Development Management – Delegated Officer Report

Application Number:	**AWDM/0705/26**	**Recommendation - Refusal**
Site:	**Land West of Fulbeck Avenue, Worthing**	
Proposal:	Non Material Amendment to AWDM/0166/20. Amendments sought solely in respect of Block 5. Changes include alternative external material (refined standing seam mechanical fix system of metalwork with timber cladding accents) and changes to internal layout.	
Applicant:	Mr Kay Hartmann	Ward: St Mary's
Agent:	N/A	
Case Officer:	Giles Holbrook	

Relevant Planning History:

Reference	Description	Outcome
AWDM/0528/22	Application under s.73 for variation of condition 1 and other conditions of planning permission AWDM/0166/20 (full planning permission for the erection of 152 apartments including 30% affordable provision, consisting of 51 no. 1-bedroom apartments and 101 no. 2-bedroom apartments, with associated car and cycle parking, open space, landscaping and new access and temporary sales suite at land to the west of Fulbeck Avenue).	Application Permitted on 16.06.2023
AWDM/1861/21	Non-Material amendment to approved AWDM/0166/20 for repositioning of car park spaces.	Application Withdrawn on 21.06.2023

AWDM/0166/20	Application under Regulation 4 for full planning permission for the erection of 152 apartments including 30% affordable provision, consisting of 51 no. 1-bedroom apartments and 101 no. 2-bedroom apartments, with associated car and cycle parking, open space, landscaping and new access and temporary sales suite at land to the west of Fulbeck Avenue	Application Permitted on 30.07.2021

Description of the Proposals:

This application is made pursuant to S.96a of the Town and Country Planning Act 1990. Permission is sought to effect a Non-Material Amendment (NMA) to planning permission previously granted pursuant to ref: AWDM/0166/20 (the original approval).

The original approval established consent for the erection of 152x total dwellings (all flatted) within 5x total blocks of uniform height, scale and form, in combination with associated infrastructure. All 5x blocks, as originally approved, would employ a novel 'modular' construction technique.

The original approval has been largely completed, with 4x of the 5x consented blocks presently occupied. The construction of block No.5 (the subject of this application) did commence, but halted prior to substantial completion owing to storm damage. The damaged incomplete block was subsequently demolished.

This application seeks to make several revisions to the original consent, solely in respect of block No.5.

The main changes sought by the proposals include:-

1.) Changes to the elevational treatment of Block No.5, including the use of external materials;

2.) Changes to the number, size and positioning of external windows;

3.) The reconfiguration of external balcony spaces;

4.) The reconfiguration of internal layouts, including private living spaces and communal circulation/elevator-spaces;

5.) The removal of external air-source heap pump (ASHP) units and communal boiler flues, to be replaced by internal exhaust ASHP units.

The above changes are largely facilitated, and/or arise as a consequence of, a switch from modular to traditional construction. The revised proposals, also, interact with several conditions attached to the original consent, inclusive of the phasing of development,

sustainable design/energy and construction management. Effects upon, and any necessary changes to, are considered within the assessment below:

Further to feedback from officers the applicant has provided amended plans (September 1st) confirming the reinstatement of a ground floor access to the rear of Block 5. This decision is predicated upon the plans originally received, except where these are superseded by the plans received on September 1st.

Planning Assessment:

S.96a(1) to the Act establishes that Local Planning Authority may make a change to any planning permission if they are satisfied that the change is not material.

S.96a(2) to the Act establishes that, in deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with any previous changes made by way of NMA, upon the planning permission as originally granted.

S.96a(3) to the Act establishes that the power to make a non-material amendment includes the power to (a) impose new conditions and/or (b) to remove or alter existing conditions.

For purposes of legibility this report will address each of the respective changes now proposed in turn. An overall conclusion will, subsequently, be offered which takes account of the totality of the changes proposed. No previous NMA has been effected in respect of the original approval (noting the withdrawal of ref: AWDM/1861/21). It is, therefore, not necessary to consider the effect of changes proposed cumulative with those previously made.

1.) <u>Elevational Treatment and Use of Materials:</u>

In respect of external design, the proposals outwardly share significant similarities with the approved design to Block 5. The proposals maintain the same height, width, height and form as the original proposal, while it is, further, clear that attempt has been made to emulate the original material palette. The precise material palette proposed will be elaborated upon within a subsection below.

To ease comparison, the proposed elevations are included as **Figure 1** with the original elevations included as **Figure 2** below.



Figure 1 - Proposed elevations (annotations by officers)



Figure 2 - Original elevations

The main appreciable external changes (as annotated above) are considered to include:-

1.) A reconfiguration of external balconies, with these being brought closer together when compared to the original approval;

2.) The loss of bottom panel glazing to secondary windows, these originally being provided as floor-ceiling types;

3.) Changes to windows serving communal spaces, including an increase in the scale of glazing featured to the buildings east (front) facing elevation and a reduction in glazing featured to the west (rear) facing elevation;

4.) Removal of ground - roof level flue originally required for communal heating;

5.) The reduction of floor-ceiling glazing featured to end-corridor communal spaces;

Materials:

The proposed material palette **(Figure 3)** primarily makes use of aluminium standing seam (of different colours) together with Douglas Fir cladding accents.

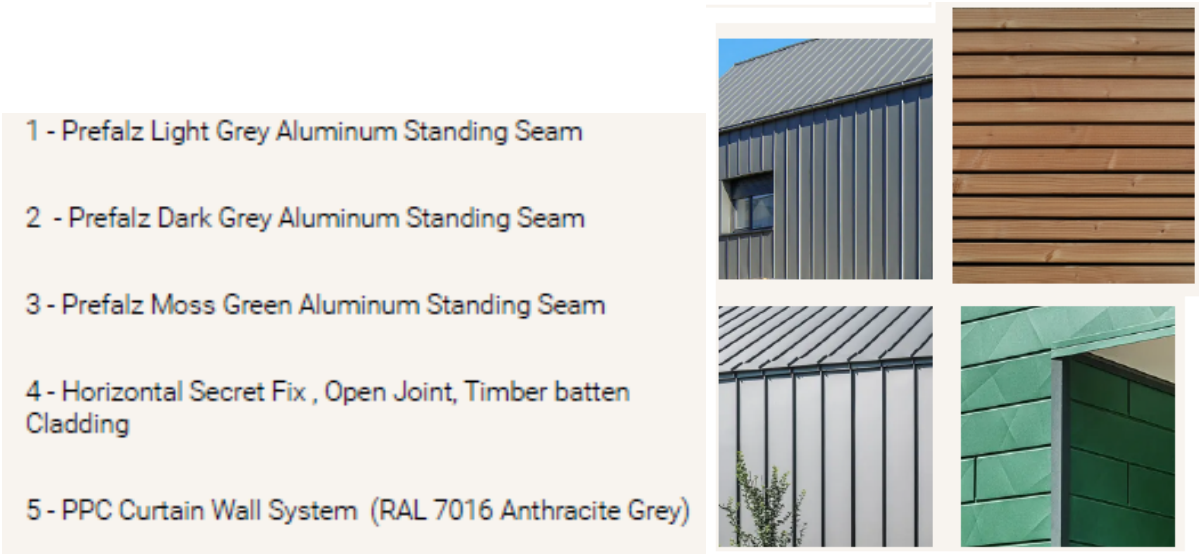

Figure 3 - Proposed Material Palette

The proposed standing seam is comparable in type and colour tone to the cladding system employed elsewhere within the Fulbeck Avenue development. The profiled texture of a standing seam system is not emulated within constructed blocks, though, would add a minor degree of visual relief and articulation to the redesigned block No.5. The distinctive 'moss green' colouring proposed to the external face of communal corridors and stair-cores is comparable to the vibrant colouring of cladding materials seen featured elsewhere within the wider development.

The introduction of proposed timber cladding would represent a more obvious departure from the material palette employed elsewhere, with existing blocks utilising a contrasting colour cladding as a ‘detailing’ material. It is considered that the use of a timber product in lieu of alternative metal/synthetic cladding represents a minor improvement to the design quality of block 5, providing greater genuine contrast between external materials.

Design Related Conclusions:

Overall, it is considered that the proposed changes to external design are acceptable and would maintain the design quality of the approved development. It is evident that the proposals have been designed to maintain close similarity with the original approval, with no degradation in design-quality notwithstanding the change from modular to traditional construction. Some minor improvements, further, are considered, including the introduction of timber-cladding and the removal of external ASHP units.

The similarity in external appearance and design, overall, is evident where the indicative visualisation provided within the applicants statement is compared with the condition of the completed block No.3. (**Figure 4** below)





Figure 4 - Comparison of visualisation with completed Block No.3.

2.) Changes to Internal Layouts:

Internally, the proposed amendments seek a minor enlargement of approved apartments, achieved by way of a reduction in the scale of communal corridors and circulation spaces. This is most evident at ground floor level, as can be seen within the comparison plan below (**Figure 5)**, with a previous rear access removed, but is also achieved through the reduction of the internal staircase and removal of communal corridor ends.

The reconfiguration of internal layouts allows for an increase in the size of 1-bedroom units, which now range from 51-68sqm in size in comparison to the previously uniform 50sqm. The proposals for 2-bed units, conversely, see these marginally reduced in size from 73sqm to 70-71sqm.

It should be noted that the proposals would maintain compliance with nationally described space standards and that the proposals would preserve the originally approved housing mix. No change in occupancy levels would result from the proposed amendments with the submitted floorplans showing the same number of bedrooms and bedroom spaces. The minor increase in floor-area afforded to future 1-bed occupiers would convey a minor increase in living standards to relevant occupiers. The negligible reduction in the size of two bed-units is considered so minor that this would not appreciably reduce the living standards of relevant occupiers.

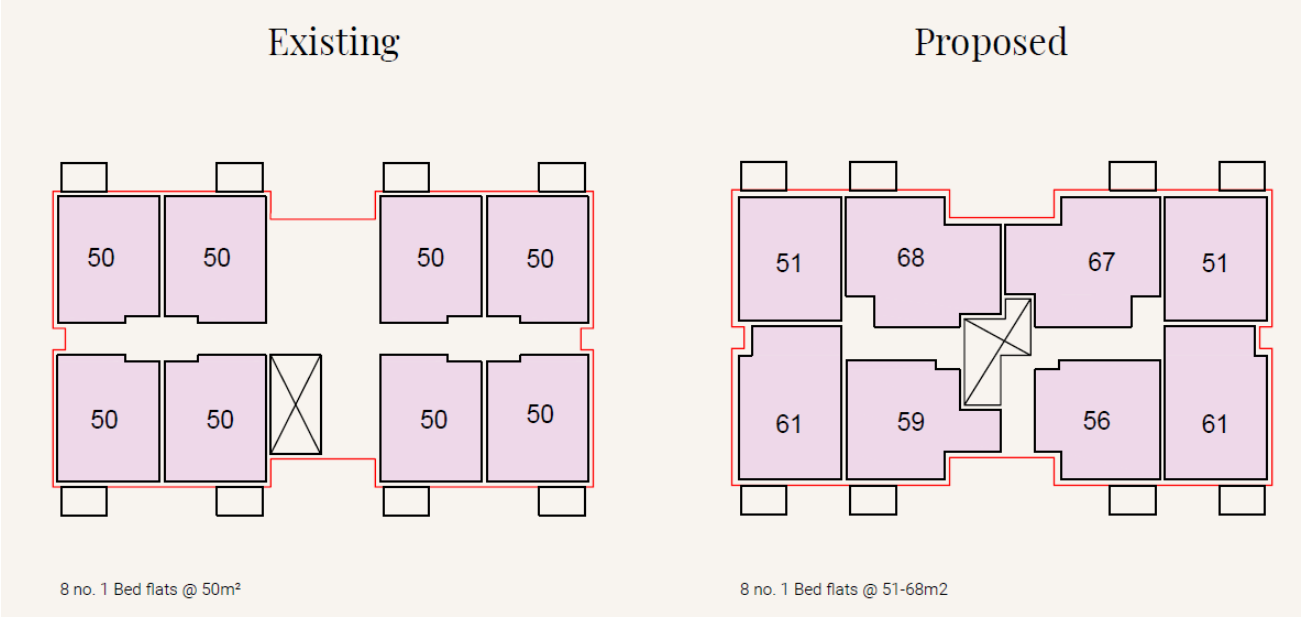

Figure 5 - Comparison document, ground-floor plan.

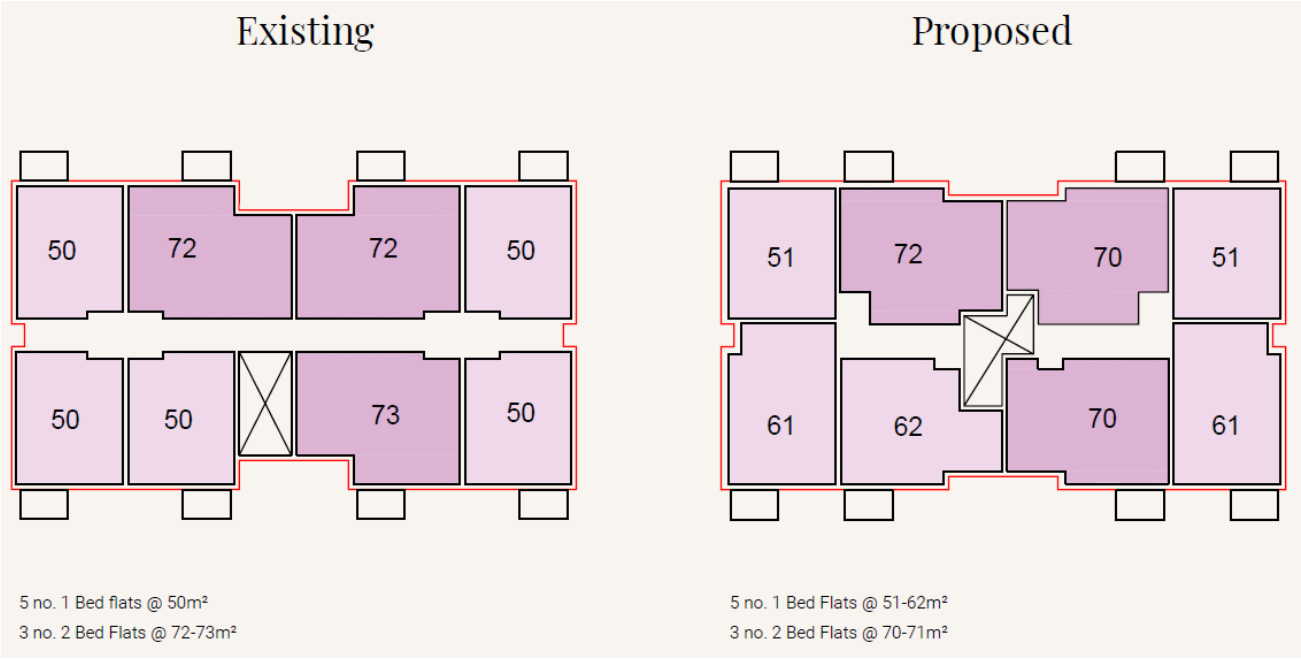

Figure 6 - Comparison document, upper floor (1-3) plans.

Further to initial comments by officers, the applicant has provided amended plans reinstating a rear ground floor access as highlighted at **Figure 7** below. The original set of plans presented to officers, which omitted this access, was considered to unreasonably lengthen the route of access to an external cycle store positioned to the rear of Block 5.

With the rear access reinstated, the proposed arrangement is functionally identical to that originally approved as shown at **Figure 8** below, and would maintain a direct and convenient route of access to the external cycle store.



Figure 7 - Proposed Ground Floor Plan



Figure 8 - Previously Approved Ground Floor Plan (Excerpt)

The minor reduction in plant spaces is not considered of material significance to the development proposals. It is, therefore, considered that the revisions to internal layouts can be accepted as of a non-material nature and approved accordingly.

Conditions:

Several updated supporting documents have been provided in accompaniment to this S.96a submission, in-part, to redress the delivery of Block 5 out of alignment with the originally envisaged phasing plan and the change to traditional construction.

The submitted documents include a new Construction Management Plan, Phasing Plan and Energy Statement.

The submitted Phasing Plan and Construction Management Plan are considered uncontentious, merely defining typical construction set-up for the Construction of Block 5 and its implementation towards the end of 2026. These are, except for the revised construction timeframe, substantially identical to measures agreed as part of the original approval.

The submitted Energy Statement largely reads as a preliminary strategy document. This identifies sustainability objectives/aspirations required by the development plan (and accompanying guidance), and considers the viability of various sustainability measures. A commitment to achieve compliance with current Building Regulations (Part L 2021) requirements is made, with precise measures/values to be established at detailed design stage.

It is considered unusual that the Energy Statement anticipates a latter stage of assessment in advance of a development targeted for commencement in October 2026, though, it would prove theoretically possible to attach a revised/additional condition to a S.96a application requiring the submission and approval of a finalised sustainability strategy. The standards of thermal performance stipulated within the revised Energy Statement are noted to prove equivalent or marginally superior to those stipulated within the originally approved Energy Statement.

The detailed construction of conditions, and associated reasons for any revised wording, are detailed below.

1.) Condition 1 - Approved Plans

Condition 1, as attached to the original consent, is revised to include the plans approved pursuant to this consent. All plans remain as per the original permission, except where changes are made to Block 5 as affected by this permission.

Reference/Drawing Number	Version	Date Rec
BLOCK PLAN	6783 100 P5	26.07.2021
SITE PLAN ROOF PLAN	6783 102 P5	26.07.2021

Reference/Drawing Number	Version	Date Rec
BLOCK 1 FLOOR PLANS & SECTIONS	A_3C_4-ZZ-DR-A-XX-5110P2	26.07.2021
BLOCK 2 FLOOR PLANS & SECTIONS	A3C3_4-ZZ-DR-A-XX-5111P1	26.07.2021
BLOCK 3 FLOOR PLANS & SECTIONS	O3C3_4-ZZ-DR-A-XX-5112P1	26.07.2021
BLOCK 4 FLOOR PLANS & SECTIONS	O3C3_4-ZZ-DR-A-XX-5113P1	26.07.2021
BLOCK 1 ELEVATIONS	A_3C_4-ZZ-DR-A-El-5120P2	26.07.2021
BLOCK 2 ELEVATIONS	A3C3_4-ZZ-DR-A-El-5121P1	26.07.2021
BLOCK 3 ELEVATIONS	O3C3_4-ZZ-DR-A-El-5122P1	26.07.2021
BLOCK 4 ELEVATIONS	O3C3_4-ZZ-DR-A-El-5123P1	26.07.2021
SALES AREA	FBA-BOK-SW-XXX-SK-K-SL-0	15.07.2021
SALES OFFICE SPECIFICATION (by City & County Graphics)	Unnumbered	15.07.2021

Reference/Drawing Number	Version	Date Rec
LOCATION PLAN	6783 LOC 01 P2	30.01.2020
Proposed Ground Floor Plan (Block 5)	25487-FLA-ZZ-00-DR-A-01100 Rev P0	01.09.2026
Proposed First Floor Plan (Block 5)	25487-FLA-ZZ-00-DR-A-01101	16.06.2026
Proposed Second Floor Plan (Block 5)	25487-FLA-ZZ-00-DR-0110 asA-01102	16.06.2026
Proposed Third Floor Plan (Block 5)	25487-FLA-ZZ-00-DR-A-01103	16.06.2026
Proposed Roof Plan (Block 5)	25487-FLA-ZZ-00-DR-A-01104	16.06.2026
Proposed Elevations Proposed Elevations (Block 5)	25487-FLA-ZZ-00-DR-A-01300 Rev P0	01.09.2026

2.) Condition 2 – Phasing Plan

Condition 2 attached to the original consent, prior to the commencement of development, required the submission and approval of a phasing programme concerning enabling works, site levels, utilities and landscaping.

These details were approved pursuant to ref: AWDM/1576/21, with the permission subsequently implemented in accordance with the approved details absent the incomplete Block 5.

Condition 2, therefore, is revised to reference details previously approved pursuant to ref: AWDM/1576/21 in addition to the phasing plan now provided in respect of Block 5.

> **The development hereby approved shall be implemented strictly in accordance with the phasing details agreed pursuant to ref: AWDM/1576/21, except where these concern the implementation of Block 5. Block 5 shall be implemented in accordance with the phasing plan hereby approved (ref: 25487-FLA-ZZ-ZZ-DR-A-05000).**
>
> **Reason:** ***To manage site clearance works in the interests of biodiversity and to allow for a phased but comprehensive form of development of the site, including the provision of relevant infrastructure, in accordance with policies 12, 13 & 16 of the Worthing Borough Council Core Strategy 2011.***

3.) Condition 6 - Sustainable Design and Energy

The originally consent, at Condition 6, required development to be implemented in accordance with measures and standards prescribed within an Energy and Sustainability Statement. Written confirmation, within 3-months of occupation, was to be submitted for the Authority's approval in order to verify that relevant standards specified within the Energy and Sustainability Statement were achieved.

The revised Energy Statement now provided commits to the same or superior standards as that previously approved, even if no detailed assessment of the performance of built-fabric has yet been undertaken. On the basis of the available information, and consistent with the original approach to energy, it is recommended that a revised condition be imposed requiring adherence to the measures stipulated within the revised Energy Statement with written verification to be provided within 3-months of initial occupation.

> **Except in relation to Block 5, the development hereby approved shall incorporate the following sustainable energy and heat management measures, in accordance with the details in the Energy & Sustainability Statement dated January 2020 (Reference: UL-HYD-00-ZZ-RP-ME-0001) submitted with the current application:**
>
> - **Energy efficient building fabric,**
> - **LED internal & external lighting,**
> - **Community boiler / Air-source heat pump boiler system to achieve a 19% improvement on Part L 2013 Building Regulations (or other such system incorporating renewable energy to achieve a similar outcome as shall first be approved in writing by the Local Planning Authority),**
> - **Operational waste management,**
> - **Efficient water goods and fixtures to achieve <105L/Person usage/day.**
>
> **Block 5 shall be constructed to incorporate sustainability and efficiency measures equivalent or superior to the standards stipulated within the submitted Energy Statement (PJR Building Services Design Engineers, ref: A30/01/ENS Ver 01) at Page 6. The details to be submitted shall, additionally, demonstrate that units featured within Block 5 achieve a standard of water efficiency equivalent or superior to 110 litres/person/day.**
>
> **Written confirmation shall be submitted to and approved in writing by the Local Planning Authority, within 3 months of the first occupation of any unit within each respective Block, (or such other time as shall first be agreed in writing by the Local Planning Authority), to confirm that these measures have been achieved including any proposed remedial measures if they have not, in which**

event the remedial measures thereby approved shall then be implemented.

4.) Condition 8 - External materials

The original consent required, prior to the commencement of development above slab-level, details of external materials, colours and finishes to be submitted to and approved by the Authority. These details were subsequently approved pursuant to ref: AWDM/0779/22, with Blocks 1-4 built out in accordance with those details.

The change from modular and traditional construction within Block 5, as proposed by this amendment, has affected some changes from the original material schedule. It is, therefore, necessary to revise Condition 8 to require adherence to details agreed pursuant to ref: AWDM/0779/22, except where these concern Block 5 and where a new materials schedule has now been presented.

The development hereby approved shall be strictly implemented in accordance with the schedule of external materials, colours and finishes agreed pursuant to ref: AWDM/0779/22, except where these concern Block 5. Block 5 shall be implemented strictly in accordance with the details of external colours, finishes and materials prescribed within the submitted 'S.96A Supporting Document June 2026' (Frost.Lomax Architects, Dated June 2026) at Pages 9-12.

5.) Condition 32 – Balcony Screens

Condition 32 attached to the original consent required the submission and approval of details of balcony screens at first floor above on Block 5. These details reflect the absence of privacy screen details within the original approval, though, such details are included within the plans-presented alongside this S.96a application.

It is, therefore, necessary to revise Condition 32 to require the instatement and installation of privacy screens in accordance with the details now presented.

Prior to the occupation of any unit featured within Block 5, privacy screens to balconies shall be installed to each unit above first floor level as detailed on the approved elevation plans (ref: 25487-FLA-ZZ-00-DR-A-01300 Rev P0) and Floor Plans (25487-FLA-ZZ-00-DR-A-01101 – 01102 and 01103).

6.) Condition 33 - Obscure Glazing

Condition 33 attached to the original consent required the installation of obscure glazing to units featured within Block 5 above first-floor level within the southern end of the approved Block. The amendments now affected do not influence the positioning of Block 5 or its relationship with neighbouring occupiers. The need to install obscure glazing in order to preserve the privacy of nearby occupiers remains. The wording of the original condition was

sufficiently broad to negate the need for a revised or alternative worded condition such that no change is made to this condition. This remains as imposed upon the original consent.

7.) Condition 39 – Construction Management Plan

Condition 39 attached to the original consent required adherence with a Construction Management Plan in order to preserve highway safety and amenity. An additional Construction Management Plan accompanies this S.96a application and outlines expected construction set-up for Block 5. No separate management or mitigation measures are suggested additional to the original CMP.

Condition 39, therefore, should be re-imposed, except to referencee the new site-set up prescribed within this submission.

> **Development shall only take place in accordance with the Construction Management Plan, Fulbeck Avenue, Worthing, revision C03 dated 23rd July 2021 (Pgs. 1-30 and appendices 1-6 inclusive), which was received by the Local Planning Authority 23rd July 2021, and the associated Construction Management Plan - Fulbeck Avenue, Worthing - Addendum 30th July 2021 (unless the Local Planning Authority gives prior written approval for any variation). Construction site-set up in respect of Block 5 should strictly accord with the Construction Management Plan (ref: 25487-FLA-ZZ-ZZ-DR-A-050101) hereby approved.**

Overall Conclusion:

The proposed changes are individually and collectively of a minor nature. As assessed above, Officers are satisfied that proposed changes to the external design of Block 5 would maintain the design quality of the approved development such that these can be regarded as non-material in nature. Some minor benefits are, further, noted to derive from these changes, including from the removal of external ASHP units and changes to the proposed material palette.

Proposed changes to internal layouts are assessed to be largely neutral in effect, with the increased size of 1-bed units respectively conveying a minor betterment in future living standards for occupiers of 1-bed units. Following the provision of revised plans demonstrating the reinstatement of a rear ground floor access it is accepted that the proposals would not materially diminish the ease of access to cycle-parking and the potential use of the cycle as an alternative to the private car.

It is considered that the S.96a amendment, therefore, can be approved subject to the conditions listed above.

Recommendation: Approval

Development Management – Delegated Officer Report

Case Officer: Giles Holbrook Date: 20.10.2026

Authorised by: Stephen Cantwell Date: 28.10.2026