damage caused by their construction traffic. Details of haul routes contained within your CEMP, and inspections, will be used to make assessments of any damage caused by your construction. BHCC LHA map the condition of the highways annually and unless you commission a pre-construction highway condition survey you will be bound by the most recent survey.
7. In the absence of local guidance, the highway authority requests that the applicant consult Transport for London guidance on the contents and production of DSMPs <https://content.tfl.gov.uk/delivery-and-servicing-plan-guidance.pdf>
8. Where asbestos is found/suspected on site, it will fall under the Control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: HSE: Asbestos - health and safety in the workplace
9. The applicant should be aware that the site may be in a radon affected area. If the probability of exceeding the Action level is 3% or more in England and Wales, basic preventative measures are required in new houses, extensions, conversions and refurbishments (BRE2011). Radon protection requirements should be agreed with Building Control. More information on radon levels is available at <https://www.ukradon.org/information/ukmaps>
10. The applicant should be aware that whilst the planning permission may be granted, should any complaints be received with regards to noise, odour, fumes or vibration, this does not preclude this department from carrying out an investigation under the provisions of the Environmental Protection Act 1990.

2. SITE LOCATION

- 2.1. The application site comprises a part three / part four-storey building with two frontages, one facing Western Road (41 – 44 Western Road) and the other facing Clarence Square (32 – 36 Clarence Square) in central Brighton. The Western Road frontage includes 2 ground floor retail units with basement storage. These are currently occupied by the Card Factory and Cancer Research UK charity shop. It is stated that the upper floors are empty ancillary storage space for the retail units. The site falls within the Regency Square Conservation Area. The Western Road elevation is designated Prime Frontage in the Regional Shopping Area. The site is also within an Archaeological Notification Area (ANA).
- 2.2. Land levels across the site fall from north to south with Clarence Square being at a lower level than Western Road.
- 2.3. The application property was constructed in phases over the 19th century and at one point comprised around 8 different buildings which have been amalgamated over time resulting in numerous level changes within the building and poor circulation routes. Externally the individual properties are discernible despite the internal planform being convoluted. The buildings have seen significant adaptation and remodelling including a vertical extension and re-fronting and are generally in a poor state of repair. The buildings on the site are not listed.
- 2.4. Clarence Square is laid out formally around a central public garden. Most of the terraced houses around the central garden remain from the original square, and of those that have been developed later, many reflect the original character of the square. In the northeast of the square which backs on to Western Road the properties have a more varied scale and form of development. The buildings are generally three storeys over basement in painted stucco with roofs behind parapets.

3. RELEVANT HISTORY

- 3.1. **PRE2023/00092:** Demolition of the existing building and the erection of a new five-storey building plus basement to provide two Class E flexible units on the ground floor with 16 residential units on the upper floors and to the rear, along with associated parking, storage and amenity. Pre-application advice issued 3/7/2023

4. RELEVANT HISTORY AT OTHER SITES

37 - 39 Clarence Square And 38 - 39 Western Road

- 4.1. **BH2020/03438:** Erection of additional storey and conversion of part lower ground and part ground floor to provide 3no two-bedroom and 2no one-bedroom flats (C3) for net increase of 3no flats, including alterations to shopfront and fenestration to rear. Approved 10/2/2021.

5. APPLICATION DESCRIPTION

- 5.1. Planning permission is sought for the demolition of the existing buildings and the erection of a new four-storey building plus basement. The development would provide two Class E flexible units with a frontage on Western Road and a basement. The remainder of the building would provide 14 residential dwellings (C3), along with associated cycle parking, storage, amenity and associated works.
- 5.2. The application has been amended during the consideration process following comments from the Heritage and Urban Design teams. The principal amendment is that the building has been reduced from a five-storey building to a four-storey building. Other changes include the relocation of the refuse storage space fronting Clarence Square, changes to the parapet wall on Clarence Square, and changes and clarifications in relation to proposed materials and fenestration. The amended drawings have been subject to reconsultation.

6. REPRESENTATIONS

- 6.1. **Five (5)** representations of comment have been received neither supporting or objecting to the application. The comments are summarised as follows:
- The bin area on the east side of the Clarence Square façade is not appropriate, would harm the appearance of the area and be a focus for antisocial behaviour
 - The residents should use the communal bins, and commercial uses use the Western Road elevation
 - Noise and disturbance
 - Adverse impact on the Conservation Area
 - The building is a storey too high and should be reduced to a single mansard roof
 - Temporary acoustic measures should be used to limit the impact of construction on adjoining businesses
 - A detailed demolition plan with full consideration of methods, distance, structural support system, precautionary measures, timings, communication with neighbouring businesses, and monitoring should be prepared prior to determination.
 - Details of the construction process including acoustic impacts should be required prior to determination
 - Windows overlooking the service area of the adjoining bank should be obscured glass and non opening for security reasons
 - Concern over the impact of scaffolding on the security of adjoining bank and impact on ATM features. CEMP must be prepared ahead of determination to address these concerns
 - Car parking should be provided to ensure no detrimental impact on traffic, servicing and access

- 6.2. It should be noted that many of the above comments were made prior to the scheme being amended, including the reduction in the height of the proposal.
- 6.3. **One (1)** representation has been received, following receipt of the amended drawings supporting the proposal for the following reasons:
- The design for Clarence Square is an improvement
 - The proposed railings fronting Clarence Square are welcomed
- 6.4. **Conservation Advisory Group:** Object (Comments made 7/1/2025 prior to further amendments)
- The group endorsed the original comments of the heritage officer (made prior to amendments to the scheme)
 - The proposals are an overdevelopment
 - The proposals would be overly dominant in terms of massing and design
 - The proposed dormers on the mansard roof are too big and fail to respect the hierarchy of the building's fenestration
 - The materials are inappropriate for the context of Clarence Square.
- 6.5. **The Regency Society and Hove Civic Society:** Comment (January 25 prior to amendments)
 Concern about the proposed mansard roofs as seen from Clarence Square. The mansard roof, as presented, is too bulky and a storey too high. The gable end of the double mansard is particularly obtrusive. There is an opportunity to create a more elegant design, more in keeping with the overall design proposals, which could contribute to the architectural quality of the square.
- 6.6. A copy of the representations can be found on the Planning Register

7. CONSULTATIONS

Internal Consultees

- 7.1. **Air Quality Officer:** No Objection
 The proposal does not appear to include air quality consideration, a detailed assessment or a screening exercise. Conditions are recommended relating to the 1st floor north facing windows, which should be limited to purge vents. The development shall not include CHP or new gas fuelled boilers.
- 7.2. **Archaeological Officer:** No Objection
 No significant archaeological remains are likely to be affected by these proposals.
- 7.3. **BHCC Skills and Employment Team:** No Objection
 An Employment & Training Strategy will be required to cover all relevant phases of the project. A developer contribution of £4400 is required prior to site commencement.
- 7.4. **Ecology:** No objection subject to conditions securing biodiversity enhancements such as bee bricks and integrated bat boxes.

7.5. **Economic Development:** No Comment

7.6. **Environmental Health:** No objection

The Noise Impact Assessment completed by KP Acoustics, dated 9th April 2024 has been reviewed and the findings are agreed with. The contaminated land assessment dated June 2024 has not identified any significant contaminated land risks based on the known site history. A watching brief should be observed.

7.7. **Heritage:** No Objection

Final comment: The revised drawings do show a reduced scale of development with one storey less on the south side and narrower dormers which constitutes an improvement on the previous submission and no further objection is raised.

7.8. **Housing:** No objection

Strategic Housing & Development accepts that the proposed scheme does not provide affordable housing due to viability issues. The viability appraisal provided by the developer to support this provision has been independently verified for the council in line with current policy. The development must be subject to a viability review.

7.9. **Net Zero Team:** No Objection

The proposed development demonstrates strong alignment with policy requirements on energy and sustainability. Further clarification or evidence, including full SAP assessments for all units, confirmed EPC ratings, a detailed overheating analysis in line with Part O, and compliance with water efficiency standards is required.

7.10. **Planning Policy:** No Objection but make the following comments:

- There are no concerns regarding the policy requirements for retaining an active street frontage. However, concerns are raised in respect of the viability of the proposed retail units regarding the provision of sufficient storage space and facilities, particularly as the proposed drawings do not show staff facilities such as a bathroom or kitchen for the retail units. The case officer should therefore consider whether the proposed space for the retail units is fit for purpose and impact of viability for future businesses in accordance with CPP2 Policy DM12.
- As the proposal includes a greater proportion of two-bedroom units than one- bedroom, this is welcomed and satisfies the requirements of CPP1 policy CP19.
- The case officer should carefully consider whether an acceptable quality of amenity would be provided by the residential apartments in accordance with CPP2 Policies DM 1, DM20 and DM21, particularly those on the ground floor/basement.
- It will also be necessary to consider any potential noise issues in accordance with CPP2 policy DM40, given the proximity of the residential apartments to the proposed commercial units, which will be in flexible Class E use.

- The application site falls within an Air Quality Management Area (AQMA). It is not clear from the supporting documents how the applicant has specifically addressed air quality issues. As such, the case officer should consider requesting further information in accordance with CPP1 policy SA2 and CPP2 Policy DM40.
- 7.11. **Private Sector Housing:** Comment
There does not appear to be any separation between the open plan lounge/kitchen area and the circulatory space within each unit. As this room is considered a 'high risk' room in case of fire, then the applicant may wish to ensure that adequate fire separation is provided so that the means of escape route is not compromised.
- 7.12. **Sustainable Drainage:** Comment
Further information is required in respect of the Drainage Maintenance Strategy, confirmed final designs, including green roof specifications, and locations and dimensions of all other drainage elements, the results of a CCTV survey or similar confirming the presence, location, capacity and condition of any drainage infrastructure on site, the results of any infiltration testing carried out, contamination risk to groundwater, and how this is proposed to be mitigated, referencing the CIRIA SuDS Manual (C753). Note that this item is not required if infiltration is not proposed. Correspondence with Southern Water, confirming that their sewers can accept all discharge from this development is required. This information may be controlled by planning conditions.
- 7.13. **Transport Planning:** No objection
Acceptable subject to conditions for cycle parking, Delivery and Servicing Management Plan, Demolition and Construction Plan and a S278 minor works agreement to be secured by obligation. Informative regarding the LHA intention to designate the development as permit free, as well as for guidance on Cycle Parking, Demolition and Construction, Delivery & Servicing Management and Approval in Principle should be attached to an approval.
- 7.14. **Urban Design Team:** (comments May 2026) Seek Amendments/ Seek Further Information

Support amendments but still concerned about single aspect units and cornicing design.

External Consultees
- 7.15. **Dixon Searle (for Brighton & Hove City Council):** While the scheme's viability appears to have been significantly understated, and our appraisal demonstrates how the scheme is more likely to be brought forward in our view, our revised outcome overall indicates that the scheme's viability is marginal; the scheme does not appear sufficiently viable to support a contribution towards affordable housing.
- 7.16. **East Sussex Fire and Rescue (ESFR):** No comment

- 7.17. **Environment Agency:** No Objection provided a contaminated land remediation strategy condition is imposed
- 7.18. **UK Power Networks:** Comment There are LV underground cables on the site running within close proximity to the proposed development.
- 7.19. **Southern Gas Networks:** No Objection
- 7.20. **Southern Water:** No Objection
Suggestions made in relation to the existing gravity sewer, proposed Sustainable Urban Drainage System (SuDs), potential for basement flooding, sewage connection, and notification of demolition.
- 7.21. **Sussex Police:** No Objection
Additional measures to mitigate against any identified local crime trends and site-specific requirements should always be considered.

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)

9. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One:

SS1	Presumption in Favour of Sustainable Development
SA2	Central Brighton
SR4	Retail Provision
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
CP15	Heritage
CP19	Housing mix
CP20	Affordable Housing

Brighton & Hove City Plan Part Two:

DM1	Housing Quality, Choice and Mix
DM12	Regional, Town, District and Local Shopping Centres
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM26	Conservation Areas
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

Waste & Minerals Plan Policy

WMP3e	Waste Management in New Development
-------	-------------------------------------

Supplementary Planning Documents:

SPD02	Shop front design
SPD03	Construction & Demolition Waste
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPD17	Urban Design Framework

Other Documents

Regency Square Conservation Area Character Statement

10. CONSIDERATIONS & ASSESSMENT

- 10.1. The main considerations in the determination of this application relate to the principle of the proposed development, design and the impact upon the character and appearance of the surrounding streetscene and the Regency Square Conservation Area, impact on neighbouring residential amenity, housing type and mix, the standard of accommodation proposed, and sustainability, biodiversity and highways implications.

Principle of Development

Principle of the demolition

- 10.2. The council has a statutory duty to preserve or enhance the character or appearance of heritage assets including conservation areas. The site comprises a series of buildings that are not a nationally or locally listed. The loss of historic buildings within a conservation area nonetheless requires

justification. In terms of policy context, Policy DM26 of the City Plan states that the demolition of a building which makes a positive contribution to a conservation area will only be permitted if it has been satisfactorily demonstrated that the building does not have a viable use, having regard to its significance and underlying condition. The NPPF is a material consideration and at HE7 states that where a development proposal would result in the total loss of a non-designated heritage asset, it should only be supported where the harm or loss is outweighed by the benefits of the proposal, having regard to the scale of the harm or loss and the significance of the non-designated heritage asset.

- 10.3. The Design and Access and Heritage Statements submitted with the application detail a comprehensive and robust analysis of the existing building including its historic development. These have been duly assessed by the Heritage team. It is considered that parts of the application site, at least, do make a positive contribution to the Regency Square Conservation Area and therefore, a degree of harm would result to the setting of the area from the building's demolition. There is however evidence of less appropriate alterations to the buildings fronting both Clarence Square and Western Road which have had a considerable impact on the historic character of the building. The poor condition of the Western Road elevation is also noted. The site was originally multiple different buildings. This has resulted in level changes from front to rear, variation in entry points, poor circulation routes and huge variation in floor levels. Today, whilst the retail spaces on Western Road have been well-utilised, the upper floors have been used mostly in an ancillary nature, underused, and have subsequently fallen into disrepair. It is stated that modern standards in relation to daylight, ventilation, and acoustics for both commercial and residential would not be met.
- 10.4. Considering the above, the Heritage Team have not raised an objection to the principle of the demolition, providing that the replacement building is of high aesthetic value and can demonstrate a positive impact on the street scene and wider Regency Square Conservation Area. This is discussed in detail further in this report. It is noted that local amenity societies do not object to demolition in principle. A condition shall secure evidence of contracts for the proposed development prior to any demolition taking place.
- 10.5. On balance therefore, given the above, it is considered that demolition has been justified in this instance, and that the benefits of the scheme as outlined in this report would outweigh the disadvantages of the scheme, in accordance with City Plan policies and the NPPF.

Loss of commercial floorspace

- 10.6. The Western Road frontage is within the designated prime retail frontage of the Brighton Regional Centre outlined in City Plan Part One (CPP1) policy CP4 which seeks to maintain and enhance the retail offer within the city centre. CPP1 Policy SA2 also states that the council will support proposals to improve and refurbish existing retail units and shop frontages in order to maintain the viability and attractiveness of the retail centre. SA2 goes on to state that mixed-use developments will be promoted which retain active

ground floor uses and accord with a range of appropriate city centre uses including residential. Where key policy issues are addressed, the council will welcome proposals to create flats over shops and commercial premises. CPP2 policy DM12 supports policy CP4 and states there is scope for introducing housing on upper floors or to the rear of commercial premises, provided that it does not lead to amenity issues or an unacceptable loss of commercial space and that the commercial uses on the ground floor remain a viable size to include adequate storage space and staff facilities.

- 10.7. The proposal would result in the net loss of 923sqm of commercial floor space. This is due to the loss of commercial floor space converting to residential use on the ground floor to the rear and basement, and the loss of ancillary storage space for the retail uses on the upper floors of the building. The proposed new retail units would provide a total of 301sqm of commercial flexible class E floor space split between the ground floor (fronting Western Road) and basement. The proposal therefore results in a notable loss of commercial floor space when compared to the existing building, however in reference to the policy expectations for new development within the Regional Centre, it is considered that a loss of floor space can be justified providing that the new facilities continue to offer a viable and attractive business offering, particular at ground floor level.
- 10.8. Whilst the amount of floor space is considered acceptable, and an attractive and active frontage would be provided to Western Road, the Planning Policy Officer raised a query over levels of storage and facilities for the new commercial units. Ideally the plans would be marked up with some staff facilities for each unit, the suggested facilities of WCs and kitchenettes would be relatively standard. These would be secured by condition to ensure the long-term viability of these units. Overall, it is considered that the proposal offers two viable retail units with a reasonable capacity at ground floor level with stairs down to a basement area which could be used flexibly for any Class E offering. The development would deliver two modern commercial spaces which is considered to be a welcome offering for future occupation.
- 10.9. Overall, the amount of floor space which would be provided by the commercial offering is considered to be compatible with the expectations of policy SR4 of CPP1 and DM12 of CPP2. It is considered necessary to ensure that the commercial floor space (including staff facilities) and shop front elevations are built out prior to occupation of the residential units to ensure this element of the scheme is delivered appropriately.

Housing

- 10.10. 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 2,498 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%.

- 10.11. 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.
- 10.12. 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.
- 10.13. As noted above, CPP1 policies SA2 and CP4, and CPP2 policy DM12 support housing units in the Regional Centre where an attractive and active ground floor offering would continue to contribute to viability and vibrancy in the city centre. For these reasons there is no objection to housing units on the site. The proposal would result in a net gain of 14 new dwellings. Increased weight is given to housing delivery as the council is currently unable to demonstrate a five-year housing land supply.

Design and Heritage

- 10.14. The site is in a prominent location in central Brighton with frontages on to Clarence Square and Western Road. Both frontages lie within the Regency Square Conservation Area.
- 10.15. When considering whether to grant planning permission for development in a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Case law has held that the desirability of preserving the character or appearance of a conservation area must be given "considerable importance and weight".
- 10.16. The demolition of the buildings on the site is considered to be justified as set out above. Following concerns from officers, the scale of the development has been reduced from a five-storey (plus basement) building to a four-storey building (plus basement). This has been achieved by removing the top level of the mansard roof. Nevertheless, the proposal would still represent a distinct increase in height and scale compared to the existing building. The height represents an increase from three storeys on the Western Road frontage and two to four storeys on the Clarence Square frontage to a total of four storeys on the Western Road frontage (plus basement) and four storeys plus basement on the Clarence Square frontage.
- 10.17. The top floor would be set back as a mansard roof construction when viewed from Clarence Square whereas from Western Road it would appear as a full additional storey. The mansard roof would be clearly visible from the south side of Clarence Square and the approach from Russell Square, however, given its set back, the overall scale and massing is now considered to be

acceptable. The new building would not appear unduly tall or bulky when viewed in context with the neighbouring properties. The Heritage Officer and the Urban Design officer are supportive of this reduction in height.

- 10.18. The amended plans have also addressed the concerns relating to the oversized dormers. These have been reduced in height and width to demonstrate due subservience to the fenestration on the lower levels of the building. The Planning Statement gives detailed justification to the design approach for the scheme, and the amended plans show the building would deliver a successful frontage to Clarence Square and a good relationship to the adjoining properties.
- 10.19. Whilst the Clarence Square elevation is more sensitive due to the historic character of the wider square, the Western Road elevation is also within the Conservation Area, and as a principal shopping street in the centre, also requires careful design consideration. The revised height means the development would have a better relationship with the existing buildings in the street scene. Over the course of the application, the windows on the Western Road elevation have been reduced in size to better match the window proportions of adjacent properties. In all other respects the contemporary design of the development is appropriate to this location on the street. The Heritage officer has welcomed the pattern of projecting bays which are seen as a contemporary response to the Western Road elevation.
- 10.20. The Clarence Road frontage would be formed using a white wire cut brickwork, and a beige lime render. A grey slate roof is proposed. The window frames, including the dormer windows, are proposed as a double glazed aluminium in a light bronze colour set within a recessed lime render and a natural stone cill. The bays would be pre-cast concrete in a natural stone colour. The applicant has made some minor, but significant improvements to overhangs to assist with drainage and protection of the façade.
- 10.21. The Western Road elevation would be finished in render, with natural stone linear banding and a soldier course which would align through with the detailing on adjacent buildings. Again, contemporary aluminium framed windows with a light bronze colour would be used on this elevation. As with the Clarence Road elevation anodized aluminium details are proposed for rainwater and drip details for the overhangs.
- 10.22. The proposed new shop fronts are considered well detailed and follow the design advice outlined in SPD02: Shopfront Design. Welcome features include the solid brick stall riser, shop windows to extend the full height to the bottom edge of the fascia and to be divided vertically with mullions for a vertical emphasis and rhythm, a centrally recessed entrance door with tiled flooring would also be included.
- 10.23. Whilst the material schedule put forward by the applicant is considered broadly acceptable, full samples and large scale details shall be secured by condition due to the sensitive location and prominence of the new building.

- 10.24. The proposal would be a well-considered contemporary scheme which would be sympathetic to its setting and wider historic context. Overall, the development is considered to comply with CPP1 policy CP15 and CPP2 policy DM18, DM26 which seeks to secure strong urban design which appropriately preserves and enhances heritage assets, and the aims of the NPPF.

Standard of Accommodation

- 10.25. Policy DM20 of the CPP2 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:

Unit	Floor	Unit Type	Gross Internal Area
00.01	LGF and GF	3 bed 5person	107sqm
00.02	LGF and GF	2 bed 4p	86sqm
01.01	First Floor	1 bed 2p (M4(3))	76sqm
01.02	FF	2 bed 4p	70sqm
01.03	FF	2 bed 4p	71sqm
01.04	FF	2 bed 4p	76sqm
02.01	Second Floor	2 bed 3p	76sqm
02.02	SF	2 bed 4p	70sqm
02.03	SF	2 bed 4p	71sqm
02.04	SF	2 bed 4p	76sqm
03.01	Third Floor	1 bed 2p	53sqm
03.02	TF	2 bed 4p	70sqm
03.03	TF	2 bed 4p	71sqm
03.04	TF	1 bed 2p	50sqm

- 10.26. The submitted information shows that the new residential units would meet minimum standards in relation to the NDSS. The gross internal areas of each unit including the sizes of bed space and storage areas show compliance with the minimum space standards.
- 10.27. In addition to the NDSS, consideration must also be given to the standard of accommodation for new residents in relation to light and outlook. The flats would be single aspect. Observations made during the pre-application process, and made by the Urban Designer through consultation on this application, stated that the applicant should explore a dual aspect development. Although single aspect flats do inherently deliver some gloomier internal spaces, the constraints of the site and its two frontages would make dual aspect units difficult to achieve in this instance. Generally, the new flats would be served well in terms of light and outlook. Whilst the units on the ground and basement do however suffer from more restricted levels in this regard, the amended scheme does improve the situation compared to the initially submitted drawings by removing the bin storage area which was immediately adjacent to the ground floor windows of duplex 00.02. This improves both the light and outlook to this property. Given the standard of

accommodation delivered overall would be adequate, economised levels of light and outlook can be accepted for the duplex units, especially within an area of tight urban grain and in a central location in the city, where basement flats are a common source of residential accommodation.

- 10.28. Furthermore, in terms of the Daylight and Sunlight analysis, there is only one bedroom within the whole development (bedroom 1 in Unit 2 at basement level) that does not achieve compliance with the BRE targets. 44% of the area of this room would receive adequate lux levels, which is under the 50% BRE target. However, the other bedroom in this unit, and the main Living/ Kitchen/ Dining space at ground floor (which is the main habitable space) meet the BRE targets. The overall level of compliance with the BRE guidelines is considered to be reasonable for an urban setting.
- 10.29. 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. Unit 1, a duplex apartment fronting Clarence Square would benefit from a small front patio area at basement level and the top floor flats fronting both Clarence Square and Western Road would have small front roof terraces. The other apartments have no access to private amenity space. The lack of amenity space for all units is regrettable, however the proximity to Clarence Square and the seafront are noted, and it is not considered that the lack of amenity space would be a justifiable reason for refusing the development in this instance.
- 10.30. It is also necessary to consider any potential noise issues in accordance with CPP2 policy DM40 given the proximity of the residential apartments to the proposed commercial units which will be in a flexible class E use. The residential flats will also be in close proximity to the existing Class E units adjacent to the site. The Environmental Health Team have not objected to the development but it is considered that a condition ensuring the noise reduction measures set out in the Noise Impact Assessment Report submitted with the application are installed.
- 10.31. As a new build development, with a fabric first approach to design, the development can meet the required standards in terms of soundproofing. Notwithstanding this, given no end-user is established at this stage for the commercial space, and given the flexibility of uses permitted within the Class E use class, it is considered necessary to impose a condition relating to the opening hours of the commercial units to ensure the future occupiers of the residential units are not adversely affected by early morning or late night business activity including deliveries.

Impact on Amenity

- 10.32. Policy DM20 of the City Plan Part 2 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.

- 10.33. The proposal represents an increase in the scale and massing compared to the existing building, with potential impacts on neighbouring occupiers in terms of outlook and sunlight and daylight. The amended plans which have reduced the scale of the building have also reduced potential impacts in this regard. The application is accompanied by a daylight and sunlight analysis which demonstrates compliance with the Building Research Establishment (BRE) figures and shows the development will not have a significant impact in terms of loss of light and overshadowing to neighbouring properties. There are some minor impacts identified in respect of loss of daylight, however the majority of windows serving neighbouring properties are unaffected, and the degree of harm on the impacted windows is not shown to be significant.
- 10.34. With the increase in the height of the new building, compared to the existing structure, the outlook of neighbouring properties would be impacted by additional built form, however given the tight urban grain of the application site and its surroundings, there is not considered to be a significant impact in relation to outlook and or increased sense of enclosure.
- 10.35. In terms of overlooking and impacts relating to privacy, the development is not considered to have a significant impact on neighbouring properties. The residential units proposed have outlook over Western Road or Clarence Square and side facing windows are not proposed as part of the development.
- 10.36. In regard to impacts in relation to noise and disturbance from the new development, this is a central location in the city and commercial and residential premises can generally operate without harm to residential amenity or indeed to commercial amenity for adjoining businesses. Although the additional residential units on the site would increase the amount of activity associated with the site, it is considered that the proposal will not result in a significant increase in noise levels associated with the site. The Noise Impact Assessment submitted with the application has been reviewed by the Environmental Health Team who are in agreement with the findings.

Housing Mix

- 10.37. City Plan policies do not specify a required housing mix, however Policies DM1 and CP19 state 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.
- 10.38. The units are made up of 3 x 1 bed (incl one Mobility unit), 10 x 2 bed and 1 x 3 bed.
- 10.39. Supporting paragraphs 4.213 and 4.214 of CP19 states there is an identified lack of larger family type of dwellings in the city, and highlights that the greatest demand is for two and three bedroom units. Given that the works are a redevelopment site in a central location, it follows that larger family units maybe be less suitable for the locality. In any case, as the proposal includes a greater proportion of two-bedroom units than one-bedroom units, it

is considered that the mixed proposed is broadly acceptable and satisfies the requirements of policy CP19. The Housing Team raise no objection to the development.

Affordable Housing

- 10.40. CPP1 policy CP20 requires an affordable housing contribution on all developments that create 5 homes or more. This policy position is justified by the high affordable housing need in the city combined with the physical restraints of developing. Commuted sums for smaller developments or where providing homes on site proves unviable are used to expedite affordable homes elsewhere in the city through a range of initiatives. Current policy requires 40% onsite affordable housing on all developments providing 15 or more dwellings; 30% on site or as a commuted sum between 10-14 dwellings and 20% as a commuted sum only for 5-9 dwellings.
- 10.41. Over the course of the application, the development proposal has been amended from 16 to 14 flats meaning 30% affordable housing (4 units) is the policy compliant position. The proposal includes no affordable housing provision (either on-site or as a financial contribution) and a financial viability report has been submitted which demonstrates that the provision of any affordable housing contribution is not viable. This has been independently assessed on behalf of the Council by Dixon Searle and is accepted in line with council policy. The scheme will be subject to a late-stage viability review upon occupation of 75% of the units, secured by a S106 agreement.

Sustainable Transport

- 10.42. National and local planning policies seek to promote sustainable modes of transport and to ensure highway safety. The NPPF states that the use of sustainable modes of transport should be pursued. Policy CP9 requires all new major developments 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.
- 10.43. A proposed cycle store is shown in the basement and provision of 4 Sheffield stand spaces and 20 two-tier racks. 24 cycle parking spaces are proposed. This is seen as an acceptable solution for a constrained site, but dimensions of the lift and all doorways and access corridors as well as dimensions of the bike store itself are requested to be secured by cycle parking scheme condition.
- 10.44. The site lies within Controlled Parking Zone M (CPZ M). No on-site parking is proposed for the site and Zone M is close to capacity threshold. This application is presented as car-free, and the Highway Team have requested the development is made permit free. The Highways Authority administer and manage the CPZ and an informative to this effect shall be imposed.
- 10.45. Policy SPD14 sets out that blue badge parking should be provided for the commercial element of this proposal. There is no reasonable way to secure this provision in the constrained city centre location on Western Road, and so

regrettably in this instance the standard in relation to blue badge parking will not be met.

- 10.46. In regard to delivery and servicing, it would be via an existing loading bay in Western Road for the commercial premises which is a continuation of the current situation. An intensification of trip generations associated with the end use of the site can be expected, however the existing highway network would not be unduly impacted and this is a highly sustainable location in the centre of the city with a significant number of sustainable transport options open to residents, visitors and customers of the retail units. A Delivery and Service plan shall be secured by condition.
- 10.47. The Highways Team note that the footway immediately fronting the development on Clarence Square is likely to be degraded by the demolition and construction of the development. For this reason a scheme of minor works to the highway will be required. These remedial works will be secured through a section 278 minor works agreement secured by way of a planning obligation. A CEMP is also recommended to be secured via condition, given the constraints of the site.

Sustainability and Energy Efficiency

- 10.48. The proposed development would make efficient use of land in a sustainable location with good access to public transport and local amenities. The submitted drawings show the use of air-source heat pumps, waste water recovery systems and solar PV panels as part of the development. This approach is welcomed.
- 10.49. CPP1 policy CP8 states that the council will seek that all new development incorporates sustainable design features to avoid expansion of the city's ecological footprint. In addition, policy D44 of CPP2 requires all major residential and non-residential development to submit an energy statement to provide details of the building fabric efficiency and low and zero carbon technologies and to estimate the CO2 savings that will be achieved. In regard to the Circular Economy and Embodied carbon, the Design and Access Statement specifies that the scheme aims to prioritise reused, recycled, recyclable, or compostable materials. It also seeks to design out superfluous materials, minimise waste, reduce the risk of damage during installation, use and disassembly,
- 10.50. Additionally, as outlined in the Energy Statement, the design team intends to adopt construction techniques with lower embodied carbon, including the use of steelwork and lightweight concrete floor slabs. The Net-Zero Team have reviewed the information and raise no objection to the development.
- 10.51. The supporting energy and sustainability statement details how the proposal will achieve at least a 64% improvement on the carbon emissions targets set out by part L (2021) using high efficiency heat pump-driven heating system and roof mounted solar PV panels. The new retail units on the ground floor will be designed in accordance with the BREEAM rating very good. It is

considered that the proposal satisfies the requirements of policy CP8 of CPP1 and policy DM44 of CPP2.

- 10.52. The development would be required to use a Sustainable Drainage Strategy (SuDS) and this can be submitted for approval by way of a pre-commencement condition.

Air Quality

- 10.53. The application site falls within an Air Quality Management Area (AQMA). CPP1 policy SA2 states that new development in central Brighton should consider the impact on local air quality and that improvements or mitigation should be sought wherever possible. In addition CPP2 policy DM40 states that proposals liable to cause or be affected by pollution will be required to provide an air quality management assessment to consider both the exposure of future and existing occupants to air pollution and the effect of the development on the air quality of the area.
- 10.54. The application is considered to be limited in this regard which is regrettable. Nevertheless, the Air Quality Officer has not objected to the development and has suggested conditions in order to ensure an acceptable exposure for future existing occupants it is considered appropriate to seek this further information by way of a pre-commencement condition post determination of this planning application.

Waste Management

- 10.55. Policy WMP3a of the Waste and Minerals Plan requires proposals for new development to identify the location and provision of facilities intended to allow for the efficient management of waste the location of bin stores and recycling facilities.
- 10.56. Initially the application proposed to repave the communal refuse point on Clarence Square with new walls and railings to improve the appearance of this facility. Representation from members of the public made on the application concerning the existing waste facilities has been noted. In addition, this proposed location for the refuse also compromised some of the outlook and light which would be achievable to the ground floor and basement rooms in the new residential development. The bin storage area has now been moved to the adjacent to the main entrance on Clarence Square. This is preferable, however careful consideration must be given to the design and appearance of this facility given the prominence of the location. Further information is sought by condition.

Ecology and Biodiversity

- 10.57. The site is located in a densely developed urban location within central Brighton. It comprises only buildings and hardstanding. Given the nature, scale and location of the proposed development, the Ecologist has confirmed there are unlikely to be any significant ecological impacts on designated sites.
- 10.58. The buildings have some pitched and tiled roofs with voids. A Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment was submitted.

A bat emergence study was then commissioned due to the numerous gaps underneath the clay roof tiles which could be suitable for crevice-dwelling bat species. However, no evidence of bats was recorded.

- 10.59. 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. The Ecologist has suggested conditions in relation to ecological enhancements measures, landscape planting of wildlife value, 16 swift bricks, 16 bee bricks and two integrated bat boxes. Ground level planters, and two small trees fronting Clarence Square are also proposed.
- 10.60. In regards to Biodiversity Net Gain (BNG), the existing site provides very little on-site habitat. The Ecologist is in agreement that the development would be de minimis in respect of ecology and therefore no statutory BNG would be sought in this instance.
- 10.61. Overall the proposed development presents an opportunity to improve biodiversity and habitat opportunities for the site in accordance with National and Local Planning Policy.

Other Matters Raised in Representations

- 10.62. There has been representation made regarding the impact of the construction of the development, and the impact of the additional residential use on the local businesses. Some amount of disruption would be inevitable due to the extent of the demolition required, the size of the replacement building and the proximity of neighbouring properties. The impacts of this can be reduced through a robust DEMP/CEMP which is secured by condition. It is not considered reasonable to secure this information prior to determination of the application, as much of the information required would only be available closer to the time of construction and when building contracts have been advanced. The impact on the adjoining ATM bank machine would require management between the parties impacted and the developer.
- 10.63. It is not considered that the provision of additional flats on site would result in security concerns for the local bank. Such uses are compatible in an urban environment and the outlook from the new flats are to the front and rear of the site and not directly into the adjoining buildings. The relationship would be relatively standard for an area of tight urban grain.

Conclusion

- 10.64. The demolition of the existing building has been justified in this instance and there is no objection to this approach from a heritage perspective. Weight is given to housing delivery, and the advantages of the scheme are considered to satisfactorily outweigh any heritage harm. The proposed replacement building has been significantly reduced in scale and would provide a well-designed and sustainable building which would deliver much needed housing and contribute two modern and attractive retail units. Careful control of the materials would ensure that the development has an acceptable and positive impact on the Regency Square Conservation Area.

- 10.65. The development would not have a significant impact on the residential amenity of neighbouring properties, and the CEMP and DEMP can minimise the noise and disruption through the demolition and construction phase. The new building also offers an opportunity to secure some biodiversity opportunities. With a legal agreement to secure highway works, a financial contribution to the Employment & Training Strategy, and for a late-stage viability assessment for affordable housing, the recommendation is to grant planning permission subject to a S106 agreement and relevant planning conditions.

11. COMMUNITY INFRASTRUCTURE LEVY

- 11.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 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.

12. EQUALITIES

- 12.1. 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.
- 12.2. 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.
- 12.3. Level access can be achieved from Clarence Square to the residential units, and all floors accessible from the lift. A wheelchair accessible unit is proposed on the first floor and all other units shall meet Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings).

13. REASONS FOR REFUSAL IF SECTION 106 NOT SIGNED

- 13.1. 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 reasons:
1. The proposed development fails to provide a mechanism by which to secure affordable housing, contrary to Policies CP7, CP20 and DM1 of the Brighton & Hove City Plan and the City Council's Developer Contributions Technical Guidance.
 2. The proposed development fails to provide a mechanism by which to secure an Employment and Training Strategy and a contribution towards the Local Employment Scheme, contrary to Policy CP7 and SA6 of the City Plan Part One and the City Council's Developer Contributions Technical Guidance.
 3. The proposed development fails to provide a mechanism by which to secure necessary highway works to the footways and carriageway to Clarence Square, contrary to Policies CP7, CP9 and DM33 of the Brighton and Hove City Plan and the City Council's Developer Contributions Technical Guidance.

