

<b><u>No:</u></b>	<b>BH2022/03385</b>	<b><u>Ward:</u></b>	<b>Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>239 - 243 Kingsway Hove BN3 4HE</b>		
<b><u>Proposal:</u></b>	<b>Application to vary Condition 2 of planning permission BH2018/00937 (allowed on appeal), as amended by BH2022/00541, to allow amendments to approved drawings, to vary Condition 8 (Disability access) to refer to Part M4(3)(2a) of the building regulations, to vary Conditions 12 (Cycle Parking), and 13 (Electric Vehicle Charging) to refer to approved details and to vary Condition 26 (Unit numbers) to refer to 33 units.</b>		
<b><u>Officer:</u></b>	<b>Wayne Nee, tel: 292132</b>	<b><u>Valid Date:</u></b>	<b>28.10.2022</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>27.01.2023</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>EOT:</u></b>	<b>02.05.2023</b>
<b><u>Agent:</u></b>	<b>Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD</b>		
<b><u>Applicant:</u></b>	<b>239 Kingsway Hove Ltd C/o Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD</b>		

## 1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	P_112		28 October 2022
Proposed Drawing	P_201		28 October 2022
Proposed Drawing	P_202		28 October 2022
Proposed Drawing	P_203		28 October 2022
Proposed Drawing	P_204		28 October 2022
Proposed Drawing	P_205		28 October 2022
Proposed Drawing	P_221		28 October 2022
Proposed Drawing	P_222		28 October 2022
Block Plan	P_101		28 October 2022
Proposed Drawing	P_211	02	30 May 2023
Proposed Drawing	P_212	02	30 May 2023
Proposed Drawing	P_113	01	30 May 2023
Proposed Drawing	P_114	02	30 May 2023
Proposed Drawing	7127-L(01)003	E	10 May 2023

2. Not Used
3. The development shall be implemented in accordance with the ground level details as approved under application BH2022/00727.  
**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.
4. The development shall be carried out in accordance with the Construction Environmental Management Plan as approved under application BH2022/00420.  
**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.
5. The development shall be carried out in accordance with the materials details as approved under application BH2022/01472 and retained as such thereafter.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies DM18 & DM26 of Brighton & Hove City Plan Part 2 and CP12 & CP15 of the Brighton & Hove City Plan Part One.
6. The approved surface water drainage system shall be implemented in accordance with the approved scheme under application BH2022/01897.  
**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.
7. The development shall be carried out in accordance with the approved method statement under application BH2022/00457. The party wall and any associated works shall be completed within one month of the demolition of 243 Kingsway.  
**Reason:** To protect the amenity of neighbouring occupiers, to comply with Policies DM20 and DM21 of the Brighton and Hove City Plan Part Two.
8. The wheelchair accessible / adaptable dwelling(s) hereby permitted as detailed shall be completed in accordance with the following;
  - a) all private residential units and all affordable units not covered by part b) below 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.
  - b) all residential units where the Council is responsible for allocating or nominating the occupier shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings -

'accessible') 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 comply with policy DM1 of Brighton & Hove City Plan Part 2.

9. The development hereby permitted shall not be occupied until all dwellings have been completed in accordance with Building Regulations Optional Requirement G2 Regulation 36(2b) to achieve a water efficiency standard using not more than 110 litres of water per person per day maximum indoor consumption.

**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.

10. The development hereby permitted shall not be occupied until the refuse and recycling facilities have been installed and shall thereafter be retained for use by all occupants.

**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 development hereby permitted shall not be occupied until a Car Park Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of how each car parking space will be allocated and managed and measures to ensure that each car parking space is for the sole use of its allocated owner and/or those they permit to use said space. The approved Plan shall be implemented prior to occupation of the development and thereafter retained.

**Reason:** In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policies DM20, DM33, and DM40 of Brighton & Hove City Plan Part 2.

12. The approved cycle storage facilities shall be implemented prior to first occupation of the development and thereafter retained.

**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.

13. The approved electric vehicle charging points shall be installed prior to first occupation of the development and thereafter retained.

**Reason:** To ensure the promotion of safe, active and sustainable forms of travel and comply with policies DM35 of Brighton & Hove City Plan Part 2, and CP9 of the Brighton & Hove City Plan Part One.

14. The development hereby permitted shall not be occupied until a scheme for landscaping and enhancement of the nature conservation interest of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of hard surfacing, details of boundary treatments and details of proposed planting, including numbers and species of trees and other plants. All hard landscaping and boundary treatments shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding and turfing included within the approved scheme shall be carried out in the first planting and seeding seasons following first occupation of the development or the completion of the development, whichever is sooner. Any trees or other plants which, within a period of five years from the first occupation of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

**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.

15. The development hereby permitted shall not be occupied until details of the external lighting of the site have been submitted to and approved in writing by the Local Planning Authority. The details shall include information on the predicted illuminance across the site and immediately adjacent properties. The approved lighting shall be installed prior to first occupation of the development hereby permitted and maintained and operated thereafter in accordance with approved details.

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

16. The development hereby permitted shall not be occupied until details of the photovoltaic array referred to in the Energy Statement has been submitted to and approved in writing by the Local Planning Authority. The photovoltaic array shall be installed prior to first occupation of the development and thereafter retained.

**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 and CP12 of the Brighton & Hove City Plan Part One.

17. The development hereby permitted shall not be occupied until the balcony louvres shown on the approved plans have been installed, and the louvres shall thereafter be retained.

**Reason:** To protect the amenity of neighbouring occupiers, to comply with Policies DM20 and DM21 of the Brighton and Hove City Plan Part Two.

18. The development hereby permitted shall not be occupied until details for privacy screening of those parts of balconies facing west have been submitted to and approved in writing by the Local Planning Authority. The privacy screening shall be installed prior to first occupation and thereafter retained.  
**Reason:** To protect the amenity of neighbouring occupiers, to comply with Policies DM20 and DM21 of the Brighton and Hove City Plan Part Two.
19. Not Used
20. The vehicle parking area hereby approved 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 permitted.  
**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
21. No cables, wires, aerials, pipework, meter boxes or flues other than as shown on the approved drawings shall be fixed to any external façade of the development hereby permitted.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies DM18 & DM26 of Brighton & Hove City Plan Part 2 and CP12 & CP15 of the Brighton & Hove City Plan Part One.
22. Other than where indicated to be used as balconies on the approved drawings, access to the flat roofs of the development hereby permitted shall be for maintenance or emergency purposes only and the flat roofs 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.
23. All external ground floor hard surfacing within the development hereby permitted shall be made of porous materials.  
**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.
24. Noise associated with plant and machinery incorporated within the development hereby permitted shall be controlled such that the rating level measured or calculated at 1 metre from the façade of the nearest noise sensitive building shall not exceed a level 5dB below the existing LA90 background noise level. The rating level and existing background noise levels are to be determined in accordance with the guidance provided in BS 4142:1997.  
**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.
25. Not Used
26. The development (ref. BH2018/00937) shall provide 33 no. dwellings (C3).

**Reason:** To ensure that the Local Planning Authority retains control over the density of the development, the proposed standard of accommodation and any impacts arising from the overall scale of development.

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 advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.

## **2. SITE LOCATION**

- 2.1. The application relates to a plot of land previously containing 3 dwellings, situated on the corner of Kingsway and Braemore Road. It is a prominent corner site on the main seafront route through Hove, and is visible from the Western Lawns and seafront area on the southern side of Kingsway.
- 2.2. The character of the surrounding area is predominantly residential, with a mix of purpose built blocks of flats at the southern end of streets generally typified by semi-detached houses, as well as some detached properties.
- 2.3. To the north of the site, there are two-storey residential properties fronting onto Braemore Road. To the west, the remaining properties on the block face onto Kingsway, comprising of a pair of semi-detached houses and a detached house on the corner of Kingsway and Berriedale Avenue. To the east is Braemore Court which is an 8 storey block of flats.
- 2.4. The site is not in a conservation area and does not contain any listed buildings. The Western Lawns opposite the site are identified on the Council's local list of heritage assets, and the historic shelters on Western Esplanade to the south are grade II listed. The nearest conservation area is the Sackville Gardens Conservation Area, visible from the site along Kingsway to the east.

## **3. RELEVANT HISTORY**

### **BH2022/03639**

- 3.1. Non-material amendment to application BH2018/00937 (allowed on appeal) to change the material for the feature band to allow for the use of render - Approved 16/12/2022

### **BH2022/00541**

- 3.2. Non-material amendment to application BH2018/00937 (allowed on appeal) to amend development description to: Demolition of the existing dwellings and

erection of an eight storey building to provide self-contained flats (C3), with associated access, parking and landscaping - Approved 15/03/2022

**BH2018/00937**

- 3.3. Demolition of existing buildings and erection of an eight-storey building to provide 37no residential dwellings (C3) with associated access, parking and landscaping - Refused 09/08/2019 (Appeal Allowed following a Hearing 18/12/2020)

**4. APPLICATION DESCRIPTION**

- 4.1. Planning permission is sought to vary the following conditions of planning application BH2018/00937 (allowed on appeal):
- Condition 2 - to allow amendments to approved drawings in terms of internal layout and outdoor space layout, in order to allow for the proposed variation of the below conditions.
  - Condition 8 (Disability access) - to refer to Part M4(3)(2a) of the building regulations, rather than M4(3)(2b) compliant.
  - Conditions 12 (Cycle Parking) - submission in order to approve details of condition
  - 13 (Electric Vehicle Charging) - submission in order to approve details of condition
  - Condition 26 - (Unit numbers) to refer to proposed 33 units rather than 37 units.
- 4.2. The application originally proposed the variation of Condition 14 (landscaping), however this has subsequently been withdrawn from the application.

**5. REPRESENTATIONS**

None received

**6. CONSULTATIONS**

External

6.1. **County Archaeologist: No Objection**

Although this application is situated within an Archaeological Notification Area, based on the information supplied, I do not believe that any significant archaeological remains are likely to be affected by these proposals. For this reason I have no further recommendations to make in this instance.

6.2. **County Ecologist: No Objection**

The proposed condition variation can be supported from an ecological perspective. The proposed annual maintenance of bird boxes i.e. their cleaning out in winter, is supported and should ideally be incorporated into any grounds/facilities maintenance plan for the development.

6.3. **Sussex Police: No Objection**

No concerns over the variation of the above conditions other than to provided comments concerning Condition 12 - cycle parking.

- 6.4. It is noted that only a percentage of the proposed cycle storage has controlled entry. They are at present vulnerable to attack and theft and require more robust measures to secure them, given their location adjacent to the uncontrolled entrance into the development from Braemore Road. In order to provide a safe and secure environment for the resident cycles. Sussex Police direct the applicant to SBD Homes 2029 V2 chapter 56 for cycle security advice.
- 6.5. **Southern Water:** No Objection
- Internal
- 6.6. **Planning Policy:** Comment  
The wording of DM1 was amended at the CPP2 Main Modifications stage to bring it in line with Part M4(3) of the Building Regulations and Planning Practice Guidance on Housing: Optional Technical Standards (paragraph 56-009).
- 6.7. **Sustainability:** No Objection  
The applicant is requested to confirm that the hard surfacing materials will be porous, and to give details of the proposed maintenance of the planting. Otherwise these proposals are adequate and condition 14 may be discharged.
- 6.8. **Sustainable Drainage:** No Objection  
The team can recommend this application for approval, as the proposed amendments to plans do not significantly affect drainage strategy or flood risk.
- 6.9. **Transport:** Comment  
Initial Comments  
Condition 12 (Cycle parking) - Whilst the proposed provision complies with SPD14, as per previous comments provided by the LHA on the BH2018/00937 application, we expect at least 40% - 50% (i.e., 18 -23 spaces) of the total cycle parking provision to be provided in the format of universally accessible Sheffield stands, in the interests of facilitating access to cycle parking for all types of cyclists. This is necessary to meet the "readily accessible" and "convenient" criteria set out in policy TR14. The submitted plans show aisle widths between the two tier stands which are considered too narrow, neither 2.5m or 3.2m in width.
- 6.10. Condition 13 (Electric Vehicle Charging Provision) - Whilst the applicant's proposed 10% electric vehicle charging provision is welcomed from an SPD14 policy compliance perspective, the Local Highway Authority would like to draw the applicant's attention to changes to the Building Regulations which affect electric charging provisions for residential developments. The applicant should provide active electric vehicle charging provisions in line with building regulations and the Council's 2030 Net Zero aspiration.
- 6.11. Condition 26 (33 units) - Acceptable, the reduction of residential units from 37 to 33 will result in a reduction of trips generated by the site, which is welcomed by the LHA.



### Further Comments

- 6.12. Condition 12 (Cycle parking) - Sheffield stands make up 52% of provision. However, 8 spaces are demarcated as short-stay visitor provision, the remaining 18 universally accessible spaces account for 36% of the long-stay provision. On balance, the total site provision will deliver 50% Sheffield stands, which is accepted.
- 6.13. Furthermore, the applicant has confirmed the provision of additional Sheffield stands (as requested previously by the LHA) would result in a large reduction of cycle parking for the site which would be impactful, so the proposed two-tier provision is accepted in this instance.
- 6.14. Condition 13 (Electric Vehicle Charging Provision) - The applicant has stated in their response that the development was registered under previous regulations and therefore Part S does not apply.

## **7. MATERIAL CONSIDERATIONS**

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
- Brighton & Hove City Plan Part Two (adopted October 2022);
  - Brighton & Hove City Plan Part One (adopted March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour Joint Area Action Plan (adopted October 2019)
- 7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## **8. POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part Two:

DM1 Housing Quality, Choice and Mix  
DM18 High quality design and places  
DM20 Protection of Amenity  
DM22 Landscape Design and Trees  
DM26 Conservation Areas  
DM29 The Setting of Heritage Assets

DM33 Safe, Sustainable and Active Travel  
DM35 Travel Plans and Transport Assessments  
DM36 Parking and Servicing  
DM37 Green infrastructure and Nature conservation  
DM40 Protection of the Environment and Health - Pollution and Nuisance  
DM43 Sustainable Drainage  
DM44 Energy Efficiency and Renewables

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
SA1 The Seafront  
SA6 Sustainable Neighbourhoods  
CP1 Housing delivery  
CP2 Sustainable economic development  
CP7 Infrastructure and developer contributions  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP10 Biodiversity  
CP11 Flood risk  
CP12 Urban design  
CP13 Public streets and spaces  
CP14 Housing density  
CP15 Heritage  
CP16 Open space  
CP17 Sports provision  
CP18 Healthy city  
CP19 Housing mix  
CP20 Affordable housing

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD11 Nature Conservation & Development  
SPD14 Parking Standards

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the acceptability of varying Condition 2 of planning permission BH2018/00937 (allowed on appeal), as amended by BH2022/00541, to allow amendments to approved drawings, to vary Condition 8 (Disability access) to refer to Part M4(3)(2a) of the building regulations, to vary Conditions 12 (Cycle Parking), and 13 (Electric Vehicle Charging) to refer to approved details and to vary Condition 26 (Unit numbers) to refer to 33 units.
- 9.2. The original planning permission was granted under application BH2018/00937 at appeal (for an eight storey building to provide 37 flats). The original scheme was recommended for approval by officers and refused by Planning Committee.

- 9.3. Whilst the Brighton and Hove City Plan Part 2 has been adopted in the intervening period, in this case it is considered that the policy context has not changed substantially in regard to the principle of development, uses proposed and design issues. Overall it is considered that there is no justifiable reason to take a decision contrary to that made previously at appeal and therefore no objection is raised to the principle of development.

Condition 8 (Disability access) - to refer to Part M4(3)(2a) of the building regulations, rather than M4(3)(2b) compliant

- 9.4. Condition 8 attached to application BH2018/00937 stated:  
*The development hereby permitted shall not be occupied until two of the dwellings have been completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) and shall be retained as such thereafter. All other dwellings shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained as such thereafter.*
- 9.5. Optional requirement M4(3) is met when a new dwelling makes reasonable provision for a wheelchair user to live in the dwelling and the associated amenity spaces/facilities on the site. The application proposes the 2 ground floor wheelchair user units, rather than M4(3)(2b) compliant as required currently by condition 8 (to meet the needs of occupants who use wheelchairs), to be M4(3)(2a) compliant (to allow simple adaptation of the dwelling to meet the needs of occupants who use wheelchairs).
- 9.6. The submitted planning statement indicates that it is not possible for the kitchens for the two Part M4(3) units to fully comply with Part M4(3)(2b) because it is not possible to install 6.5 metre length kitchen worktops in the two flats. The layout suggests that it could be a preference in order to optimise the living area layout, and the applicant submission suggests that adopting the Part M4(3)(2a) standard instead will allow for 'more flexibility in the kitchen areas'. The submitted planning report then sets out where the units elsewhere comply.
- 9.7. Part e) of Policy DM1 states as follows:  
*e) for proposals providing 10 or more dwellings, 10% of the affordable residential units and 5% of all the residential units should be suitable for occupation by a wheelchair user in accordance with Building Regulation M4(3). Where the Council is responsible for allocating or nominating the occupier, these homes should be 'wheelchair accessible' at the point of completion, whilst in other cases they may be 'wheelchair adaptable'. Where this is not practicable on-site an equivalent financial contribution should be provided.*
- 9.8. The wording of DM1 is in line with Part M4(3) of the Building Regulations and Planning Practice Guidance on Housing: Optional Technical Standards (paragraph 56-009). The policy only states M4(3) requirement (rather than specifically 2b). It then indicates that the homes should be wheelchair accessible 'Where the Council is responsible for allocating or nominating the occupier' and may only need to be adaptable at other times.

- 9.9. Condition 8 of the planning permission requires that two ground floor wheelchair units are specifically M4(3)(2b) compliant (i.e. ready for use at all times rather than just adaptable). This goes beyond the requirement of policy DM1. The applicant is seeking to amend this to still be M4(3) compliant (in accordance with DM1), but adaptable, in accordance with M4(3)(a). Given this would accord with Policy DM1 and retain two wheelchair accessible dwellings the amendment of the condition is considered acceptable.

Condition 12 (Cycle Parking) - submission in order to approve details of condition

- 9.10. Condition 12 attached to application BH2018/00937 stated:  
*The development hereby permitted shall not be occupied until details of secure cycle storage facilities for occupants of and visitors to the development have been submitted to and approved in writing by the Local Planning Authority. The approved storage facilities shall be implemented prior to first occupation of the development and thereafter retained.*
- 9.11. The revised scheme includes 33 dwellings (6 x 3 bedroom and 27 x 2 bedroom) which would generate the minimum SPD14 cycle parking requirements of 48 spaces in total consisting of:
- 27 long-stay spaces (for the 1–2-bedroom units)
  - 12 long-stay spaces (for the 3-4+ bedroom units)
  - 9 short-stay spaces
- 9.12. The applicant initially proposed 45 long-stay cycle parking spaces, 42 of which would have been two-tier racks and 3 would have been Sheffield stands, and 4 visitor cycle parking spaces. The Transport comments (during the original application) indicated 40% - 50% (i.e. 18 -23 spaces in this instance) of the total cycle parking should be accessible Sheffield stands. Although the proposed provision complied in quantity with the minimum requirements SPD14, the Local Highway Authority raised concerns regarding the lack of provision of Sheffield stands to ensure accessibility, and that the aisle widths in the cycle storage were considered too narrow.
- 9.13. To increase the number of universally accessible stands (i.e., Sheffield stands), whilst ensuring an acceptable number of stands can be delivered, the Local Highway Authority recommended a combined stand approach which includes Sheffield stands and a single tier above. The combined stands with Sheffield stands at the bottom provide an alternative option for those less confident in using the gas-assisted or manual two-tier stands or those that cannot reach the higher stands/small children, so would be more likely to cater/accommodate for all.
- 9.14. The scheme has been amended to propose a total of 50 cycle parking spaces (long and short stay), which exceeds the minimum policy requirements, and comprises:
- 5 Sheffield stands (10 spaces)
  - 12 two-tier stands (24 spaces)
  - 4 Sheffield stands (8 spaces)
  - 4 Sheffield stands (8 spaces)

- 9.15. On balance, as additional Sheffield stands would result in a significant reduction in parking space numbers overall, the cycle parking provision is considered acceptable.
- 9.16. Policy DM33 of CPP2 requires long-stay cycle parking to be universally accessible, under cover, secure, well lit and convenient to use. Additional information was required to show that the cycle parking is fully covered to provide protection from the elements to ensure it meets with TR14 which requires "Cycle parking for the occupants of new dwellings must be under cover". The applicant has confirmed in the amended plans that the north car park, the southern row are all undercroft, and the northern row are all under a pergola.
- 9.17. The proposed amendments to the cycle parking spaces has resulted in changes to the layout that would facilitate 1no. additional vehicle parking space (now 27 no. spaces). Condition 11 already requires details of allocation and management of all parking spaces as part of a Car Parking Management Plan to be submitted.
- 9.18. The proposed variation is therefore recommended for approval.
- 9.19. 13 (Electric Vehicle Charging) submission in order to approve details of condition Condition 13 attached to application BH2018/00937 stated:  
*The development hereby permitted shall not be occupied until details of electric vehicle charging points within the car park have been submitted to and approved in writing by the Local Planning Authority. The charging points shall be installed prior to first occupation of the development and thereafter retained.*
- 9.20. The scheme proposes to provide 10% electric vehicle charging provision. This would comply with the SPD14 requirements. The charging points will serve parking spaces 18, 19 and 20 at the rear of the site.
- 9.21. The Local Highway Authority has highlighted the recent change in Part S of the Building Regulations that would require all parking spaces are made as Electric Vehicle Charging Provision i.e. "Every new home with on-site parking is to have an electric vehicle charge point."
- 9.22. In general the requirement is for at least 1 no. Electric Vehicle Charging Point (EVCP) per residential dwelling, or that all parking spaces are made as EVCP if there are fewer spaces than dwellings. (as is the case here).
- 9.23. This came into effect on 15 June 2022 and so for a building notice or initial notice received before 15 June 2022, the application will still be considered under the previous Building Regulations, provided building work commenced before 15 June 2023 (which is the case in this instance).
- 9.24. The applicant has clarified that the development was registered under the previous regulations and therefore Part S does not apply in this instance. The planning process cannot manage issues addressed through other regulations, however, since the scheme predates the introduction of Part S, it is appropriate

to refer to the guidance contained in SPD14. Since the proposals are in accordance with the guidance, the approval of these details is supported.

Condition 26 (Unit numbers) to refer to proposed 33 units rather than 37 units

- 9.25. Condition 26 attached to application BH2018/00937 stated:  
*The development (ref. BH2018/00937) shall provide 37 no. dwellings (C3).  
**Reason:** To ensure that the Local Planning Authority retains control over the density of the development, the proposed standard of accommodation and any impacts arising from the overall scale of development.*
- 9.26. City Plan Part One policy CP19 seeks to improve housing choice and ensure that an appropriate mix of housing is achieved across the city. Where appropriate (in terms of site suitability and with reference to the characteristics of existing communities/neighbourhoods), the intention will be to secure, through new development, a wider variety of housing types and sizes to meet the accommodation requirements of particular groups within the city.
- 9.27. The Objective Assessment of Housing Need (GL Hearn, June 2015) indicates the strategic mix of homes to be delivered over the plan period which is 25% for 1 bedroom units, 35% for 2 bedroom units, 30% for 3 bedroom units, and 10% for 4-plus bedroom units. In terms of the demand for market housing, the greatest demand is likely to be for 2 and 3 bedroom properties (36% and 34% respectively). This reflects continuing demand for housing from younger persons and young families.
- 9.28. The proposed accommodation schedule as approved under application BH2018/00937 was 33 x 2-bedroom units and 4x 3-bedroom units. The proposal in this application is to reduce the number of units from 37 to 33, and amend the mix to 27x 2-bedroom units and 6x 3-bedroom units. The overall improvement to the mix with a greater ratio of 3-bedroom units is welcomed.
- 9.29. It is noted that the size of some of the units has changed. During the application assessment, the applicant has provided a room schedule of the flat floorspace areas. The floorspaces include the outdoor terraces which would not normally be included as part of Gross Internal Area, however even with these deducted all residential units would still would comply with the Nationally Described Space Standards as required by City Plan Part 2 Policy DM1.
- 9.30. There is no proposed changed to the exterior of the building as a result of the internal layout change, and therefore no significant impact on neighbouring properties is envisaged.
- 9.31. The proposed variation is therefore recommended for approval.

Other Matters

- 9.32. The planning conditions previously applied must be revised and updated where necessary:
- Condition 1 (Standard Time Condition) is no longer required as works have commenced.

- Condition 2 (drawings table) is updated to include the submitted drawings.

- Condition 3

The development shall be implemented in accordance with the ground level details as approved under application BH2022/00727.

- Condition 4

The development shall be carried out in accordance with the Construction Environmental Management Plan as approved under application BH2022/00420.

- Condition 5

The development shall be carried out in accordance with the materials details as approved under application BH2022/01472 and retained as such thereafter.

- Condition 6

The approved surface water drainage system shall be implemented in accordance with the approved scheme under application BH2022/01897.

- Condition 7

The development shall be carried out in accordance with the approved method statement under application BH2022/00457. The party wall and any associated works shall be completed within one month of the demolition of 243 Kingsway.

- Condition 8

The wheelchair accessible / adaptable dwelling(s) hereby permitted shall be completed in accordance with the following;

- a) all private residential units and all affordable units not covered by part b) below 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.

- b) all residential units where the Council is responsible for allocating or nominating the occupier shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings - 'accessible') 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.

- Condition 12

The approved cycle storage facilities shall be implemented prior to first occupation of the development and thereafter retained.

- Condition 13

The approved charging points shall be installed prior to first occupation of the development and thereafter retained.

- Condition 25 (No initial development at 239 Kingsway) is no longer required as works have commenced.

- Condition 26

The development (ref. BH2018/00937) shall provide 33 no. dwellings (C3).

9.33. All other conditions are re-applied.

## **10. COMMUNITY INFRASTRUCTURE LEVY**

10.1. 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 proposed changes do not result in any additional floorspace and therefore the proposal is not CIL liable.

## **11. EQUALITIES**

11.1. The proposed M4(3) wheelchair user dwellings are located on the ground floor. To accommodate M4(3) requirements and support accessibility, a disabled car parking space for each wheelchair unit is provided in the parking area. A level approach route is provided to each Flat 0.01's private entrance & Flat 0.02's main communal entrance without gates or other external barriers.