




**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	20 March 2019
Time:	1.30pm
Venue	Council Chamber, Hove Town Hall
Members:	<p>Councillors: Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Cobb, Hyde, Inkipin-Leissner, Littman, Miller, Moonan and O'Quinn</p> <p>Co-opted Members: Conservation Advisory Group Representative</p>
Contact:	<p>Penny Jennings Democratic Services Officer 01273 291065 planning.committee@brighton-hove.gov.uk</p>

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AGENDA

118 PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest or Lobbying

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

- (d) All Members present to declare any instances of lobbying they have encountered regarding items on the agenda.

(c) Exclusion of Press and Public: To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

119 MINUTES OF THE PREVIOUS MEETING

Minutes of the meeting held on 6 March (copy to follow)

120 CHAIR'S COMMUNICATIONS

121 PUBLIC QUESTIONS

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Written Questions: to receive any questions submitted by the due date of 12 noon on 14 March 2019.

122 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

123 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

CALLOVER

The Democratic Services Officer will Callover the applications appearing on the Plans List and those which are not called will be deemed approved in line with Officer Recommendations. Major Applications and those on which there are speakers are automatically called for discussion.

Please note that the published order of the agenda may be changed; major applications will always be heard first; however, the order of the minor applications may be amended to allow those applications with registered speakers to be heard first.

MAJOR APPLICATIONS

- | | | |
|----------|--|------------------|
| A | BH2018/02126 -29-31 New Church Road, Hove - Full Planning | 1 - 58 |
| | <p>Demolition of existing synagogue, detached buildings providing Rabbi accommodation, synagogue social hall and children's nursery. Erection of mixed use development comprising central single storey synagogue and four, five and six storey buildings to provide replacement children's nursery, 2no classrooms for shared use by St Christopher's school, offices, meeting rooms and cafe, underground car park and 45no residential dwellings (C3) comprising 35no flats and terrace of 10no houses to rear.</p> <p>RECOMMENDATION – MINDED TO GRANT
<i>Ward Affected: Westbourne</i></p> | |
| B | BH2018/02598 - Longley Industrial Estate, New England Street & Elder Place, Brighton-Full Planning | 59 - 148 |
| | <p>Demolition of existing buildings and redevelopment to provide: 3,270sqm of office/research/development floorspace (B1 (a)/(b) use), 308sqm of flexible commercial/retail floorspace fronting Elder Place (B1 (a)/(b) and A1-A4 use), 201 residential units (C3 use) in buildings ranging between 3 and 18 storeys plus roof plant level, together with associated car and cycle parking, further plant at lower ground level, supporting facilities and landscaping.</p> <p>RECOMMENDATION – MINDED TO GRANT
<i>Ward Affected: St Peter's & North Laine</i></p> | |
| C | BH2018/02699- 118-132 London Road, Brighton-Full Planning | 149 - 206 |
| | <p>Demolition of existing building and the erection of a five storey building with retail (A1 use class), community hub, student</p> | |

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accommodation reception, laundry, plant room, bin store and cycle store at ground floor level, 232 student rooms (sui generis use class) at first, second, third and fourth levels, and solar PV array on the roof.

RECOMMENDATION – MINDED TO GRANT

Ward Affected: St Peter's & North Laine

D BH2018/02051 -Grove Park, The Linkway, Brighton - Full Planning 207 - 234

Erection of three storey (plus basement) residential care home providing 88 bedrooms and 24 parking spaces and associated works.

RECOMMENDATION – MINDED TO GRANT

Ward Affected: Hollingdean & Stanmer

E BH2017/01873-45 & 47 Hollingdean Road, Brighton -Full Planning 235 - 260

Demolition of existing buildings and erection of a part 2,3,4 and 5 storey building including basement to form 88 student rooms (Sui Generis), communal student facilities, plant room, cycle storage, 1no disabled parking spaces, recycling and refuse facilities, vehicular access and associated works.

RECOMMENDATION – REFUSE

Ward Affected: Hollingdean & Stanmer

F BH218/03932-(Linked with BH2018/01926)Unit 1, 75 - 79 East Street, Brighton-Full Planning 261 - 282

Change of use from restaurant (A3) to public house/dancing/entertainment/live music venue (Sui Generis).

RECOMMENDATION – MINDED TO GRANT

Ward Affected: Regency

MINOR APPLICATIONS

G BH2018/01926-(Linked with BH2018/03932) Unit 4, The Savoy Centre, 100 Pool Valley, Brighton - Full Planning 283 - 298

Change of use of ground floor and mezzanine above from nightclub (Sui Generis) to casino (Sui Generis).

RECOMMENDATION – MINDED TO GRANT

Ward Affected: Regency

H BH2017/02857-2 and 2A Barnett Road, Brighton -Full Planning 299 - 316

Demolition of existing dwelling and erection of three storey building comprising of 6no flats with associated landscaping.

RECOMMENDATION – GRANT

Ward Affected: Hollingdean & Stanmer

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- 124 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS**

INFORMATION ITEMS

- 125 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS** **317 - 320**
(copy attached).
- 126 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE** **321 - 328**
(copy attached).
- 127 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES** **329 - 330**
(copy attached).
- 128 APPEAL DECISIONS** **331 - 358**
(copy attached).

Members are asked to note that plans for any planning application listed on the agenda are now available on the website at: <http://www.brighton-hove.gov.uk>

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

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FURTHER INFORMATION

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email planning.committee@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Tuesday, 12 March 2019

ITEM A

**29-31 New Church Road
BH2018/02126
Full Planning**

DATE OF COMMITTEE: 20 March 2019

BH2018/02126 29 - 31 New Church Road



Scale: 1:1,250

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No:	BH2018/02126	Ward:	Westbourne Ward
App Type:	Full Planning		
Address:	29 - 31 New Church Road Hove BN3 4AD		
Proposal:	Demolition of existing synagogue, detached buildings providing Rabbi accommodation, synagogue social hall and childrens nursery. Erection of mixed use development comprising central single storey synagogue and four, five and six storey buildings to provide replacement childrens nursery, 2no classrooms for shared use by St Christophers school, offices, meeting rooms and cafe, underground car park and 45no residential dwellings (C3) comprising 35no flats and terrace of 10no houses to rear.		
<u>Officer:</u>	Nick Eagle, tel: 2106	<u>Valid Date:</u>	05.07.2018
<u>Con Area:</u>	Adjacent Pembroke And Princes	<u>Expiry Date:</u>	04.10.2018
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	29.03.2019
<u>Agent:</u>	DMH Stallard Gainsborough House Pegler Way Crawley RH11 7FZ		
<u>Applicant:</u>	AGB Reading LLP & The Brighton & Hove Hebrew Congregation C/O DMH Stallard Gainsborough House High Street Crawley RH11 7FZ		

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 Planning Obligation and the Conditions and Informatives as set out hereunder, **SAVE THAT** should the s106 Planning Obligation not be completed on or before the **26th June 2019** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 11.2 of this report:

S106 Heads of Terms

Affordable Housing

- Five (5) units to be offered up as affordable housing units, these will first be offered up to a Jewish Housing Association.
- Review Mechanism, in order to provide a commuted sum to the Council towards off-site affordable housing provision, should the financial viability of the scheme allow for this.

Retention of trees

- Should any tree be lost, 3 replacement trees should be provided to the local community (ratio 1:3)

Openspace

- £149,440.53 towards open space and indoor sports contribution as follows:
 - Play – children’s equipped: Wish Park and/or Stoneham Park, Hove Lagoon
 - Parks/Gardens, including Amenity, Natural/Semi Natural: Wish Park (Aldrington Rec) and/or Stoneham Park, Hove Lawns, Western Lawns Hove, Davis Park
 - Outdoor Sport: Hove Lagoon and/or Wish Park, Stoneham Park, Davis Park, Western Lawns Hove
 - Indoor Sport: King Alfred Leisure Centre and/or Withdean Leisure Centre
 - Allotments: Weald Avenue and/or Nevill Avenue Allotments

Education Contribution

- £91,326 towards the cost of secondary provision for Blatchington Mill and Hove Park Schools.

City Regeneration

- Employment & Training Strategies to the Council in writing for approval, for the demolition and construction phases, at least one month before the intended date of Formal Site Commencement.
- Requirement for a developer contribution of £15,900 towards the employment scheme.

Transport

- A sustainable transport contribution of £64,000. This will be allocated towards pedestrian footway and crossing improvements on routes between the site and local facilities to include Aldrington Station, Hove Station, Central Hove shopping areas and the Seafront.

Travel Plans

- Within three months of the date of first occupation, Travel Plans shall have been submitted to and approved in writing by the Local Planning Authority. Individual Travel Plans shall cover the following:
 - Facilities associated with the synagogue;
 - Residential use
- The Travel Plans shall include, but not be limited to, the following:
 - (i) Measures to promote and enable increased use walking, cycling, public transport use, car sharing, and car clubs as alternatives to sole car use;
 - (ii) Increase awareness of and improve road safety and personal security;
 - (iii) Undertake dialogue and consultation with adjacent/neighbouring tenants/businesses;
 - (iv) Identify targets focussed on reductions in the level of resident, visitor and employee car use;
 - (v) Identify a monitoring framework, which shall include a commitment to undertake an annual resident, staff and visitor travel survey (as appropriate) for at least five years, or until such time as the targets identified in section

- (iv) above are met, to enable the Travel Plans to be reviewed and updated as appropriate;
 - (vi) Following the annual surveys, an annual review will be submitted to the Local Planning Authority to update on progress towards meeting targets; and
 - (vii) For each Travel Plan, identify a nominated member of staff to act as Travel Plan Co-ordinator, and to become the individual contact for the Local Planning Authority relating to the Travel Plan.
- Specifically, the residential travel plan shall include the following measures:
 - £150 cycle voucher per household;
 - Two years' membership per household to the Brighton Bike Share scheme;
 - One year's bus pass per household for travel within Brighton & Hove or the equivalent contribution towards a rail season ticket; and
 - Three years' car club membership per household.
 - The Travel Plans shall thereafter be fully implemented in accordance with the approved details.

Section 278 Works

- S278 highway works to include:
 - Removal of the two redundant vehicle crossovers on New Church Road, with the reinstatement of the kerb and footway;
 - Relocation of the bus shelter, accessible kerb, real time information sign, bench and litter bin at the eastbound 'Westbourne Villas' bus stop on New Church Road;
 - Resurfacing of the northern footway on New Church Road for the length of the site boundary;
 - Introduction of replacement street tree(s) alongside the site frontage, in the event that the proposed works require the removal of any existing trees;
 - Relocation of the bus cage and extension to double yellow line restrictions, including any required amendments to the associated Traffic Regulation Order (TRO);
 - Any other highway works necessary to implement the above.

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	Date Received
Location & Block Plan - As Existing	1717-P-200	26.09.18
Existing Survey Plan	1717-P-201	26.09.18
Existing Ground Floor Plan	1717-P-202	26.09.18
Existing First Floor Plan	1717-P-203	26.09.18
Existing Second Floor Plan	1717-P-204	26.09.18

Existing Roof Plan	1717-P-205	26.09.18
Existing North & South Elevations	1717-P-206	26.09.18
Existing East & West Elevations	1717-P-207	26.09.18
Existing Street Elevation New Church Road	1717-P-208	26.09.18
Location & Block Plan As Proposed	1717-P-209	26.09.18
Demolition Plan	1717-P-210	26.09.18
Proposed Site / Roof Plan	1717-P-211	26.09.18
Proposed Basement Plan	1717-P-212	29.01.19
Proposed Ground Floor Plan	1717-P-213	29.01.19
Proposed First Floor Plan	1717-P-214	29.01.19
Proposed Second Floor Plan	1717-P-215	29.01.19
Proposed Third Floor Plan	1717-P-216	29.01.19
Proposed Fourth Floor Plan	1717-P-217	29.01.19
Proposed Fifth Floor Plan	1717-P-218	29.01.19
Proposed North & South Elevations	1717-P-219	29.01.19
Proposed East & West Elevations	1717-P-220	29.01.19
Proposed Street Elevation New Church Road	1717-P-221	29.01.19
Proposed Site Sections Sheet	1717-P-2221	29.01.19
Proposed Site Sections Sheet 2	1717-P-223	29.01.19
Proposed St Christopher's School Interface	1717-P-224	29.01.19
Proposed Coloured Street Elevation	1717-P-225	29.01.19
Proposed Coloured Site Section	1717-P-226	29.01.19
New Church Road Street Elevation	1717-P-227	19.10.18
West Block - Green Wall Study	1717-P-228	26.09.18
West Block - Window Screening Study	1717-P-229	26.09.18
Westbourne Gardens Street Elevation - As Proposed	1717-P-230	17.09.18
Pembroke Gardens Street Elevation - As Proposed	1717-P-231	17.09.18
West Block South Elevation Bay Study	1717-P-232	29.01.19
West Block East Elevation Bay Study	1717-P-233	29.01.19
North Block South Elevation Bay Study	1717-P-236	29.01.19
North Block North Elevation Bay Study	1717-P-237	29.01.19
Sectional Elevation Diagram - St Christopher's site boundary	1717-P-238	18.10.18
Photographic Survey - St Christopher's site boundary	1717-P-239	18.10.18
Visual Assessment View	1717-P-240	01, 09.10.18
Visual Assessment View 02	1717-P-241	09.10.18
Visual Assessment View 03	1717-P-242	09.10.18
Visual Assessment View 03	1717-P-243	09.10.18
Visual Assessment View 04	1717-P-244	09.10.18
Visual Assessment View 05	1717-P-245	09.10.18
Visual Assessment View 06	1717-P-246	09.10.18
Visual Assessment View 07	1717-P-247	09.10.18

Visual Assessment View 08	1717-P-248	09.10.18
Strategic Views Assessment: Brighton & Hove OS Plan Key	1717-P-250	17.09.18
Strategic Views Assessment: Viewpoint Photographs	1717-P-251	17.09.18
West Block West Elevation Oriel Bay Privacy Screens	1717-P-255	17.12.18
Visual Assessment View 10 (No Trees)	1717-P-256	29.01.19
Visual Assessment View 11 (No Trees)	1717-P-257	29.01.19
Architect's Impression - Courtyard view from south	1717-P-258	29.01.19
West Elevation As Proposed (Colour)	1717-P-259	29.01.19

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. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the building commencing.
Reason: To ensure the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU5 of the Brighton & Hove Local Plan.

4. No demolition or development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.
Reason: To ensure that the archaeological and historical interests of the site is safeguarded and recorded to comply with the National Planning Policy Framework and to comply with policy HE12 of the Brighton & Hove Local Plan.

5. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.
Reason: To ensure that the archaeological and historical interests of the site is safeguarded and recorded to comply with the National Planning Policy Framework and to comply with policy HE12 of the Brighton & Hove Local Plan.

6. Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in

consultation with Southern Water. The scheme shall be implemented fully in accordance with the agreed details.

Reason: To ensure the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU5 of the Brighton and Hove Local Plan.

7. No part of the building hereby approved shall be occupied until the approved highway works have been carried out in accordance with the approved scheme.

Reason: To ensure that suitable pedestrian and vehicular access to and from the development and to comply with policies CP9 of the Brighton & Hove City Plan Part One and TR7 of the Brighton & Hove Local Plan.

8. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.

Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the City Plan Part One.

9. Prior to first occupation of the development hereby permitted, a Car Park Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. This shall include details of how bays will be allocated to residents and residential visitors, synagogue staff and synagogue visitors; and how this will be enforced.

Reason: To ensure the development provides for the needs of all residents and visitors to the site, to ensure the provision of satisfactory facilities for pedestrians and to comply with policies CP9 of the Brighton & Hove City Plan Part One and TR18 of the Brighton & Hove Local Plan.

10. Prior to first occupation of the development hereby permitted, details of disabled car parking provision for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme 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 the development provides for the needs of disabled staff and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPD14 guidance.

11. Prior to first occupation of the development hereby permitted, full details of electric vehicle charging points within the proposed car park hereby approved shall have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason: To encourage travel by more sustainable means and seek measures which reduce fuel use and greenhouse gas emissions and to comply with policies CP9 of the City Plan Part One and SPD14 Parking Standards.

12. Prior to first occupation of the development hereby permitted, full details of motorcycle parking shall have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.
Reason: To encourage travel by more sustainable means and seek measures which reduce fuel use and greenhouse gas emissions and to comply with policies CP9 of the City Plan Part One and SPD14 Parking Standards.
13. 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. 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 TR14
14. No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
- (i) The phases of the Proposed Development including the forecasted completion date(s)
 - (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
 - (iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
 - (iv) A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
 - (v) Details of hours of construction including all associated vehicular movements
 - (vi) Details of the construction compound
 - (vii) A plan showing construction traffic routes
 - (viii) An audit of all waste generated during construction works

The construction shall be carried out in accordance with the approved CEMP.
Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, policy CP8 of the 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.

15. No development above ground floor slab shall take place until full details of all new door(s) and window(s) and their reveals and cills including 1:20 scale elevational drawings and sections and 1:1 scale joinery sections have been submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.
16. The development hereby permitted shall not be commenced until a survey report and a method statement setting out how the existing boundary walls are to be protected, maintained, repaired and stabilised during and after demolition and construction works, and including details of any temporary support and structural strengthening or underpinning works, shall have been submitted to and approved in writing by the Local Planning Authority. The demolition and construction works shall be carried out and completed fully in accordance with the approved method statement.
Reason: As this matter is fundamental to the acceptable delivery of the permission to ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.
17. 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 policy HE8 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.
18. The development hereby permitted shall not be commenced above slab level until samples of the following materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority:
- a) samples of brick, render and relief panels (including details of the colour of render/paintwork to be used)
 - b) samples of all cladding to be used, including details of their treatment to protect against weathering
 - c) samples of all hard surfacing materials
- Development shall be carried out in strict accordance with the approved details.
Reason: As this matter is fundamental to the acceptable delivery of the permission to ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

19. 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 type, position, design, dimensions and materials and any sustainable drainage system used;
 - b) a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
 - c) details of all boundary treatments to include type, position, design, dimensions and materials;
- Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.
20. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the proposed green walling and maintenance and irrigation programme have been submitted to and approved in writing by the Local Planning Authority. The walls shall thereafter be constructed, maintained and irrigated in accordance with the approved details.
- Reason:** To ensure that the development contributes to ecological enhancement on the site (and visual amenity of the locality) in accordance with policy HE6.
21. The wheelchair accessible accommodation shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance 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 HO13 of the Brighton & Hove Local Plan.
22. Within 3 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment has issued a Post Construction Review Certificate confirming that the non-residential

development built has achieved a minimum BREEAM New Construction rating of 'Excellent' and such certificate has been 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.

23. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).

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

24. 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

25. The development hereby permitted shall not be occupied until a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries servicing and refuse collection will take place and the frequency of those vehicle movements has been submitted to and approved in writing by the Local Planning Authority. All deliveries servicing and refuse collection 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 policies SU10, QD27 and TR7 of the Brighton & Hove Local Plan.

26. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, 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. The development hereby permitted shall not be first occupied until
- i) details of external lighting, which shall include details of; levels of luminance, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation and details of maintenance have been submitted to and approved in writing by the Local Planning Authority.

- ii) the predicted illuminance levels have been tested by a competent person to ensure that the illuminance levels agreed in part 1 are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part i). The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.

Reason: To safeguard the amenities of the area, to reduce light spillage, impact on the International Dark Sky Reserve and to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan.

28. Other than demolition works and works to trees, no development shall take place until an acoustic and noise report to include details of the measures to protect the units from noise disturbance from road and mixed uses and the provision of noise reducing glazing, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented fully in accordance with the agreed details and shall thereafter be maintained.

Reason: To safeguard the amenities of the occupiers of the development and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

29. Prior to the occupation, a noise management plan (NMP) for all floor space other than the residential units shall be submitted to and approved in writing by the Local Planning Authority, which shall include:

- a) restrictions on plant and equipment operation,
- b) restrictions on events and the use of amplified music or public address systems (within the building and the open space), and
- c) the opening times of the café/restaurant.

The aim of the plan should be to avoid noise nuisance during the day and should provide that during opening hours of the open space, security staff will patrol the public outdoor space and take steps to minimise noise nuisance. The approved NMP shall be implemented and maintained accordingly.

Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

30. Within 6 months of the commencement of development a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration shall be submitted to and approved in writing by the Local Planning Authority. The buildings should be designed to achieve standards in line with ProPG guidance for new housing, and BS8233 Sound Insulation and Noise Reduction in Buildings(2014). 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 a level 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014. Any external plant is to be free from any low frequency tones that are likely to attract complaints. A scheme of testing to be carried out post construction but prior to occupation to demonstrate that the standards are met. The measures shall be implemented in strict

accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

31.

32.

a) Prior to commencement of development including demolition, a full asbestos survey of the premises, undertaken by a suitably qualified specialist shall be submitted in writing to the local planning authority for approval.

If any asbestos containing materials are found, which present significant risk/s to the end user/s then

b) A report shall be submitted to the local planning authority in writing, containing evidence to show that all asbestos containing materials have been removed from the premises and taken to a suitably licensed waste deposit site.

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

33.

No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased with five years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species until the Local Planning Authority gives written consent to any variation.

Reason: To ensure the continued well being of the trees in the interests of the amenity and environmental quality of the locality and to comply with policy QD16 of the Brighton & Hove Local Plan.

34.

No operations shall commence on site in connection with the development hereby approved (including demolition works, tree works, fires, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement (AMS) in accordance with BS5837:2012 Trees in relation to design, demolition and construction – Recommendations has been submitted to and approved in writing by the Local Planning Authority and the protective fencing is erected as required by the AMS.

Reason: To ensure the continued well being of the trees in the interests of the amenity and environmental quality of the locality and to comply with policy QD16 of the Brighton & Hove Local Plan.

35.

Prior to the commencement of the development hereby approved (including any ground clearance, tree works, demolition or construction), details of all tree protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required) shall be submitted to and approved in writing by the Local Planning Authority. The development

thereafter shall be implemented in strict accordance with the approved details.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12/ CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

36. No extension, enlargement or other alteration of the dwellinghouse(s) as provided for within Schedule 2, Part 1, Classes A, B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

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 should note that any grant of planning permission does not confer automatic grant of any licenses under the Licensing Act 2003 or the Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs, Article 6(2). Note that where there is a difference between the operating hours allowed for licensable activities and the hours granted under planning permission the shorter of the two periods will apply.
3. The applicant is minded that, under the Wildlife and Country Side Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting birds activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

2. SITE LOCATION AND APPLICATION DESCRIPTION

- 2.1. The application site is located at the eastern end of New Church Road, between Westbourne Gardens and Pembroke Gardens. It is bound to the east by No. 25 New Church Road and Nos. 2-8 (Evens) Pembroke Gardens and to the west by St. Christopher's School and No. 1 Westbourne Gardens.

To the rear (north) of the site is Carmel House, a four storey block of flats which fronts onto Westbourne Road.

- 2.2. It is outside but adjacent to the Pembroke and Princes Conservation Area which borders the eastern boundary of the site and to the north east of the boundary with the Sackville Gardens Conservation Area.
- 2.3. The site currently comprises the existing Brighton & Hove Hebrew Congregation synagogue, a single storey brick built, pitched roof building to the rear of the site. Fronting New Church Road are two detached Victoria villas. The villa to the east, closest to the Pembroke and Princes conservation area boundary remains more intact than the villa to the west. These buildings are now used for a variety of purposes linked to the synagogue, including Rabbi accommodation, synagogue social hall and children's nursery.
- 2.4. The area is predominantly residential in character although some properties in New Church Road in the vicinity of the site comprise commercial uses such as dental and veterinary users within former residential houses. There are also a number of community/institutional/educational uses in the vicinity including Hove Museum, St. Christophers' School and Aldrington House (NHS).
- 2.5. New Church Road is heavily tree lined with buildings generally set back from the site frontage adding to the more suburban spaciousness and character. Whilst the majority of buildings are two storey dwellings these are, interspersed with larger community/institutional/educational buildings but also blocks of flats which are 5-7 storeys in height.
- 2.6. The applicants have indicated that the proposal is a response to falling congregation numbers and that this is something that not only of this synagogue but other synagogues in the City have been experiencing in recent years. The average age of a synagogue member is identified at being approximately 75 years old. Therefore, by replacing and improving the buildings/facilities on site, the overall objective of the proposal is to attract younger people into the area and so help secure the future of the Jewish community in the City.
- 2.7. This mixed-use re-development would be undertaken by The Bloom Foundation as a development partner, and the site would be returned to Brighton & Hove Hebrew Congregation once the development has been completed on site.
- 2.8. The application proposes the demolition of the existing buildings and the comprehensive redevelopment of the site to provide a new synagogue; two buildings (one of five storeys and one of six storey) to provide replacement children's nursery, rabbi accommodation together with 2no classrooms for shared use by St Christopher's School, offices, meeting rooms a café and 35no flats. A separate terrace of 10 No. houses is proposed to the rear of these buildings.

2.9. The development is laid out with the Synagogue positioned centrally within the site and the two main blocks to the east and west of the Synagogue comprising the flats, commercial and community uses. These buildings will front on to New Church Road and will be served by vehicular and pedestrian access points from New Church Road. The buildings as a whole will be served by a basement level which will provide 56 car parking spaces, bike storage, plant room, refuse storage, internal stairs to the east and west blocks and the Mikvah (ritual bath) and associated office which serve the Synagogue.

2.10. The terrace of dwellings will be to the rear and similarly accessed from New Church Road.

2.11. There are 22 protected trees on site running along the front and eastern boundary as identified in the Tree Preservation Order. This includes thirteen Sycamore and nine Elm. Four trees are to be removed as part of the scheme this includes T20 a Cordyline Palm, T21 a Maple, T28 a Bay Laurel and T31 a Sycamore.

Synagogue:

2.12. The synagogue will be a single storey double height building. It has been designed as a timber lined box with the external (south) elevation being enclosed by a terracotta privacy screen. The intention is to provide both privacy and a degree of separation and although light will filter through the privacy screen the interior will generally be lit from above.

2.13. The Synagogue is the smallest building within the proposal although it is proposed to utilise a foldable wall along its internal connection with the western block to allow the social hall to be used for additional seating during times when attendances are likely to exceed the normal levels, particularly around holy days and festivals.

Western Block

2.14. This block is adjacent to St. Christopher's School, it will comprise the following:

Ground Floor - Café
 Social Hall & kitchen (serving the synagogue)
 Classroom
 Storage
 Toilets

First Floor - Co-worker space
 Rabbi's Flat
 One 1-Bed Flat
 Classroom
 Toilets

Second Floor - One 1-Bed Flat

	Four 2-Bed Flats Rooftop Allotments
Third Floor -	One 1-Bed Flat Four 2-Bed Flats
Fourth Floor -	One 1-Bed Flat Four 2-Bed Flats
Fifth Floor -	One 2-Bed Flat One 3-Bed Flat

Eastern Block

Ground Floor -	Nursery Storage One 1-Bed Flat One 2-Bed Flat
First Floor -	One 1-Bed Flat Three 2-Bed Flats
Second Floor -	One 1-Bed Flat Three 2-Bed Flats
Third Floor -	One 1-Bed Flat Three 2-Bed Flats
Fourth Floor -	Two 2-Bed Flats

Northern Block

- 2.15. The northern block is a terrace of ten houses, each with its own private garden. The houses will provide family accommodation of 3+ bedrooms. The central eight units will be four storeys in height with the western unit, closest to St. Christopher's School, being 3 storeys as will be eastern unit.

Materials

- 2.16. The proposed east & west elevations plan and north & south plan (dwg no. 1717-P-220 Rev A & 1717-P-219-A) note the materials to be used on the scheme. In terms of brickwork, the predominant facing brick to be used on both the east and west block is Gault. This brick type and colour is shown in detail on drawings 1717-P-233 Rev A & 1717-P-232 Rev A
- 2.17. The proposed materials to the north, east and west elevations of the North Block has been revised to a red brick to reference the prevalence of red brick within the Pembroke and Princes conservation area
- 2.18. The middle section of the east elevation will be punctuated with a powder coated aluminium panel and an inhabited wall (a planting trellis incorporating habitat boxes). A similar arrangement is proposed on the west elevation with an inhabited wall and powder coated twin skin perforated aluminium privacy screen to prevent overlooking of neighbours. There are projecting brick

header panels proposed on both elevations, which would be constructed from the same Gault type brick as the main elevation brickwork.

- 2.19. The materials on the upper floor / penthouse are powder coated aluminium panels and a reconstituted stone spandrel / cladding panel in the middle section. The windows are powder coated aluminium.
- 2.20. The windows on the east and west elevation will be fitted with privacy glass to prevent overlooking of neighbours, this will be contravision glass.

Access:

- 2.21. The site has two existing vehicular access points from New Church Road, each one originally serving each of the villas. The application proposes to slightly reposition the western vehicular access away from the boundary with St. Christopher's School. The eastern access will be closed and replaced by new pedestrian access on the eastern boundary of the site. A new pedestrian access will be constructed centrally to the site.
- 2.22. The western vehicular entrance will provide access to the basement parking and a forecourt to the front of the western building. The eastern access will run along the eastern boundary of the site and provide pedestrian access to the northern block of houses.

3. RELEVANT HISTORY

- 3.1. There have been a number of small scale applications relating to the existing operations and trees on site but none are of relevance to the current application.

Pre-Application Advice:

- 3.2. The applicant went through a pre-application consultation with Officers and presented to Members and to the South East Design Review Panel.

SE Design Panel:

- 3.3. The pre-application proposals were initially reviewed by the SE Design Panel in October 2017, who were concerned that the scheme as envisaged at that stage sought to achieve a level of development above which the site couldn't accommodate. In summary the development proposed a new synagogue plus 180 square metres of classrooms for the adjoining St Christopher's School, a 200 square metre co-working hub, and a café, a nursery and 64 residential units.
- 3.4. Acknowledging that the proposals were still at an early stage, the Panel nevertheless felt that the development lacked a coherent strategy, particularly in terms of layout, height and massing.

- 3.5. The residential block at the rear was noted as being deep in plan, and consequently had single aspect north and south facing flats, which raised the consequential issues of sunlight, daylight and lack of cross ventilation. Fewer units were felt to give scope to a redesigned building.
- 3.6. In terms of providing assistance to the designers, the Panel commented that there was potential to bring the building line forward on New Church Road but at that stage the western block in particular would sit forward of the building line and have an overly dominant impact on the streetscape. The design of the synagogue was supported although alternative positions within the site were felt to be worth exploring.
- 3.7. The scheme was revised and re-presented to the Panel in February 2018. The scheme was reduced to provide the synagogue, 89sqm of classrooms, a 200sqm co-working hub, a café, a nursery and 38 residential units (a reduction from 64 units in the previous proposal). The layout remained similar, with taller buildings either side of the centrally located synagogue and a northern building to the rear. The Panel considered this to be an improvement with the reduction in the amount of accommodation allowing the massing to appear more appropriate for the site. The proposed mews to the rear was considered to be a significant advancement. Although the eastern and western blocks were now similar in height the differences between the blocks was not thought to be significant enough to be immediately obvious. The Panel advised that either the scheme be amended to produce identical heights or the two blocks be re-designed as two more clearly distinguished buildings that do not attempt to directly imitate one another. Ensuring that the facades did not appear overly complicated was likely to be a greater challenge.

Member Pre-Application Presentation:

- 3.8. Councillors were supportive in principle of the proposals to improve and expand the community facilities on the site and supported the intention to provide affordable housing.
- 3.9. Initially when the scheme was presented, the scale of development was of concern to councillors as was the overall design/layout and the impact this could potentially have on neighbours and the wider area. The revised scheme appeared more appropriate in terms of scale, layout and overall footprint of development but councillors were nevertheless keen for the proposal to be more than just another tall building and expressed a desire for the design and materials to compliment the area. There were some concerns that the design of the northern block was contrived to overcome any potential impact on Carmel House rather than designed as part an overall concept for the site.
- 3.10. Through the various iterations of the scheme, councillors noted that the impact on trees, the conservation area, the amenity of neighbours were important considerations and would need to be considered in detail once the application was submitted.

4. REPRESENTATIONS

4.1. **723 representations** have been received, objecting to the proposed development for the following reasons:

- Inappropriate Height of Development
- Inappropriate design and appearance
- Overdevelopment of the site
- Noise disturbance
- The scheme represents an overdevelopment of the site
- The scheme will result in overshadowing
- The scheme will negatively impact on daylight/sunlight
- The scheme will have a detrimental impacts on privacy and result in increased overlooking
- The scheme will have an overbearing impact
- Too close to the boundary
- The scheme will have a negative impact on traffic in the area and impact on highway safety
- Lack of car parking
- Adverse impact on listed building
- Adversely impact on Conservation Area
- Re-locating the bus stop is not justified or wanted
- The scheme will impact on trees
- Impacts on Ecology
- Loss of Green Space
- The proposal will increase pollution
- Security risk
- the viability of the scheme is questioned and it is suggested it could provide additional levels of affordable housing

4.2. **440 representations** have been received, supporting the proposed development for the following reasons:

- Good design
- Limited impact on residential amenity
- It will be an asset to the local community, and St Christophers School. It will also provide much needed local housing.
- Could be the only opportunity to improve the campus as there is no public funding available.

4.3. 4 representations have been received, commenting in general terms on the proposed development.

5. CONSULTATIONS

External:

Conservation Advisory Group - Objection

- 5.1. The Group recommended refusal for the following reasons:
- 5.2. The five storey block adjacent to the two storey late Victorian or Edwardian detached houses, which are typical of the conservation area would constitute a setting which is harmful to its character in terms of height and design and because the building line of the south elevations is brought forward into the site's existing front gardens. With respect to design the Group draws attention to the CA Character Statement which refers to "The charm of the area (which) lies in the contrast of hard red brick and extensive use of white painted exterior timber and the overwhelming predominance of the plain red tile." Furthermore the five and six storey blocks next to St Christopher's School would harm the setting of this locally listed heritage asset given the disparity in massing, height and design and again because the building line of the proposed south elevations would no longer respect that of the existing set of three Victorian villas, one occupied by the school and the other two, on the application site, regrettably proposed for demolition.
- 5.3. In the wider context of New Church Road the building line of the proposed blocks would harm the setting of two more locally listed assets which are: to the east the Hove Museum (Brooker Hall) with (in its front garden) the nationally listed Jaipur Gate and to the west Aldrington House. The list entry in both cases stresses the importance of the building line as follows. Hove Museum "the building is set back off the road within its own grounds which form its setting and emphasise the formal layout of the area". Aldrington House. "The building is set back off the road within its own grounds which form its setting and emphasise the formal layout of the area".

County Archaeologist – Comment

- 5.4. Although not in an Archaeological Notification Area the proposed development includes the demolition of two late 19th century high status buildings. Although not designated, the buildings appear to be relatively unchanged, hold interesting historic architectural detail and thus are of archaeological, social and architectural interest. They should therefore be recorded before they are demolished, as recommended in the applicant's heritage statement. I assume however that your Conservation Officer is also making comment on this application in relation to these buildings and the setting of the adjacent Conservation Area and local listed buildings.
- 5.5. In relation to buried archaeological remains pre-dating these buildings, the site is likely to be heavily disturbed and of low archaeological interest.
- 5.6. In the light of the potential for impacts to heritage assets with archaeological interest resulting from the proposed development, the area affected by the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features that would be disturbed by the proposed works, to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss. These

recommendations are in line with the requirements given in the NPPF (the Government's planning policies for England):

- 5.7. In furtherance of this recommendation, we shall be available to advise the applicant on how they can best fulfill any archaeological condition that is applied to their planning permission and to provide a brief setting out the scope of the programme of works.
- 5.8. The written scheme of investigation, referred to in the recommended condition wording above, will set out the contracted archaeologist's detailed approach to undertake the programme of works and accord with the relevant sections of the Sussex Archaeological Standards (April 2015).
- 5.9. It is acceptable that the risk of damage to archaeology is mitigated by the application of planning conditions.

County Ecologist- Comment

- 5.10. There are no sites designated for their nature conservation interest that are likely to be impacted by the proposed development.
- 5.11. The site is currently predominantly buildings and hard standing with amenity grassland and discrete areas of scattered ruderal vegetations, introduced shrubs and scattered trees. Overall the site is of relatively low biodiversity value. The features of greatest biodiversity value are the trees which are covered by a Tree Preservation Order and will be retained and protected.
- 5.12. The site has the potential to support breeding birds. Any demolition or removal of scrub/trees should be carried out outside the breeding season (March – August) unless this is not reasonably practicable in which case a nesting bird check should be undertaken by an appropriate qualified/experienced ecologist.
- 5.13. The site is unlikely to support any other protected species. If protected species are encountered during development, work should stop and advice on how to proceed should be sought from a suitably qualified and experienced ecologist.
- 5.14. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and NPPF. Opportunities include, but are not limited to, the provision of bird, bat and/or insect boxes and the use of native species and species of known wildlife value within the landscaping scheme, the provision of bird and bat and/or insect boxes and the provision of green roofs and/or walls. The provision of green walls plus additional planting incorporating species of known wildlife value and the provision of bird and bat boxes are welcomed.

Sussex Police – Comment

- 5.15. No detailed comment to make at this stage.

- 5.16. Any permission is requested to be is conditional that alcohol is ancillary to food prepared on the premises and served at table by waiters / waitresses. Substantial food shall be available at all times.

Southern Water – Comment

- 5.17. If this application is approved a condition requiring the submission of details of the proposed means of foul and surface water sewerage disposal should be imposed.

UK Power Networks – Comment

- 5.18. Details of electrical lines/plant within the vicinity of the site have been provided.

Scotia Gas Networks – Comment

- 5.19. Details of gas lines/mains within the vicinity of the site have been provided.

Internal:

Arboriculture: Objection

Initial Comments

- 5.20. This proposal will still result in considerable root damage to a number of prominent protected trees and will threaten the retention of these and many others. The impact of placing such a large building and larger still underground car park plus the needs of future occupants will result in the steady erosion of the tree cover currently enjoyed. For these reasons the Arboricultural Team would recommend that permission is refused.

Further Comments

- 5.21. The above Objection concerns were addressed through the Arboricultural Implications Assessment And Method Statement Supplementary Report January 2019.
- 5.22. The additional supplementary report provides some clarity and helps fill a lot of the gaps within the initial Arboricultural Method Statement. However, overall little has changed for the better and a number of negative aspects have been revealed. There are 22 trees protected by tree preservation order (1) 2018 on the site. Five trees are proposed for removal, two of these T31 and T5, are protected by the tree preservation order.
- 5.23. The changes proposed are not convincing and the team are still of the view that the proposal will result in considerable root damage to twelve prominent protected trees. The impact of placing a building with such a large footprint and larger underground car park with the needs of future occupants will have an effect on the remaining trees, both in the short and long term, resulting in the steady erosion of the amenity that is currently enjoyed. For these reasons the Arboricultural Team recommend that consent is refused.

Heritage: Support

Initial Comments

- 5.24. Further heritage information was requested 21 August 2018 as follows:
- 5.25. An assessment of the proposal is unable to be made due to the lack of information and visual analysis as requested at both the 2017 and 2018 pre-application meetings (PRE2017/00260 and PRE2018/00053).
- 5.26. Full visual impact assessment of the proposal from key view points within and outside of the surrounding conservation areas. These should be photomontages of the proposed development.
- 5.27. Illustrated and full proposed elevations from Pembroke Gardens and Westbourne Gardens.
- 5.28. Full elevations of New Church Road will be required showing the entire proposal. Trees and surrounding buildings should be accurately scaled. This has been provided at a scale that is not legible when scaled.
- 5.29. 3D render/ views should be accurately show the size of the trees with and without leaves.
- 5.30. Material samples or material palette drawings to show the physical appearance of the proposal.
- 5.31. 360 degree elevations of the potential visual impact of the proposal on the city's urban, marine and downland context must be provided. These may be illustrated through the computer visualisations and photomontage techniques that consider, but are not limited to, the following:
- The built and natural environment
 - Key strategic views and approaches
 - Conservation settings and listed buildings
- 5.32. Clarification of what impacts the proposed zero setback, two- storey classroom adjacent to the St Christopher's site have on the local heritage item. Clarification of what this elevation will look like from St Christopher's is also required.

Further Comments

- 5.33. A meeting was undertaken with the agent and architects on 15th January 2019 to discuss the proposal. Discussions focused on the design of East and West Blocks and their appearance within the streetscape and from the conservation areas. At that meeting, materials were discussed as well as the importance of the submitted views accurately representing the proposed materials. It was agreed that revised plans with high quality coloured drawings be submitted for the site.

- 5.34. The amended drawings received on January 29th (2019) address the issues raised in the previous heritage comments. The western elevation of the West Block was of particular concern due to its bland appearance, however with the higher-quality images submitted, details such as projecting brick headers and the inhabited wall can be better appreciated. The submitted bay studies of the East and West Blocks show the materiality and detail proposed for these blocks. The bay studies now accurately reflect the proposed materials which reflect the character of the area along New Church Road.
- 5.35. The proposed materials to the north, east and west elevations of the North Block has been revised to a red brick to reference the prevalence of red brick within the Pembroke and Princes conservation area. This will allow for a red brick backdrop setting to the Pembroke and Princes conservation area.
- 5.36. As part of the amended plans, a high-quality architect's impression of the proposal from New Church Road has been provided (with the trees removed to show the details of the proposal). This image shows the materiality of the proposal and allows the Shul and residential blocks to be viewed together as a complete proposal.
- 5.37. As part of mitigation to address the arboriculture team's concerns regarding retention of trees on site, the proposed construction method has been changed to kingspan piling. The construction plans which form appendices to the supplementary arboriculture report by David Archer Associates dated January 2019. From these plans, it appears that the piling will be in close proximity to the existing parish boundary flint wall along the eastern boundary of the site. In order to ensure the protection of this wall during construction, a condition requiring method statements and protection measures for the wall during construction is required.
- 5.38. Furthermore, due to lack of detailed or sufficient information accompanying the application, conditions are required to address the following issues: material samples, window details, details of the inhabited wall, large scale details of the reconstruction of the front boundary wall and a landscape plan including all boundaries and any fencing within the site.
- 5.39. Overall, the proposal has been revised to minimise the impacts on the settings of the Pembroke and Princes and Sackville Gardens conservation areas, as well as the locally listed St Christopher's School. The proposal shows a high standard of design and detailing and reflects the characters of the surrounding conservation areas. Therefore, the proposal meets the requirements of HE6 and is supported, subject to conditions.

Further Comments

- 5.40. It has come to the attention of the heritage team that the council arborist consultation comments recommend refusal due to the potential impacts on a number of mature trees on the site. The following comments relate solely to the potential loss of trees on site and the potential impact on the nearby

conservation areas. These comments should be read in conjunction with the previous comments.

- 5.41. HE6 requires (amongst other requirements) that proposals within or affecting the setting of a conservation area should preserve or enhance the character or appearance of the area and should show (d) the retention and protection of trees, gardens, spaces between buildings, and other open areas which contribute to the character or appearance of the area.
- 5.42. Five trees are proposed to be removed from the site prior to works; trees T5, T20, T21, T28 and T31. T20 and T21 are located within the middle of the site and their loss will not have any harmful impact to the setting of the neighbouring Pembroke & Princes conservation area. Similarly, T31, although located on the New Church Road frontage, is not located within a conservation area and is not considered to cause harm to the setting of the conservation area. T31 is located within the setting of locally listed St Christopher's School, however it is one amongst many established trees along New Church Road and the impact of the loss of T31 will cause minimal harm to the locally listed item. The loss of T28 towards the western boundary of the site is a Bay Laurel and makes little contribution to the setting of St Christopher's School. Therefore, its loss will have minimal impact on the setting of the local item.
- 5.43. The number of mature trees that line the eastern boundary of the site with Pembroke Gardens properties makes a positive contribution to the setting of the Pembroke & Princes conservation area. Therefore, the loss of T5 has the potential to cause harm to the setting of the conservation area.
- 5.44. Bearing in mind the comments by council's arborist, the proposal will result in "considerable root damage to twelve prominent protected trees" which will lead to "the steady erosion of the amenity that is currently enjoyed". The loss of trees within the central entrance area of the proposal would be unlikely to harm the setting of the Pembroke and Princes conservation area. These trees, whilst mature do not appear to be visible from within the conservation area and make a minimal contribution to the setting of the conservation area. However, the mature trees along the eastern boundary of the site (adjoining the western boundaries of properties in Pembroke Gardens) make a positive contribution to the setting of the Pembroke and Princes conservation area. As such, any loss of these trees may have a harmful impact on the setting of this conservation area.

Housing Strategy: Comment

Initial comment:

- 5.45. The housing proposal does not meet the Affordable Housing Brief in the following ways:
- No affordable housing is included
 - No wheelchair accessible housing is identified

Updated comments:

- 5.46. Following the DVS report and the additional information from the applicant, the scheme and the provision of 5 affordable rented units can be accepted.

City Regeneration: Support

- 5.47. City Regeneration has no adverse comments regarding this application.
- 5.48. Due to the size of the proposed development, it will be categorised as a major development and therefore should this application be approved, there will be a requirement, detailed through a S106 agreement, for the developer or designated contractors to submit an Employment & Training Strategies to the Council in writing for approval, for the demolition and construction phases, at least one month before the intended date of Formal Site Commencement.
- 5.49. There will also be a requirement for a developer contribution of £15,900

Education: Comment

- 5.50. In this instance a contribution in respect of primary education is not sought as there are sufficient primary places in this area of the city for the foreseeable future. A contribution in respect of secondary and sixth form education of £91,326 is sought if this development was to proceed. The development is in the catchment area for Blatchington Mill and Hove Park Schools. Both of these schools are currently full and therefore it is entirely appropriate to seek a contribution in this respect.

Environmental Health: Awaiting comments

Planning Policy: Comment

- 5.51. The general principle of the development is supported and the scale and mix of uses (replacement synagogue, community uses and housing) is considered appropriate for this accessible location.
- 5.52. Although a high density of development is proposed, the overall scale of housing development is similar to the indicative figure of 40 dwellings in the draft site allocation proposed in the emerging CPP2 (Policy H1) and would contribute towards the city's housing requirements. The proposed development would generally provide a good mix of housing types and sizes in line with Policies SA6, CP14 and CP19.
- 5.53. However, it is noted that the application is not proposing to provide any element of affordable housing, whereas Policy CP20 would require 40% affordable. The applicant cites issues of financial viability and has submitted a Viability Assessment. This evidence will need to be assessed independently by the District Valuer or external consultants. Very strong evidence would be required to justify exemption from affordable housing obligations.

- 5.54. The proposed community uses appear to comply with relevant policies, including saved policies HO19 and HO20.
- 5.55. The site is in a relatively sensitive location, surrounded by existing properties and adjoining the Pembroke & Princes Conservation Area to the east and St Christopher's School, (a locally listed building) to the west. The proposed development would include buildings up to 6 storeys and the applicant has submitted a Tall Buildings Statement. The detailed aspects of the design will need to be assessed against relevant development plan policies, including CP12 and CP14, and the potential heritage impacts will need to be assessed against saved Policies HE6 and HE10. In addition, there are potential amenity impacts on neighbouring properties which will need to be assessed against saved Policy QD27.
- 5.56. The development would need to provide off-site financial contributions towards open space and sports provision to meet the requirements of Policies CP16 and CP17.

Private Sector Housing: Comment

- 5.57. No comment to make

Sustainability: No comment received

Sustainable Drainage: No objection

- 5.58. Recommended approval as the Lead Local Flood Authority has no objections to this application. A condition is recommended that seeks the submission of a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods.
- 5.59. To discharge the condition the Lead Local Flood Authority will need to be provided with:
- An appropriate soakaway test in accordance with Building Research Establishment Digest 365 (BRE365). Details of the results will need to be provided.
 - Appropriate calculations to demonstrate that the final proposed drainage system will be able to cope with both winter and summer storms for a full range of events and storm durations.
 - A demonstration that the surface water drainage system is designed so that flooding does not occur on any part of the site for a 1 in 30 year rainfall event, and so that flooding does not occur during a 1 in 100 (+40% allowance for climate change) year event in any part of a building or in any utility plant susceptible to water.
 - A formal, comprehensive maintenance plan for the drainage system that describes who will maintain the drainage, how it should be maintained and the frequency needed to monitor and maintain the system for the lifetime of the development.

Sustainable Transport: Support

Summary of Initial Comments:

- 5.60. The Highway Authority is not opposed to the proposed development in principle; however, it requires the following to be addressed prior to determination:
- If a refuse vehicle is intended to access the site as stated in the TS, it is requested that an additional swept path drawing be submitted;
 - Clarification be provided on the proposed design of the holding area at the top of the ramp, including stop-line;
 - Further information on the purpose of the classrooms and potential expansion of St Christopher's School;
 - Provide further assessment of trip generation, particularly in relation to non-residential person trips.

Summary of Supplementary Comments:

- 5.61. The Highway Authority's original comments included a number of requests for clarification and additional information. This has now been submitted and the Highway Authority would not wish to object subject to a sustainable transport S106 contribution and the necessary conditions.
- 5.62. It is recommended that the Arboriculture team and City Clean are consulted about the proposed site access and proposed refuse collection arrangements respectively.

Pedestrian and Vehicle Access:

- 5.63. The proposed pedestrian access is generally acceptable in principle. It is noted that pedestrian access direct to the cores of the east and west blocks is provided from the basement car park as well as a stairwell serving the north block. Ordinarily, the Highway Authority would also expect to see a segregated pedestrian pathway alongside the vehicle access into the site and also require further details to be submitted prior to determination. However, in this case it is acknowledged that pedestrians will not be expected to use the ramp and the central pedestrian access route leads directly to the surface level vehicle access area, providing a dedicated pedestrian access away from vehicles.
- 5.64. As the car park access ramp is suitable for one-way traffic only and will be managed through a traffic signal system, a holding area is proposed to reduce the likelihood of vehicles queuing back across the footway. The applicant's transport consultants have submitted additional swept path information to demonstrate that two vehicles are able to wait without impeding vehicles exiting the ramp or overhanging the footway.
- 5.65. It has also been demonstrated that a mini-bus is able to enter and turn on-site.

- 5.66. A Stage 1 Road Safety Audit (RSA) has been submitted, with the brief having previously been agreed by the Highway Authority. The Highway Authority has considered the RSA and associated response and agrees with the issue raised and proposed response which concerns the need to extend double yellow line restrictions in place of the former bus stop to prevent parked vehicles obstructing the visibility splay.
- 5.67. It is recommended that all highway works associated with the site access changes be secured via a S278 agreement. It is also noted that a street tree may need to be removed to accommodate the relocated bus stop. Subject to the comments of the Arboriculture Team, it is recommended that the provision of replacement street tree(s) also be included as part of the S278 highway works condition which will allow the location of the replacement street trees to be considered alongside the detailed design of the wider highway works and included in the associated RSA process.

Car Parking:

- 5.68. SPD14 would permit the following maximum car parking provision in this location (within the public transport corridor zone).
- 1-2 bed dwellings: 0.5 per dwelling + one per two dwellings = 33
 - 3+ bed dwellings: one per dwelling + one per two dwellings = 18
 - D1 education: one space per two teaching staff = Not stated
 - D1 places of worship: one space per 30 sqm = 28
 - A3 café: one space per 20 sqm = 4
- Total = 83
- 5.69. The proposals include 56 spaces within an underground car park which will be allocated to the different uses - 14 will be for the synagogue use and 42 for the residential. Although the ground floor plan suggests the split is in fact nine for the synagogue and 47 for the residential the level proposed in either case would be within the maximum permitted for each use. However, how the allocation of bays will be managed is unclear, including how visitors' bays will be kept available for general use rather than allocated to individual units. It is therefore recommended that a Car Park Management Plan be secured by condition.
- 5.70. The Applicant's Transport Consultant has submitted the full parking survey data as requested by the Highway Authority. Overspill parking from the residential development is not expected to be substantial; however, occupancy levels suggest some overspill parking could be accommodated. Therefore, the Highway Authority will not request a restriction on the ability of future residents to access a car parking permit in this instance.
- 5.71. In terms of non-residential parking demand, the TS estimates that 19 additional vehicle trips can be expected on a pro-rata basis, spread across the day. On-site parking associated with the synagogue will remain similar to existing levels; however, likely additional demand is limited and overspill parking will be restricted by the surrounding CPZ. Therefore, no objections are raised in this case.

Disabled Parking:

- 5.72. The proposed provision of five disabled bays for the development in total is in line with the minimum required and acceptable.
- 5.73. However, the design of the disabled parking is unclear. In accordance with Brighton & Hove Local Plan policy TR18, disabled parking should be designed in line with Traffic Advisory Leaflet 5/95 which requires a 1.2m access zone on both sides of each bay. It is therefore recommended that further details be secured by condition.

Electric Vehicles:

- 5.74. The TS notes the SPD14 standard to provide electric vehicle charging points for a minimum of 10% of bays. In addition, 10% should have 'passive' provision to allow further electric vehicle charging points to be installed in future. The Applicant's Transport Consultant has subsequently confirmed the proposal to meet this requirement and it is recommended that further details be secured by condition.

Motorcycle Parking:

- 5.75. SPD14 requires motorcycle parking to be provided a rate of 5% for major developments. The applicant has confirmed following the Highway Authority's original comments that three spaces will be provided and it is recommended that these be secured by condition.

Cycle Parking:

- 5.76. SPD14 requires the following minimum cycle parking provision:
- 1-2 bed dwellings: one per dwelling (33) + one per three dwellings (11) = 44
 - 3+ bed dwellings: two per dwelling (24) + one per three dwellings (4) = 28
 - D1 nurseries: one space per five staff = 1
 - D1 places of worship: two spaces plus one per 350 sqm = 3
 - A3 café: one space plus one per 250 m² plus one long-stay space per 5 staff = 3
- Total = 79
- 5.77. The applicant is proposing 96 cycle parking spaces within basement stores which is therefore compliant with the minimum required. However, the design is unclear and the size of the stores appears to be too constrained for accommodating this level of provision using an acceptable design. It is therefore recommended that further details be secured by condition.

Deliveries and Servicing:

- 5.78. Bins will be moved to the ground level forecourt by site staff for collection by a private contractor. Revised plans to demonstrate that a refuse vehicle is able to enter and exit the site have been submitted.
- 5.79. This does not address the need for City Clean to service the residential bins and it is recommended that they be consulted on the proposals. If refuse vehicles are intended to access the site, it is requested that the applicant resubmit swept path drawings prior to determination. A condition has been attached requesting a Delivery & Service Management Plan addressing this concern.

Trip Generation

- 5.80. Following the Highway Authority's original comments, the applicant has submitted a sensitivity analysis which indicates a similar number of trips during the morning and evening trips to previously forecast. Upon consideration of this, no objections are raised.

Travel Plan:

- 5.81. The Transport Statement commits to producing Travel Plans for each element of the site and a Framework Travel Plan has been submitted as part of the application. This includes the following measures:
- £150 cycle voucher per household;
 - Two years' membership per household to the Brighton Bike Share scheme;
 - One year's bus pass per household for travel within Brighton & Hove or the equivalent contribution towards a rail season ticket; and
 - Three years' car club membership per household.
- 5.82. This commitment is welcome and it is recommended that it be secured as part of the S106 agreement alongside full Travel Plans for each element of the proposed development.
- 5.83. These measures are necessary to ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

Contribution:

- 5.84. The site is located in a sustainable location; however, footways and crossing facilities between the site and local facilities would benefit from improvement in order to serve the needs of all additional residents and visitors to the site.
- 5.85. A sustainable transport contribution is therefore requested. This will be calculated in accordance with the council's Technical Guidance on Developer Contributions. This has been calculated based on the submitted information and the Highway Authority will reconsider the amount requested should a full person trip survey (in addition to vehicles) of the existing use be submitted.

- 5.86. Net increase in person trips (426) x contribution per trip (£200) x 0.75 (location-based deduction) = £64,000
- 5.87. This will be allocated towards pedestrian footway and crossing improvements on routes between the site and neighbouring facilities to include Aldrington Station, Hove Station, Central Hove shopping areas and the Seafront.
- 5.88. This is in accordance with Brighton & Hove City Plan Part One policies CP7 and CP9. It is also necessary to provide for users of the development of all abilities and access to sustainable modes; directly related to the development; and proportionate. It is therefore, consistent with the tests contained within the National Planning Policy Framework (NPPF) paragraph 56.

Construction Management:

- 5.89. Owing to the scale of the works and location adjacent to a bus stop and school, it is recommended that the applicant be required to complete a Construction Environment Management Plan and that this be secured by condition or as part of the S106 agreement. The movement of construction vehicles will be expected to avoid the peak periods and school opening and closing times.

6. MATERIAL CONSIDERATIONS

- 6.1. 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
- 6.2. The development plan is:
- Brighton and Hove City Plan Part One (adopted March 2016);
 - Brighton and Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton and Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton and Hove Waste and Minerals Sites Plan (adopted February 2017);
- 6.3. Due weight has been given to the relevant retained policies in the Brighton and Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton and Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
DA4	New England Quarter and London Road Area
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
CP18	Healthy city
CP19	Housing mix
CP20	Affordable housing

Brighton and Hove Local Plan (retained policies March 2016):

TR4	Travel plans
TR7	Safe development
TR11	Safe routes to school and school safety zones
TR12	Helping the independent movement of children
TR14	Cycle access and parking
TR15	Cycle network
TR18	Parking for people with a mobility related disability
SU3	Water resources and their quality
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD12	Advertisements and signs
QD14	Extensions and alterations
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD25	External Lighting
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HO19	New community facilities
HO20	Retention of community facilities
HO21	Provision of community facilities in residential and mixed use schemes
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE12	Scheduled ancient monuments and other important archaeological sites

Supplementary Guidance Notes:

- SPGBH9 A guide for Residential Developers on the provision of recreational space
SPGBH15 Tall Buildings

Supplementary Planning Documents:

- SPD03 Construction and Demolition Waste
SPD06 Trees and Development Sites
SPD11 Nature Conservation and Development
SPD14 Parking Standards

8. CONSIDERATIONS and ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of the development, its scale, layout and access, affordable housing and viability considerations. In addition, the impact of the development on the character and appearance of the adjoining conservation areas and the setting of the nearby locally and statutorily listed buildings, impact on the street scene and wider views, neighbouring amenity, noise and anti-social behaviour/security considerations, pedestrian permeability, sustainable transport impacts including cycle parking demand, highway safety, impact on existing trees, and contribution to other objectives of the development plan.

Background:

- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). The figures presented in the SHLAA reflect the results of the Government's 2018 Housing Delivery Test which was published in February 2019. The Housing Delivery Test shows that housing delivery in Brighton & Hove over the past three years (2015-2018) has totalled only 77% of the City Plan annualised housing target. Since housing delivery has been below 85%, the NPPF requires that a 20% buffer is applied to the five year housing supply figures. This results in a five year housing shortfall of 576 net dwellings (4.5 years supply). In this situation, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

Principle of Development:

- 8.4. The site is long established as a religious/community use and the replacement/improvement of these uses would be acceptable in principle. Policy HO20 of the Brighton & Hove Local Plan seeks to retain community

facilities and only permits loss of community uses in exceptional circumstances.

- 8.5. The existing synagogue has a foot print of approximately 283.5 sq metres and as proposed would provide a footprint of approximately 169 sq metres, with an additional social hall of 146 sq metres. Whilst the synagogue would reduce in floorspace, the social hall would be classified as contributing to the overall community use and therefore the scheme would not result in a net loss of community floorspace.
- 8.6. Whilst the proposal does not constitute a new community facility the proposal would enhance current provision and therefore would accord with policy HO19 of the Brighton & Hove Local Plan by improving and enhancing facilities.
- 8.7. In addition to these existing uses, the scheme proposes residential development and commercial office/hub provision.
- 8.8. Planning policies are generally supportive of new housing development provided it is in the appropriate location, density and design (City Plan Part One policies CP1, CP12, CP14). The design of the development is assessed later in the report.
- 8.9. In this regard it is noted that the site is a draft housing site allocation within the emerging City Plan Part Two (Policy H1). The Draft CPP2 was published for consultation under Reg 18 of the T&CPA for 8 weeks over Summer 2018. Although CPP2 carries limited weight at this stage of the planning process, Policy H1 indicates the Council's aspirations for the future development of the site.
- 8.10. City Plan Part One policy CP2 supports indigenous business growth and the diversification of the city's economy. The same policy also supports a mix of employment floorspace including the provision of small and medium sized, flexible floorspace and start up business space for major mixed used sites across the city. Subject to certain requirements relating to need, space, accessibility, environmental impact, Local Plan policy EM4 supports new business uses (including Class B1) on unidentified sites within the city boundary.
- 8.11. The scheme includes a small café/ kosher kitchen. This is intended to support and enhance the community facilities and in this particular proposal it is considered reasonable to view them with the terms of policy HO19.

Affordable Housing and Viability:

- 8.12. City Plan Policy CP20 requires housing development of over 15 units to provide 40% affordable housing. The 40% target may be applied more flexibly where the council considers this to be justified, as set out in the policy. Of consideration in particular is the financial viability of developing the site (as demonstrated through the use of an approved viability model).

- 8.13. In this regard, the applicant has provided a Viability Assessment which concludes that the overall costs of the scheme mean it is not viable to provide any affordable housing. The scheme would have a Gross Development Value of £24,080,000 and a total project cost of £32,091,944. This equates to a negative value of £8,011,944. Notwithstanding this, the applicant has offered 5 affordable rent units.
- 8.14. The council commissioned the District Valuer Service (DVS) to assess the applicant's viability case. The DVS concluded the main areas of difference in the reports were the construction costs, residential values and overall methodology for undertaking the financial viability review. This leads to the proposed scheme being more viable than the applicant's appraisal suggests. However, when the residual land value (£1,783,735) of the proposed scheme, with 5 units of Affordable Housing, is compared with the Benchmark Land Value (£1,935,263) of the site, the value of the proposed scheme does not exceed this and therefore the scheme cannot viably provide more than the 5 Affordable Housing as proposed.
- 8.15. Given the DVS conclusions, it is therefore considered that a robust case has been made to accept a lower affordable housing percentage than is targeted by policy. Affordable housing should normally be a mix of shared ownership and affordable rented accommodation. Notwithstanding this, the provision of 5 affordable rented units is welcomed and supported, exceeds policy requirements and would make a valuable contribution towards housing need in the city and would help provide balanced mix of housing provision in the scheme, in accordance with policy. The applicant has advised that they are working with the Jewish Housing Association to manage the 5 rented units. Eligible households would normally be nominated through the council's Joint Housing Register. The applicant has provided additional information to allow an exception that residents will be placed through the Brighton & Hove Jewish Housing Association. The information states that the Jewish Housing Association already operates in the city and provides specialist homes for older, disabled and vulnerable people. They have also advised that the accommodation would have the benefit of housing members of the Jewish community close to the facilities on site. Housing Strategy has commented on the further information and is satisfied with the proposal.
- 8.16. The units identified to be made available for affordable rent is yet to be finalised. This this will form part of the s106, as well as securing the affordable units in perpetuity.
- 8.17. A Review Mechanism is also suggested, in order to provide a commuted sum to the Council towards off-site affordable housing provision, should the financial viability of the scheme allow for this in the future.
- 8.18. Representations have been received from residents questioning the viability of the applicant's submission and viability report. The DVS were made aware and were passed a copy of the objector's viability report but as an independent assessor have come to their own impartial view.

Housing Mix, Type and Tenure:

- 8.19. National and local planning policies seek to secure the delivery of a wide choice of high quality homes which will contribute to the creation of mixed, balanced, inclusive and sustainable communities. Proposals for new residential development are expected to incorporate a range of dwelling types, tenures and sizes that reflect and respond to the city's identified housing needs (City Plan Part One policies SA4, SA6, CP14, CP19, CP20, Local Plan Policy HO13 and emerging policy DM1 of the City Plan Part Two.).
- 8.20. Policy CP14 states that residential development should be of a density that is appropriate to the identified positive character of the neighbourhood and be determined on a case by case basis. It states development will be permitted at higher densities than those typically found in the locality where it can be adequately demonstrated that the proposal:
1. Would be of a high standard of design and would help to maintain or create a coherent townscape;
 2. Would respect, reinforce or repair the character of the neighbourhood and contribute positively to its sense of place;
 3. Would include a mix of dwelling types, tenures and sizes that reflect identified local needs;
 4. Is easily accessible by sustainable transport or has the potential to be easily accessible;
 5. Is well served by local services and community facilities; and
 6. Provides for outdoor recreation space appropriate to the demand it would generate and contributes towards the 'green network' where an identified gap exists.
- 8.21. Policy CP12 similarly promotes residential development to be of a density which is appropriate to the character of its neighbourhood. It also advises that development will be permitted at higher densities than typical of the locality if it complies with a set of criterion, and also states that in order to "make full efficient and sustainable use of the land available, new residential development...will be expected to achieve a minimum net density of 50 dwellings per hectare".
- 8.22. The proposed density of the development works out at 110dph, this was calculated by the number of residential units (45) / the size of the site (0.41ha) = 109.76 (110dph). Matters relating to the design are considered later in the report, however, the increased density would comply with this policy requirement.
- 8.23. Policy CP19 of the Brighton & Hove City Plan seeks an appropriate mix of housing which is informed by local assessments of housing demand and need. It states that:
- Sites coming forward as 'windfall' development will be required to demonstrate that they have had regard to housing mix considerations and been informed by local assessments of demand and need.

- All new residential development will have regard to the characteristics of existing neighbourhoods and communities to ensure that development makes a positive contribution to the achievement of mixed and sustainable communities.

- 8.24. The supporting text of policy CP19 refers to a B&HCC demographic analysis, which suggests an estimated 65% of overall housing need and demand will be for 2 and 3 bedroom properties (34% and 32% respectively), 24% for 1 bedroom properties and 11% for 4 bedroom or more properties. This advises that in terms of demand for market housing this is likely to be weighed towards 2 and 3 bedroom properties.
- 8.25. In terms of the market mix there is clearly a preference towards one and two bedroom homes when compared with the recommended mix put forward by the Brighton & Hove Objectively Assessed Housing Need. This has led to a shortfall in respect of 3 and 4+ bedroom properties against the Brighton & Hove Objectively Assessed Housing Need.
- 8.26. It is noted that within the City as a whole there is clear evidence of bias towards smaller dwelling types, and the supporting text of policy CP19 advises that due to the size limitation of central sites it will be important to maximise opportunities to secure family sized accommodation on suitable sites.
- 8.27. The application proposes a total of 45 residential units, the majority of which are 1 & 2-bed units (73% in total). However, the proposed mix will also provide a number of 3 & 4-bed units (27% of the total units), and these are provided in order to help supply much need family sized homes.

Market Mix Comparison			
	Recommended	Proposed	Difference
1- Bed	15%	18%	+3%
2- Bed	35%	55%	+15%
3- Bed	35%	7%	-28%
4- bed	15%	20%	+5%

- 8.28. Whilst there is a lack of 3 bed accommodation, it is considered to be acceptable given the overall benefit of providing additional units of residential accommodation. As such is considered to address the nature of housing needs and market demand in the City, and is therefore considered to comply with policy CP19.
- 8.29. It is noted that the application site is a brownfield site within the urban area of Brighton & Hove with good accessibility to public transport, shops and services. It therefore represents an opportunity to make an efficient use of the site to make a significant contribution to housing provision.
- 8.30. This proposed mix is also considered to be in character with the surrounding area which forms a mixture of semi-detached houses and small blocks of

flats. Consequently, it is considered that the proposed mix is appropriate for this area and would help to make an efficient use of the site.

Standard of Accommodation:

- 8.31. The proposed houses and flats will each benefit from sizeable living accommodation, with the houses benefiting from both front and rear gardens, and the flats benefiting from balconies or communal outdoor space. The Government's Technical housing standards – nationally described space standards are used to help make an assessment of an acceptable standard of accommodation for residential units. It is noted that the council has not adopted these sizes locally but provide a comparable and an indicator that the accommodation proposed is an acceptable size. The proposed units would all meet or exceed these standards.
- 8.32. Policy HO5 requires the provision of private useable amenity space appropriate to the scale and character of the development. The proposed houses and flats will each benefit from reasonable outdoor living accommodation, with the houses benefiting from small front and larger rear gardens. A number of the flats benefit from balconies.
- 8.33. In terms of the demand created for outdoor recreation space, sports and children's play. The building line of the development is coming forward so part of the current open space around the site will be lost. Proposed communal open space within the proposal provided as hard and soft landscaping to the front and rear of the east and west block can be enjoyed by residents and users of the development.
- 8.34. It is welcomed that the applicant has agreed to fully meet the financial contribution of £149440.53 for enhancement of off-site open space, sport and play provision, in accordance with the requirements of policies CP7, CP16 and CP17 and the Developer Contributions Technical Guidance.

Design, scale and appearance:

- 8.35. National and local policies seek to secure good quality design which respects general townscape and the setting of heritage assets and is a key aspect of sustainable development. Taller and higher density development than that typically found in a locality is considered appropriate in the right location. Policies SS1, CP12 and DA3 of Brighton and Hove City Plan Part One support the design of high quality sustainable buildings that respect the surroundings, make a positive contribution to the streetscene and embrace local distinctiveness through various means including the choice and use of materials as well as articulation and detailing of the elevations.
- 8.36. The design and massing of the development has evolved positively since the initial pre-application submission and also during the submission as a result of discussions with the Design Panel, officers and Members.
- 8.37. The development of this site offers a significant opportunity to improve the quality of this area, and to enhance the urban environment. The supporting

documentation states that the proposed scheme has been driven and developed by its built surroundings.

- 8.38. The proposed development would be staggered in height with part 3-storey, part 5-storey, and part 6-storey elements. This staggered building height is in response to the character of the surrounding area and ensures that the proposal would have an acceptable impact on the amenities of the occupiers of the surrounding buildings as well as ensuring an appropriate balance of heights to reflect the context of the sites surroundings.
- 8.39. The scale of the original buildings in the area is mainly 2-3 storeys in height, however, there have been a number of taller, more modern developments that range from 4 to 7-storeys in height such as Blenheim Court at 7 stories, 50 New Church Road at 5 stories and Oakleigh Lodge at 7 stories. The northern side of the road is in the main made up of substantial detached villas, but this scheme displays a much tighter urban grain derived from the terraced development to the north and the more modern blocks of flats which have been developed on the late 20th and early 21st century.
- 8.40. The proposal for a part 5-storey and 6-storey building is therefore considered acceptable within the streetscene in this instance given the presence of higher blocks such as Blenheim Court, Oakleigh Lodge and 50 New Church Road.
- 8.41. It is acknowledged that a 6-storey building is considered to be a tall building. A tall building statement has been provided in support of this application in accordance with SPG 15 Tall Buildings. The statement shows that the application site is suited to a residential reuse. Through a historic study and view analysis it has also been demonstrated that the proposals do not harm the character of the area or the setting of the conservation area. Instead it is considered the scale and design of the buildings will reinvigorate an underused site. The statement demonstrates that the tall building element of the proposals complies with the broad range of local authority guidance and planning policies. By utilising the headings of this study to also assess all parts of the proposals, not just those parts above 18m, it has been possible to show that the scheme will have no adverse impact on its environs in terms of character, urban form, local & strategic views, local infrastructure or adjoining neighbours.
- 8.42. The taller element of the building is located on the western half of the site, within the West Block, and is characterised by a building of increased height with a total of 6-storeys, which reflects the higher building heights along New Church Road and the non-residential use of the St Christopher's School to the west.
- 8.43. It is noted that there's an established character when it comes to building heights in the area. The medium and low heights of buildings have been dictated both by the history of the area. However, in recent years a number of taller buildings have been created within the area such as 50 Church Road. It is considered that taller buildings may be appropriate in order to signify a

change in the urban environment. In this case, the site is considered to be an appropriate site for the proposed landmark community building given the varied character of the area.

- 8.44. The form and scale of the development is therefore considered to be in keeping with the varied character of this area, and the scheme is considered to comply with saved policies QD5 and QD27 of the Local Plan and policy CP12 of the City Plan. The Design and Access Statement submitted in support of this application provides further detail.
- 8.45. The general arrangement of the proposed development can be broken into four distinctive sections: The North Block, The East Block, The West Block, and the Shul in the centre. The location of the development on the site has been driven by the need to locate the Shul at the heart of the proposal. The development then wraps around this central area, and this also helps to ensure that the focus remains on the Shul as the centre of the proposal.
- 8.46. The design and appearance of the scheme has been developed by the character of the surrounding area. This enables the scheme to be subdivided into distinctive areas. The North Block provides a lower density residential area with 3-storey townhouses, this is considered to reflect and respect the four-storey height, and residential use of Carmel House to the north of the site. The West Block is a mix of commercial and residential uses, it is characterised by a building of increased height with a total of 6-storeys, which reflects the higher building heights along New Church Road and the non-residential use of the site to the west. The East Block is lower in height and is predominantly residential in use, which is in response to the residential dwellings located to the east of the site.
- 8.47. In terms of brickwork, the predominant facing brick to be used on both the east and west block is Gault. The proposed materials to the north, east and west elevations of the North Block has been revised to a red brick to reference the prevalence of red brick within the Pembroke and Princes conservation area.
- 8.48. The middle section of the east elevation will be punctuated with a powder coated aluminium panel and an inhabited wall (a planting trellis incorporating habitat boxes). A similar arrangement is proposed on the west elevation with an inhabited wall and powder coated twin skin perforated aluminium privacy screen to prevent overlooking of neighbours. There are projecting brick header panels proposed on both elevations, which would be constructed from the same Gault type brick as the main elevation brickwork.
- 8.49. The materials on the upper floor / penthouse are powder coated aluminium panels and a reconstituted stone spandrel / cladding panel in the middle section. The windows are powder coated aluminium.
- 8.50. The Shul has been designed to be the heart of the proposal, and as such in order to ensure that the design / appearance of the other elements are not competing visually with the synagogue, the use of subtle textures and tones

are proposed and overall it is considered that the proposal is bringing forward a scheme of good design in keeping with the surrounding area and adjoining Conservation Area.

- 8.51. It is noted that residents have objected to the design of the scheme and how it's out of keeping with the surrounding area; however the scheme has been through a pre- application process and the design has evolved over time to where the materials and form are considered to be at an acceptable level.

Impact on local Heritage Assets and Conservation Areas:

- 8.52. The subject site is located on the northern side of New Church Road and shares its eastern boundary with the Pembroke and Princes conservation area and its western boundary with the local heritage item St Christopher's School. The Sackville Gardens conservation area commences on the southeast corner of New Church Road and Westbourne Villas.
- 8.53. Two existing two-storey Victorian villas survive to the front of the subject site which are similar in appearance and age to the neighbouring locally listed building at St Christopher's School. The villa to the east, closest to the Pembroke and Princes conservation area boundary remains more intact than the villa to the west.
- 8.54. To the rear of the site is a single storey c.1960s red brick synagogue hall. It lacks any architectural distinctiveness and is hidden from public view behind the two Victorian villas at the front of the site.
- 8.55. St Christopher's School at 33 New Church Road is a locally listed building dating to c.1897. The building is a good quality two-storey Victorian villa set within its own grounds and little altered. Despite alterations to the side and rear, and the resurfacing of the front garden, the relationship between the house, grounds and road survives.
- 8.56. Located to the east of the subject site, within the Pembroke and Princes conservation area is the locally listed Hove Museum and Art Gallery. The gallery is a fine example of a Victorian villa with high quality Italianate style features with similarities to Osborne House on the Isle of Wight. Despite some later additions, the gallery occupies a prominent location within the conservation area and also houses the grade II listed building the Jaipur Gate located within its grounds.
- 8.57. Original comments received from the Heritage team sought additional clarification and further visual assessments to comment on the proposal. The amendments included visual impact assessment of the proposal from key view points within and outside of the surrounding conservation areas, illustrated and full proposed elevations from Pembroke Gardens and Westbourne Gardens and full elevations from New Church Road. An additional Arboricultural Implications Assessment and Method Statement were also provided. The amended and additional drawings and information received during the course of the application address the issues raised in the

previous heritage comments and the heritage team now support the application.

- 8.58. The proposed materials to the north, east and west elevations of the North Block has been revised to a red brick to reference the prevalence of red brick within the Pembroke and Princes conservation area. This will allow for a red brick backdrop setting to the Pembroke and Princes conservation area.
- 8.59. As amended, the western elevation of the West Block has greater detail such as projecting brick headers and the inhabited wall which tie in better with the heritage of the area. The submitted bay studies of the East and West Blocks show the materiality and detail proposed for these blocks. The bay studies now accurately reflect the proposed materials which reflect the character of the area along New Church Road.
- 8.60. A high-quality architect's impression of the proposal from New Church Road has been provided this image shows the materiality of the proposal and allows the Shul and residential blocks to be viewed together as a complete proposal.
- 8.61. Conditions are required to address the following issues: material samples, window details, details of the inhabited wall, large scale details of the reconstruction of the front boundary wall and a landscape plan including all boundaries and any fencing within the site to maintain the heritage character.
- 8.62. The Heritage officer has reviewed the application following receipt of the finalised comments from the Arboriculturalist. Whilst the Arboriculturalist has raised an objection, the trees that are to be felled are not considered to impact on views in and out of the Conservation Areas. It is, however, noted that the mature trees along the eastern boundary of the site (adjoining the western boundaries of properties in Pembroke Gardens) make a positive contribution to the setting of the Pembroke and Princes conservation area. As such, any loss of these trees may have a harmful impact on the setting of this conservation area.
- 8.63. Overall, the proposal has been revised to minimise the impacts on the settings of the Pembroke and Princes and Sackville Gardens conservation areas, as well as the locally listed St Christopher's School. The proposal shows a high standard of design and detailing and reflects the characters of the surrounding conservation areas. Therefore, the proposal is not considered to have an adverse impact on the Conservation Areas or locally listed buildings and listed buildings in the vicinity of the site and meets the requirements of retained policy HE6 of the Brighton and Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One and is supported, subject to compliance with the recommended conditions and subject to maintaining the mature trees along the eastern boundary of the site.
- 8.64. Impact on amenity of neighbouring residents and businesses, and amenity of proposed residents:

- 8.65. The existing properties which are most likely to be impacted by the proposal are Carmel House to the rear of the site, the dwellings along New Church Road and Pembroke Gardens to the east, St Christopher's School and Westbourne Gardens to the west. It is noted that the scheme has resulted in a significant level of objections raising concerns about the impact to these properties. The impact of these are considered below.
- 8.66. At its closest point, the rear of the building to the north, Carmel House, is located some 15m from the proposed three-storey townhouses of the scheme; this is a similar separation distance as the current synagogue building. However, it is noted that the height of the building is higher than the existing. A daylight / sunlight assessment has been submitted in support of this application which assesses this relationship with Carmel House, and confirms the scheme is BRE compliant; it is therefore considered that the level of impact on the amenity of the occupiers of this building is acceptable in this instance.
- 8.67. Whilst windows are proposed on the facing elevations of the proposed townhouses within the North Block, there are no windows at roof level and the separation distance at ground floor of approximately 15metres is considered acceptable.
- 8.68. The proposed East Block would result in a building of 5-storeys in height; this would be higher than the existing property located on the eastern half of the site. The proposed block would provide residential units, the internal arrangements of this block would ensure that the number of openings on the facing (east) elevation is minimal. In addition, the existing trees along the eastern boundary will remain and it is important that they remain in order to maintain the privacy along this boundary. It is noted that the Arboriculture team is objecting and concerned about the long term health of these trees along the eastern boundary. If the trees are lost it is considered that there could be a level of lost privacy or perceived levels of privacy to the properties along Pembroke Gardens and 27 Church Road. However on balance it is considered that the impact of the proposal on the existing amenities of the neighbouring dwellings is at an acceptable level in this instance.
- 8.69. The proposed West Block is a mix of commercial and residential uses, it is characterised by a building of increased height with a total of 6-storeys, which is considered to reflect the higher building heights along New Church Road and the non-residential use of the site to the west. St. Christopher's School is located to the west of the site, and in order to minimise the possibility for overlooking to the school, the windows on the facing elevation of the flats will be oriel angled windows which would divert views away from the School. This is important as there have been significant objection to the potential of overlooking and privacy to the school.
- 8.70. The proposed development has been assessed in terms of their likely impact on the amenity of the nearest neighbours. A daylight/sunlight report was submitted in support of the application as well as an overshadowing

assessment by BRE who assessed the impact on neighbouring gardens. The daylight/ sunlight assessment is summarised as follows:

- 8.71. The nearest residential properties which might be affected by the proposals are Carmel House, to the north, 1 and 3 Westbourne Gardens to the north west, 27 New Church Road to the east, 2 to 10 Pembroke Gardens to the east and St Christopher's School to the west. This report presents an assessment of daylight and sunlight to these locations following the development.
- 8.72. Loss of daylight and sunlight would be within the guidelines in the Report for Carmel House, 1-3 Westbourne Gardens and Pembroke Gardens. This has been analysed in the BRE client report 21 June 2018. Windows on the lowest three floors were analysed at Carmel House, loss of both daylight and sunlight would be within the BRE guidelines in all cases. Dormer windows above them would be less affected. Loss of daylight and sunlight would be within the BRE guidelines in all cases at 1-3 Westbourne Gardens.
- 8.73. Loss of daylight would be outside the guidelines for seven windows at St Christopher's School. One of these appears to be covered from the inside and is likely to be a secondary window in any event.
- 8.74. Loss of daylight to one window at 27 New Church Road would be outside the guidelines. As the window faces within 90° of north, it would not require sunlight assessment. This window is very close to the site boundary and directly faces the site. Based on room layout in another house of similar design, it may be a secondary window or serve a circulation space. Loss of daylight would be within the guidelines for the other windows analysed.
- 8.75. It is noted that there has been significant objection from neighbours regarding the impact the development will have on their amenity. It is acknowledged that the development will be increasing the built form compared to the existing situation. However, the overshadowing and daylight/ sunlight assessments have demonstrated a BRE compliant scheme. Given the above the impact on neighbouring windows and properties is considered to be in line with BRE guidelines and is unlikely to have a significant adverse impact on amenity that would justify refusal of the application.
- 8.76. Consequently, it is considered that the proposed development will provide an acceptable level of amenity for the proposed residents, as well as protect the amenity of the existing occupiers of neighbouring properties. Overall the scheme is therefore considered to be compliant with saved policies QD5 and QD27 of the Local Plan, and policy CP12 of the City Plan.
- 8.77. Turning to concerns raised regarding increased levels of overlooking it is considered that the measures outlined in the preceding paragraphs will provide appropriate measures to protect neighbour's privacy. The buildings, particularly to the east and north, have been laid out internally to minimise the number of windows facing neighbouring buildings and the design of the development has integrated oriel windows, privacy screens and panels to

help prevent overlooking of neighbouring buildings and gardens. As noted above, the existing trees, which are to be retained on site, will continue to provide additional screening, particularly on the eastern boundary of the site. Whilst it is acknowledged that the development will increase the density and height of development on the site, separation distances between proposed and existing buildings have sought to take into account the privacy of neighbours. The separation distances between the northern block and Carmel House are comparable with the back-to-back distances between dwellings in Westbourne Gardens and Westbourne Street, to the north of the site and the distances between the east block and the main rear elevations of properties in Pembroke Gardens are some 30m. In view of all these provisions and features it is considered that the privacy of neighbours can be sufficiently safeguarded.

Sustainable Transport:

- 8.78. City Plan policy CP9 seeks to promote sustainable modes of transport and cycling and walking in particular, to reduce reliance on the private car. Local plan policy TR4 promotes the use of Travel Plans. Policy TR7 seeks to ensure highway safety. Development is expected to meet vehicular and cycle parking standards set out in SPD14.
- 8.79. Following discussion with the Highway Authority and additional information being submitted the Highway Authority has confirmed that it would not wish to object to the proposal subject to a sustainable transport contribution and the recommended conditions outlined above.
- 8.80. There are currently two vehicle crossovers serving the site. These will be replaced by a single vehicle access to the south west of the site. Pedestrian access will be provided via two accesses in the centre and to the south east of the site. The access to the west provides the entrance/exit to the underground car park. The ramp to the car park would be managed through a traffic signal system and the likelihood of cars queuing across the footway has been minimised. Following a Stage 1 safety audit it has been confirmed that there is a need to extend the double yellow lines where the current bus stop is located to prevent parked cars obstructing the access.
- 8.81. Although it is not clear how the allocation of bays will be managed, including how visitors' bays will be kept available for general use rather than allocated to individual units the overall level parking provided on site (56 spaces) meets the requirements of SPD14. Within this provision are five disabled bays which is in line with the minimum required and is considered acceptable. A Car Park Management Plan submitted via a condition would be sufficient to establish in how the car park would be managed on a day to day basis. A full parking survey has been submitted in support of the application which confirms that any overspill car parking into the surrounding streets can be accommodated. Accordingly there is no reason to restrict future occupiers from obtaining resident parking permits.

8.82. The development will provide provision for sustainable transport elements such as electric vehicle charging points for a minimum of 10% of bays; 3 motorcycle spaces.

8.83. In summary the following would need to be secured through a s106/278 agreement:

- sustainable transport contribution of £64,000
- site access changes
- replacement street tree(s)
- Travel Plans/Framework Travel Plan measures:
 - £150 cycle voucher per household;
 - Two years' membership per household to the Brighton Bike Share scheme;
 - One year's bus pass per household for travel within Brighton & Hove or the equivalent contribution towards a rail season ticket; and
 - Three years' car club membership per household.

8.84. Conditions covering the following elements will also be required:

- Car Park Management Plan
- Design of the disabled parking
- electric vehicle charging points
- motorcycle parking
- cycle parking spaces
- Construction Environment Management Plan

Electric Vehicles:

8.85. The TS notes the SPD14 standard to provide electric vehicle charging points for a minimum of 10% of bays. In addition, 10% should have 'passive' provision to allow further electric vehicle charging points to be installed in future. The Applicant's Transport Consultant has subsequently confirmed the proposal to meet this requirement and it is recommended that further details be secured by condition.

Motorcycle Parking:

8.86. SPD14 requires motorcycle parking to be provided a rate of 5% for major developments. The applicant has confirmed following the Highway Authority's original comments that three spaces will be provided and it is recommended that these be secured by condition.

Cycle Parking:

8.87. SPD14 requires the following minimum cycle parking provision:

- 1-2 bed dwellings: one per dwelling (33) + one per three dwellings (11) = 44
- 3+ bed dwellings: two per dwelling (24) + one per three dwellings (4) = 28
- D1 nurseries: one space per five staff = 1
- D1 places of worship: two spaces plus one per 350 sqm = 3
- A3 café: one space plus one per 250 m² plus one long-stay space per 5 staff = 3

Total = 79

- 8.88. The applicant is proposing 96 cycle parking spaces within basement stores which are compliant with the minimum required. However, the design is unclear and the size of the stores appears to be too constrained for accommodating this level of provision using an acceptable design. It is therefore recommended that further details be secured by condition.

Deliveries and Servicing:

- 8.89. Bins will be moved to the ground level forecourt by site staff for collection by a private contractor. Revised plans to demonstrate that a refuse vehicle is able to enter and exit the site have been submitted.
- 8.90. This does not address the need for City Clean to service the residential bins and it is recommended that they be consulted on the proposals. If refuse vehicles are intended to access the site, it is requested that the applicant resubmit swept path drawings prior to determination. A condition has been attached requesting a Delivery & Service Management Plan addressing this concern.

Trip Generation

- 8.91. Following the Highway Authority's original comments, the applicant has submitted a sensitivity analysis which indicates a similar number of trips during the morning and evening trips to previously forecast. Upon consideration of this, no objections are raised.

Travel Plan

- 8.92. The Transport Statement commits to producing Travel Plans for each element of the site and a Framework Travel Plan has been submitted as part of the application. This includes the following measures:
- £150 cycle voucher per household;
 - Two years' membership per household to the Brighton Bike Share scheme;
 - One year's bus pass per household for travel within Brighton & Hove or the equivalent contribution towards a rail season ticket; and
 - Three years' car club membership per household.
- 8.93. This commitment is welcome and it is recommended that it be secured as part of the S106 agreement alongside full Travel Plans for each element of the proposed development.
- 8.94. These measures are necessary to ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

Contribution:

- 8.95. The site is located in a sustainable location; however, footways and crossing facilities between the site and local facilities would benefit from improvement in order to serve the needs of all additional residents and visitors to the site.

- 8.96. A sustainable transport contribution is therefore requested. This will be calculated in accordance with the council's Technical Guidance on Developer Contributions. This has been calculated based on the submitted information and the Highway Authority will reconsider the amount requested should a full person trip survey (in addition to vehicles) of the existing use be submitted.
- 8.97. Net increase in person trips (426) x contribution per trip (£200) x 0.75 (location-based deduction) = £64,000
- 8.98. This will be allocated towards pedestrian footway and crossing improvements on routes between the site and neighbouring facilities to include Aldrington Station, Hove Station, Central Hove shopping areas and the Seafront.
- 8.99. This is in accordance with Brighton & Hove City Plan Part One policies CP7 and CP9. It is also necessary to provide for users of the development of all abilities and access to sustainable modes; directly related to the development; and proportionate. It is therefore, consistent with the tests contained within the National Planning Policy Framework (NPPF) paragraph 56.

Construction Management:

- 8.100. Owing to the scale of the works and location adjacent to a bus stop and school, it is recommended that the applicant be required to complete a Construction Environment Management Plan and that this be secured by condition or as part of the S106 agreement. The movement of construction vehicles will be expected to avoid the peak periods and school opening and closing times.
- 8.101. It is noted that there have been a number of objections to highways and car parking, it is considered that these objections do not warrant refusal and it is acknowledged that the highways team is supportive of the scheme. Highways contributions are secured to help mitigate as is travel plans and S278 works to relocate the bus stop.

Arboriculture/Ecology:

- 8.102. This site on New Church Road abuts the Pembroke and Princes Conservation Area and a number of trees on it are protected by virtue of existing Tree Preservation Orders. As noted by the County Ecologist, these trees provide the main bio-diversity value on the site as overall the site in terms of biodiversity is of relatively low value.
- 8.103. Due to the high salt winds from the seafront, tree cover in this area and particularly larger trees is generally confined to larger properties/gardens which offer space for trees to develop although the environment means that species choice is often limited to elm and sycamore. The local weather/environment will necessarily impact the choice of species within the landscaping scheme although the submission has given consideration to this issue. Similarly, the provision of green roofs within the scheme, which may

assist in the site's future bio-diversity, will need to be appropriately managed in order to ensure their success.

- 8.104. The County Ecologist has noted that the use of native species and species of known wildlife value within the landscaping scheme, together with the green roofs are suitable enhancements and that the provision of bird and bat boxes will be appropriate mitigation measures given the site's existing low ecological and bio-diversity value.
- 8.105. The Council's Arboricultural Team initially objected to the scheme as the proposal could result in considerable root damage to a number of prominent trees and will threaten the retention of these and many others. The impact of placing such a large building, underground car park and the needs of future occupants was considered to result in the steady erosion of the tree cover.
- 8.106. The developer submitted the Arboricultural Implications Assessment and Method Statement Supplementary Report January 2019 to address the objection.
- 8.107. Amendments have been made to address the objection, and these are reflected in the revised tree protection plans and were addressed under the following three main headings:
- Impact of the new construction works on the existing trees
 - Impact of the completed development on the existing trees
 - Future light issues arising from the existing trees
- 8.108. The principal change is the relocation of the proposed electricity substation from its proposed position within the Root Protection Area (RPA) of T3 & T4 to the extreme south-west corner of the site, adjacent to the proposed main vehicle and construction access.
- 8.109. A further amendment relates to the proposed ground floor slab level of the eastern apartment block, the northern section of which is proposed to be raised in level by 150mm, thereby enabling the pedestrian access pathway on its east side to be constructed above existing ground levels, as shown on the tree protection plan. The developer has noted that this localised 150mm internal floor level change does not affect the overall ground level datum height of the East Block which remains the same as the original application drawings.
- 8.110. A detailed Construction Management and Logistics Plan for the proposals has also been amended and expanded in light of the concerns expressed, to address specific potential problems, this includes piling of the basement using a kingpost approach, siting of the tower crane and scaffolding.
- 8.111. The arboriculture officer commented on the above further information and advised that the additional supplementary report provides some clarity and helps fill a lot of the gaps within the initial Arboricultural Method Statement. However, overall little has changed for the better and a number of negative aspects remain. There are 22 trees protected by tree preservation order (1)

2018 on the site. Five trees are proposed for removal, two of these T31 and T5, are protected by the tree preservation order.

- 8.112. The Arboriculture team remain unconvinced by the changes proposed and are still of the view that the proposal will result in considerable root damage to twelve prominent protected trees. The impact of placing a building with such a large footprint and larger underground car park with the needs of future occupants will have an effect on the remaining trees, both in the short and long term, resulting in the steady erosion of the amenity that is currently enjoyed. For these reasons the Arboricultural Team maintain an objection to the scheme.
- 8.113. While the objection is noted, it is considered that overall the benefits of the scheme on balance outweigh the potential harm to the trees and that the impact is mitigated by adherence to recommended conditions. In addition, should any trees be lost through the process of the development three trees should be provided to the local area (ratio of 1:3), which is secured through the s106. The conditions are considered to minimise the impact and overall the scheme is acceptable to bring the development forward. It is noted that should the mature trees be lost along the eastern boundary that a level of privacy is considered will also be lost to the existing occupiers along Pembroke Gardens. However on balance to bring the scheme forward this is considered to be acceptable in this instance.

Sustainability:

- 8.114. City Plan Policy CP8 requires that all new development achieves minimum standards for energy and water performance as well as demonstrating how the proposal satisfies an exhaustive range of criteria around sustainable design features. 'Major' non-residential developments are expected to achieve BREEAM 'Excellent'.
- 8.115. The proposed development gives a total predicted BREEAM score of 74%. This is just above the 70% needed for BREEAM Excellent, which is required for major non-residential developments such as this.
- 8.116. In terms of residential uses, policy CP8 requires new residential development to demonstrate efficiency in the use of water and energy, setting standards that mirror the national technical standard for water and energy consumption, therefore a condition will be applied to ensure the development meets the standards set out in policy CP8.

Security:

- 8.117. Concerns have been raised in the letters of representation regarding the security of the site and implications for neighbours. Whilst security measures that an applicant is proposing to adopt would not normally be a material planning consideration, it is acknowledged that a perceived concern by neighbours regarding crime or public safety can be capable of being a

material planning consideration and therefore information has been provided by the applicants in this regard.

- 8.118. The application is proposing a replacement synagogue and so whilst a redevelopment would bring a wider public awareness of the site and its use, which may be of concern to neighbours; it is not introducing a new use in this respect. The redevelopment also enables the redevelopment to incorporate the newest security measures available into the site/buildings. Some enhancements to security such as CCTV, secure perimeter fencing and access gates, anti-shatter window film, secure locking systems and intruder alarms are to be introduced. As with the existing Synagogue security arrangements, there will be a local Community Security Trust security presence during religious services on site and during the week there would be a commercial security guard presence at the site. This security would not prevent access to the site for general members of the public, rather the security personnel will assess the potential threat posed by individual visitors and respond accordingly. Security would restrict access to the nursery school to authorised personnel only. It is noted that the Sussex Police are not objecting to the scheme. Sussex Police recommended the applicant to seek further guidance in regard to crime prevention, however, this is a matter for the applicant to consider at a later date.

9. CONCLUSION AND PLANNING BALANCE

- 9.1. The scheme represents a mixed use development and will provide benefits to the Jewish community and the wider community of Brighton & Hove. The proposal would provide a number of new and improved community uses, at the heart of the scheme is the new synagogue, which will provide a much needed fit-for-purpose place of worship for the Jewish community. In addition, a new social hall, courtyard, children's nursery and café will provide benefits to the wider community.
- 9.2. The scheme will also provide floorspace for Work Avenue, which will provide new office space for small / start-up businesses. Education is also a key offering of the scheme, with the construction of classrooms which will be available to St Christopher School during the week and the Jewish community at the weekends. This mixed-use scheme will create a mixed-use site for all members of the community.
- 9.3. The submitted scheme will make a contribution towards meeting the housing needs of the City. The proposal would also result in a much more efficient use of this site and land, and the density of the proposed residential development is in compliance with Policy CP14 of the City Plan.
- 9.4. The proposed residential element of the scheme will enable the community facilities to come forward on the site. This proposal will make best use of the space on site, and in addition will provide a contribution to the Council's housing supply.

- 9.5. The proposal represents a sustainable development, being located within the defined built-up-area of the City. The site is well located close to existing public transportation links and the extensive services and facilities located within the Centre of Hove.
- 9.6. The scheme is in general accordance with the relevant local and national planning policies and guidance and is in accordance with the presumption in favour of sustainable development, as set out in the NPPF. Notwithstanding the arboriculture objection it is considered that appropriate conditions have been attached to help mitigate this impact. Further to this it is noted that the mature trees along the eastern boundary of the site (adjoining the western boundaries of properties in Pembroke Gardens) make a positive contribution to the setting of the Pembroke and Princes Conservation Area. As such, any loss of these trees, may have a harmful impact on the setting of this conservation area, and the level of privacy or perceived privacy currently enjoyed to the occupiers of Pembroke Gardens and 27 Church Road and are therefore conditioned to be retained.

10. EQUALITIES

- 10.1. If overall considered acceptable conditions are proposed which would ensure compliance with Building Regulations Optional Requirement M4(2)(accessible and adaptable dwellings) and that 5 percent of the overall development would be built to Wheelchair Accessible Standards.

11. DEVELOPER CONTRIBUTION

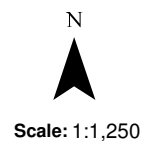
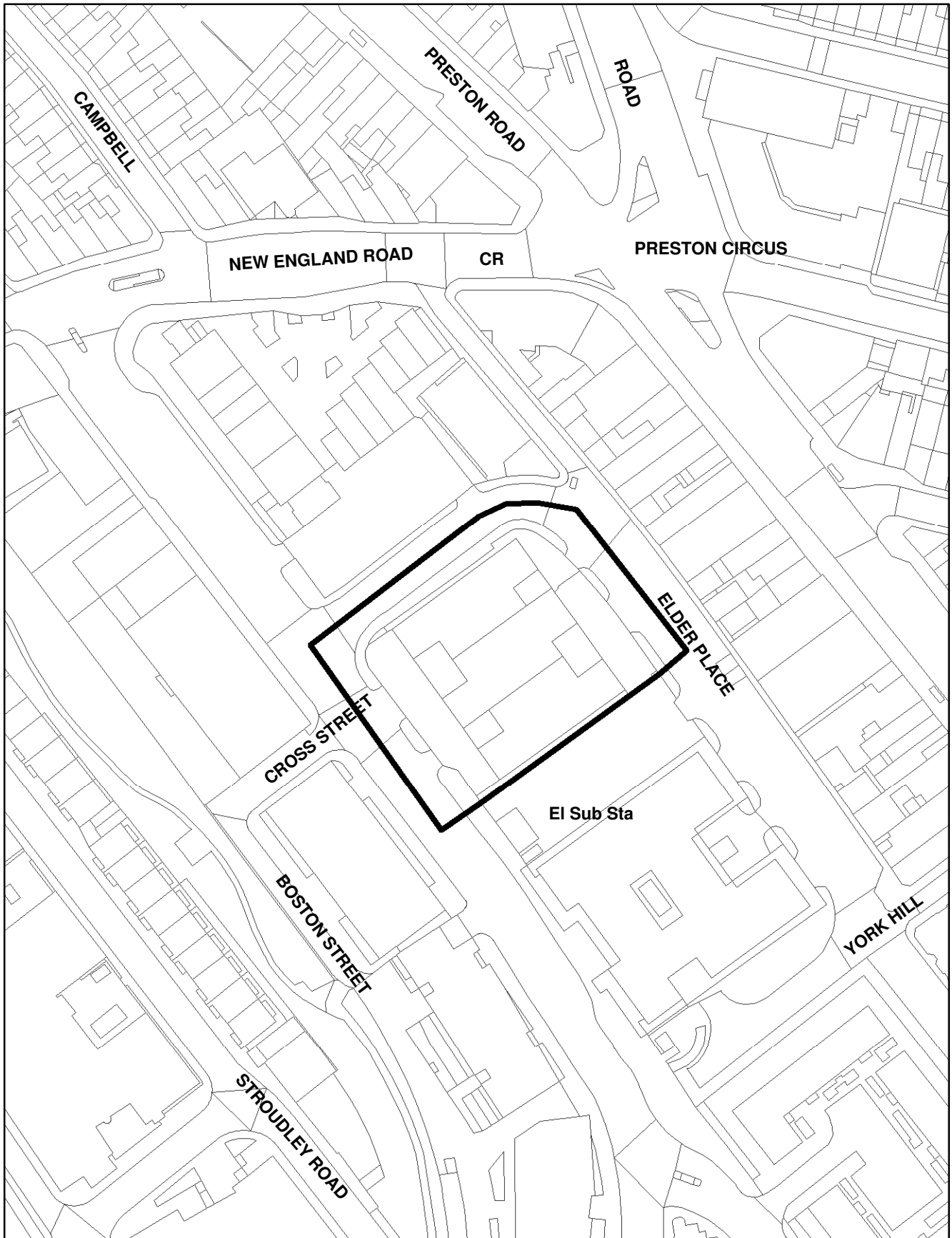
- 11.1. S106 Agreement heads of terms are set out in Section 1.
- 11.2. In the event that the S106 agreement has not been signed by all parties, the application shall be refused for the following reasons:
1. The proposed development fails to provide appropriate mitigation of the transport impacts of the development contrary to policies TR7 of the Brighton & Hove Local Plan and CP7 and CP9 of the Brighton and Hove City Plan Part One.
 2. The proposed development fails to provide adequate travel plan measures to encourage use of sustainable transport modes and therefore fails to address the requirements of Policies CP7 and CP9 of the Brighton and Hove City Plan Part One.
 3. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.

4. The proposed development fails provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry contrary to policy CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
5. The proposed development fails to provide a financial contribution towards the improvement and expansion of capacity of local schools required contrary to policy CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
6. The proposed development fails to provide a financial contribution towards the improvement and expansion of open space contrary to policies CP7 and CP16 of the Brighton and Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.

ITEM B

**Longley Industrial Estate, New England
Street & Elder Place
BH2018/02598
Full Planning**

DATE OF COMMITTEE: 20 March 2019



<u>No:</u>	BH2018/02598	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Longley Industrial Estate New England Street & Elder Place Brighton		
<u>Proposal:</u>	Demolition of existing buildings and redevelopment to provide: 3,270sqm of office/research/development floorspace (B1 (a)/(b) use), 308sqm of flexible commercial/retail floorspace fronting Elder Place (B1 (a)/(b) and A1-A4 use), 201 residential units (C3 use) in buildings ranging between 3 and 18 storeys plus roof plant level, together with associated car and cycle parking, further plant at lower ground level, supporting facilities and landscaping.		
<u>Officer:</u>	Maria Seale, tel: 292175	<u>Valid Date:</u>	23.08.2018
<u>Con Area:</u>		<u>Expiry Date:</u>	22.11.2018
<u>Listed Building Grade:</u>		<u>EOT:</u>	23.04.2019
<u>Agent:</u>	Savills 33 Margaret Street London W1G 0JD		
<u>Applicant:</u>	Legal & General Investment Management C/O Savills 33 Margaret Street London W1G 0JD		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be MINDED TO GRANT planning permission subject to a s106 agreement on the Heads of Terms set out below and the following Conditions and Informatives as set out hereunder, SAVE THAT should the s106 Planning Obligation not be completed on or before the **26th June 2019** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 11.2 of this report:

Section 106 Head of Terms:

1. **Build to Rent Housing:**

- A restriction that all homes are held as 'Build to Rent' under a covenant for at least 15 years
- Inclusion of a 'clawback' arrangement to fund the consequent affordable housing requirement in the event of any private rented or affordable housing being sold or taken out of the Build to Rent sector

based on values of units at that particular time (as assessed for viability)

- All units to be self-contained and let separately under unified ownership and management
- Submission of a Management and Servicing Agreement
- Submission of a Marketing Agreement
- Submission of a Tenancy Agreement, for example of at least 3 years available to all tenants (unless tenants agree a lesser period) with a break clause of 1 month after initial 6m months. No upfront fees of any kind except deposits and rent in advance
- A minimum of 6.5% of all residential units (13) to be built to wheelchair accessible standard (with at least 3 of these to be within the affordable provision initially) and evidenced before first occupation. Marketing Agreement to include provision that all reasonable endeavours will be used to ensure wheelchair units are matched with disabled tenants.

2. **Affordable housing:**

- Provision of **10% (21)** affordable housing units on site based on rent levels 75% of market level
- Provision of **6 x 1-bed, 10 x 2-bed and 5 x 3-bed** affordable housing mix. The location of these affordable units may vary over time within the scheme however the reduced rent levels and overall mix of sizes shall remain the same. At least 3 of the affordable units will be to wheelchair accessible standard (initially - as location may change over time)
- Affordable housing units to be secured in perpetuity
- Provision of Affordable Housing Management Plan and Marketing and Lettings Plan, with eligibility criteria for occupants to be agreed with council with priority for local people/essential local workers/wheelchair or disabled users
- Restriction of a set service charge for affordable tenants (for example to secure as a percentage maximum ceiling on gross income of affordable housing tenants)
- Provision of Annual Statement, confirming approach to letting of affordable units and identifying how overall 10% level, range of sizes, rent levels are maintained and other relevant information
- Viability Review mechanism (including funds for providing specialist re-assessment of viability) after a certain time period(s) with the aim of securing additional funds towards affordable housing. Review would allow for an update to costs and values initially assessed at application stage once additional details regarding actual rents and other costs have been established. This could review the proportion of affordable

private rent units, and the discount offered on them over time (but would not allow for a decrease from 10% provision, or allow higher rents than 75% of market levels).

3. Public Realm Enhancement:

- A financial contribution of **£745,907** towards enhancement of the public realm in Elder Place and associated works or changes to surrounding streets as necessary to enable this. Enhancement to include measures to secure greater priority for pedestrians and cyclists, calming of vehicular traffic, improved surfacing and introduction of street trees. Scheme to include phased approach.

4. Sustainable Transport and Highways:

- A financial contribution of **£202,894** towards sustainable transport enhancements in the wider area in particular to address deficiencies in pedestrian and cycling infrastructure to include:
 - The Preston Circus junction complex (including potentially, inter alia, the junction of New England St and New England Rd)
 - New England Street
 - NCN20 cycle route in the vicinity of the site
 - York Hill, including its junctions with London Rd, as may be necessary to complement public realm improvements on Elder Place to be funded via the separately secured section 106 contribution.
 - The Greenway and associated links to this and Brighton Station from the development site.
- Submission of Travel Plan and commitment to ensure the promotion of safe, active and sustainable forms of travel which shall include the following:
 - Separate residential and commercial travel plans.
 - Targets and their monitoring should include deliveries, and taxi/private hire vehicle (including “ride share” services such as Uber)
 - Free or subsidised availability for residents for up to 2 years of each of the following: car club membership; Brighton bike share membership; bus pass/season ticket; rail season tickets; and bicycle purchase.
 - Provision of up to two car club bays and associated vehicle service in short walking distance if required
 - Provision of Brighton and Hove Bike Share stands and cycles within a short walking distance of the site

- For occupants of the commercial development, ensuring provision of interest-free loans for the purchase of bus and rail season tickets and bicycle purchase.
 - Provision of formal cyclist training on request to all occupants.
 - The creation of a Bicycle User Group, including funded initiatives for “buddying” of less confident cyclists for a few trips, publicity, and social rides.
 - Arrangement of “doctor bike” maintenance sessions with a teaching element
 - Free cycling training for all occupants, offered on a regular basis.
 - Inclusion of sustainable transport information in marketing and sales material
- Section 278 highway works completed prior to first occupation to include:
 - Extinguishing of existing crossovers and accesses into the site
 - Creation of new access
 - Footway improvements around the site including extension of pavement widths into Elder Place
 - Introducing a half-width buildout to the southern footway of Elder Place at its junction with New England Street, as well as an associated uncontrolled pedestrian crossing (with tactile paving)
 - Relocation of the existing signalised pedestrian crossing in New England Street and associated highways works
 - Relocation and extension of loading bay on New England Street
 - New England Street highway works to allow street tree planting (see later wind mitigation section)
 - Introduction of 66 visitor cycle parking stands on the footway of New England Street immediately abutting the development. Should this not prove feasible, any shortfall against this figure to be addressed by provision within Elder Place (in addition to cost of public realm enhancement contribution here)
 - Submission of a Delivery and Servicing Management Plan and commitment to providing the measures required e.g. provision of additional loading bays at the applicant’s expense, may include arrangements to alter how vehicles turn and exit Elder Place

5. Education

- A financial contribution of **£122,086** to facilitate additional secondary school capacity at Dorothy Stringer and Varndean Schools.

6. **Public art**

- Commissioning and installation of an Artistic Component to the value of **£83,000** within the development within public view or in the immediate vicinity of the site. This could comprise an 'uplift' in the value of public realm provision to incorporate an artistic component in Elder Place/New England Street.

7. **Open space and recreation/sports:**

- Provision of a financial contribution of **£453,980** towards enhancement of outdoor/indoor sports, parks and gardens, childrens playspace, allotments and semi-natural space to include but not be limited to the following locations:
 - Dyke Road Park
 - St Nicholas Gardens
 - Turner Park
 - Preston Park
 - Blakers Park
 - New England Quarter Greenway
 - Providence Place
 - St Nicholas Rest Gardens
 - Neville Recreation ground
 - Withdean Stadium
 - Small grassed areas in the vicinity of the site and on access routes to it
 - Roedale Valley Allotments and/or Moulsecoombe Estate Allotments

8. **Wind mitigation/public realm/ecology enhancement works (Street trees)**

- Submission of a Street Tree Planting Feasibility Report with accompanying Road Safety Audit to demonstrate that the general position of the 9 street trees adjacent to the proposed building in New England Street adjacent to the development (required for wind mitigation and amenity reasons) as shown on the indicative drawings submitted can be achieved. No development (except demolition) to take place until this Feasibility Report has been submitted and approved. Should the general locations not prove feasible for highway visibility reasons, a further wind assessment to be submitted modelling the amended locations shall be submitted for assessment (at the applicant's expense) prior to construction of the development. No development shall take place until acceptable wind mitigation measures have been incorporated into the development. Should 9 trees not prove feasible for highway safety or other reasons, any shortfall in numbers shall be planted within wider New England Street at the applicants expense

- Once locations for the street trees have been agreed, a specification shall be submitted for approval, which shall make provision for:
 - Potential submission of a PAS128 level A investigation to indicate the location of underground services and a commitment that applicant will meet the full cost of relocating any underground cabling or similar
 - Provision of semi-mature trees (likely to be approx. 8m in height) of a size, species, nursery stock type, supplier and defect period to be agreed
 - Allowance for a significant rooting volume of at least 10m cubed
 - A tree pit design to include shared rooting space for the trees at an agreed spacing to maximise future rooting potential (likely to be 5m).
 - Use of guards or other protective measures
 - An agreed period of implementation – to ensure are in place before first occupation
 - Provisions for maintenance - developer to provide and maintain trees for first 5 years to an agreed specification (and replace any that are damaged or die), followed by a total commuted sum of **£11,310** for 20 years thereafter (£565.50 per yr) for the council to maintain and continue to establish the trees (and replace any if required).

9. Employment:

- Submission of an Employment & Training Strategy to secure the use of at least 20% local construction labour
- A financial contribution of **£57,500** towards the Local Employment Scheme

Conditions:

1. Drawings (to follow in Late List)
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. No development, including demolition, shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
 - i. The phases of the Proposed Development including the forecasted completion date(s)

- ii. A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
- iii. A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
- iv. (A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
- v. Details of hours of construction including all associated vehicular movements
- vi. Details of the construction compound
- vii. A plan showing construction traffic routes
- viii. A commitment to using all reasonable endeavours to a) promote use of minimum euro-VI emission standard HGVs for demolition and construction and b) comply with Stage IIIB of EU directive 97/68/EC for NOx emissions limits from non-mobile construction machinery in accordance with DfT's 2018 guidance Improving Air Quality Reducing Emissions from non-road mobile machinery.

The construction shall be carried out in accordance with the approved CEMP.

Reason: As this matter is fundamental to the protection of amenity, air quality, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, 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.

4. No development, including demolition and excavation, shall commence until a Site Waste Management Plan 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 policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.
5. No demolition shall take place until an asbestos survey (and associated remediation strategy if required) has been submitted to the Local Planning Authority for approval. If asbestos is found, no demolition shall take place the agreed remediation measures have been implemented.
Reason: To prevent land contamination and ensure there is no risk to public health or water supplies, to comply with policies SU9, SU11 and QD27 of the Brighton and Hove Local Plan.

6. No development (excluding demolition) shall take place until the recommendations in WSP Preliminary Risk Assessment have been followed and evidence submitted that they have been carried out has been submitted to and approved in writing by the Local Planning Authority. This shall include a ground investigation compliant with BS10175 and a Phase 2 Ground Investigation Report, including a Generic Quantitative Risk Assessment (GQRA) to quantify the contamination risk and confirm the presence or absence of plausible contaminant linkage, and shall include the following:

- Provision of geo-environmental and geo-technical ground investigation;
- Provision of a detailed UXO desk study to assess, and potentially zone, the UXO hazard level on site.
- Provision of a detailed report on natural cavities/ dissolution features in chalk to assess and potentially zone level of the hazard on site;
- Characterisation of the underlying ground and groundwater conditions;
- Sampling results of soil and groundwater for contamination analysis;
- Monitoring of ground gas and groundwater;
- Provision of further assessment of risks to human health, controlled waters and building fabric
- Provision of a piling works risk assessment, if required based on the findings of site investigation;
- Provision of outline details of remediation requirements, if required, to support the proposed development.

The development shall not be constructed until any required remediation measures agreed have been carried out and evidenced to the Local Planning Authority.

Reason: To prevent land contamination and ensure there is no risk to public health or water supplies, to comply with policies SU11 and QD27 of the Brighton and Hove Local Plan.

7. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

8. The part of the premises hereby permitted to be used as B1 (a) and (b) office/research/development uses (on mid and upper ground floors) shall be used for Use Class B1(a)/(b) purposes only and for no other purpose (including any other purpose in Class B of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without

modification), except in the case of the 3 smaller flexible commercial units fronting Elder Place on the lower ground floor which have flexible use to A1/A2/A3/A4 uses also. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use of the mid and upper ground floor B1 (a) or (b) uses shall occur without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the supply of B1 (a)/(b) floorspace in the city given the identified shortage, to comply with policy CP3 and DA4 of Brighton & Hove City Plan Part One.

9. No development above ground floor slab level (measured from Elder Place ground level to the east of the site) shall be commenced until samples of the following materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority:
- a) samples of brick, render and tiling (including details of the colour of render/paintwork to be used)
 - b) samples of all cladding to be used, including details of their treatment to protect against weathering
 - c) samples of all hard surfacing materials
 - d) samples of the proposed window, door and balcony treatments
 - e) samples of all other materials to be used externally
 - f) elevational treatments and/or finishes which achieve a visual break or shadow line between different elements of the building on the western facade

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 QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

10. 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 soft 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 (except in the case of the proposed street trees in the New England Street which are to be secured via S106). The agreed hard landscaping, boundaries/means of enclosure and food growing/allotment facilities shall be implemented before first occupation of the development and thereafter retained. The scheme shall include the following:
- a) details of all hard and soft surfacing to include type, position, design, dimensions and materials including on roof terraces and any sustainable drainage system used;

- b) details of all boundary treatments and means of enclosure (including any privacy/wind mitigation screens on roof terraces and balconies) to include type, position, design, dimensions and materials;
- c) details of provision of dedicated food growing facilities on the roof terraces including provision of prepared raised beds, tool/equipment storage, greenhouses/potting sheds, composting area, rainwater irrigation and water supply and a Plan for maintenance and management as shown on level 10 of the approved plans and in submitted Design and Access Statement and indicative Landscape Strategy.
- d) a schedule detailing sizes and numbers/densities of all proposed landscaping trees/plants including 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
- e) details of how landscaping will be maintained and rainwater will be harvested for irrigation;

Any landscaping 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. The food growing facilities shall be maintained thereafter in accordance with the agreed details.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

11. No development (excluding demolition) shall take place until full details of existing and proposed ground levels (referenced as 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 policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

12. No development (excluding demolition) shall take place until details of the construction of the biodiverse green/brown roofs of the area as shown on the submitted plans, including the area under the photovoltaic array on roof level 8, have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement, the seed mix, details of at least one insect boxes/'hotels' in each area of green/brown roof and a maintenance and irrigation programme. The green roofs

shall be chalk grassland and use a species that are locally native and of local provenance. The roofs shall then be constructed in accordance with the approved details before first occupation and shall be retained and maintained as agreed thereafter.

Reason: To ensure that the development contributes to sustainability and ecological enhancement on the site and in accordance with policies CP8 and CP10 of the Brighton & Hove City Plan Part One.

13. The development hereby permitted shall not be first occupied until details of the construction of the biodiverse green walls as shown on levels 8, 10 and 11 of the landscape plans submitted with the application have been submitted to and approved in writing by the Local Planning Authority. This shall include details of the construction, species, maintenance and irrigation programme. The walls shall thereafter be constructed as agreed prior to first occupation of the development and maintained and irrigated thereafter in accordance with the approved details.

Reason: To ensure that the development contributes to ecological enhancement on the site in accordance with policy CP10 of the Brighton & Hove City Plan Part One.

14. Notwithstanding the submitted Sustainability and Energy Strategies and proposed use of Combined Heat and Power (CHP) within the development, no development (excluding demolition) shall take place until a further Sustainable Energy Strategy shall be submitted to the Local Planning Authority for approval which investigates a low emission (NOx and particulate) strategy and prioritises the use of alternative low or zero carbon technologies. This Strategy shall evidence the technical feasibility of use of Air or Ground Source Heat Pumps or alternatives in combination with photovoltaics, passive measures and energy storage to achieve at least a 19% reduction in regulated CO2 emissions from the development when compared to Building Regulations Part L (2013) baseline. The Strategy may also include additional information to enable further assessment of the feasibility of the use of CHP including the type, specification and location of potential CHP (and any associated flues) with associated measures to significantly reduce emissions, if no alternative technologies prove to be feasible. The final sustainable technologies and measures shall be agreed with the Local Planning Authority and shall be implemented within the development prior to first occupation.

Reason: To ensure the development is sustainable and as the site is located within an Air Quality Management Area where the use of CHP is not likely to be appropriate for reasons of health protection. CHP flues may also be unacceptable for visual reasons on such a prominent building. Alternatives to CHP should therefore be sought and prioritised, to comply with policies SU9 and QD27 of the Brighton and Hove Local Plan and policies CP12 and CP8 of the Brighton & Hove City Plan Part One.

15. Unless otherwise agreed in writing (as part of the above condition), the development hereby permitted shall not be first occupied until details, including specification, scale and appearance of the proposed 212sqm (minimum)

photovoltaic array as shown on roof level 8 of the submitted plans has been submitted to and approved in writing by the Local Planning Authority. The agreed array shall be implemented before first occupation.

Reason: To ensure the development is sustainable and reduces carbon emissions and has an acceptable appearance, to comply with policies CP8 and CP12 of the Brighton and Hove City Plan Part One.

16. Any boiler within the development shall be an ultralow NO_x boiler and shall have NO_x emission rates of <30 mg/kwh.
Reason: To safeguard the amenities of the local residents and minimise air pollution and to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan and policy CP8 of the Brighton & Hove City Plan Part One.
17. Within 6 months of first occupation of the non-residential floorspace hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential floorspace built has achieved a minimum BREEAM New Construction rating of 'Excellent' shall be submitted to the Local Planning Authority for approval.
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.
18. No flues shall be installed within the development without the prior written approval of the Local Planning Authority.
Reason: In the interests of public health and visual amenity, to comply with policies SU9 and with policies SU9 and QD27 of the Brighton & Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One.
19. The residential part of the development shall not exceed an indoor water consumption of more than 110 litres per person, per day and the water usage scheme shall thereafter retained as such for the lifetime of the development.
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.
20. The development hereby permitted shall not be commenced (other than demolition works and works to trees) until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods as per the recommendations of the WSP Flood Risk Assessment and Outline Drainage Strategy 70037413 submitted with the application has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented and maintained in perpetuity accordance with the approved detailed design.
Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

21. No development above basement slab level of any part of the development hereby permitted shall take place until a drainage strategy detailing the proposed means of foul water disposal and an implementation timetable, has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.
Reason: To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy SU5 of the Brighton & Hove Local Plan.

22. Within 6 months of commencement of development (excluding demolition) evidence shall be submitted to and approved by the Local Planning Authority to demonstrate that the energy/plant areas within the development have capacity to connect to future zero carbon decentralised energy networks in the area (in particular district heat networks). Evidence should demonstrate the following:

- a) Energy centre size and location showing facility for expansion for connection to a future district heat network: for example physical space to be allotted for installation of heat exchangers and any other equipment required to allow connection;
- b) A route onto and through site: space on site for the pipework connecting the point at which primary piping comes onsite with the on-site heat exchanger/ plant room/ energy centre. Proposals must demonstrate a plausible route for heat piping and demonstrate how suitable access could be gained to the piping and that the route is protected throughout all planned phases of development.
- c) Metering: installed to record flow volumes and energy delivered on the primary circuit.

The future-proofing measures/space approved above shall be implemented before first occupation of the development.

Reason: In the interests of sustainability, to comply with policies CP8 and DA4 of the Brighton and Hove City Plan Part One.

23. Notwithstanding the details shown on the submitted plans, no plant or associated plant enclosures shall be placed on the roofs of the development until details have first been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented and retained thereafter.

Reason: To ensure a satisfactory appearance to the development to comply with policies CP12, CP15 of the Brighton and Hove City Plan Part One and HE6 of the Brighton & Hove Local Plan.

24. Notwithstanding the car parking layout shown on the submitted drawings, further details shall be submitted to and agreed in writing by the Local Planning Authority indicating the type and location of electrical charging points (available for cars, vans and scooters and e-bikes) for at least 50% of all parking spaces on sites. The agreed layout and charging points shall be implemented ready for

use before first occupation of the development and thereafter retained for use at all times.

Reason: To encourage travel by more sustainable means and seek measures which reduce fuel use, NOx, particulate and greenhouse gas emissions, particularly given the site's location within the Air Quality Management Area, and to comply with policy SU9 of the Brighton & Hove Local Plan, policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

25. The development shall not be first occupied until a Car Park Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include details of:

- a) How accessible parking is allocated to disabled residents on the basis of need and ensuring they have exclusive access
- b) The mechanism of allocation of parking spaces according to the need for electric vehicle charging points
- c) The mechanism for bringing into active use the passive provision for electric vehicle charging
- d) How car club spaces will be provided to meet demand for car club use through partnership with a car club operator

Reason: in the interests of highway safety and to promote sustainable modes and ensure accessibility, to comply with policies TR7 of the Brighton and Local Plan and CP9 of the Brighton and Hove City Plan Part One.

26. Within 12 months of commencement of the development hereby permitted or prior to occupation, whichever is the sooner, a scheme shall be submitted to the Local Planning Authority for approval to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.

Reason: This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

27. Notwithstanding the plans submitted with the application, no development above basement slab level (excluding demolition and foundation works) shall commence until details of on and off-site cycle parking facilities for residents, workers and visitors have been submitted to and approved in writing by the Local Planning Authority. Such details are required to show that all cycle parking places are secure, convenient and accessible both in relation to access to stands and the type of stand proposed. The agreed cycle parking facilities shall be made available on first occupation of the development and thereafter be retained for use by the occupants of, and visitors to, the development at all times and without charge.

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 SPD14 and with policy TR14 of the Brighton & Hove Local Plan and policy CP9 of the Brighton and Hove City Plan Part One.

28. The non-residential parts of the development hereby permitted shall not be first occupied until the showers and associated changing/locker areas in the lower ground level have been provided and fitted out ready for use.

Reason: To promote the use of sustainable modes of transport to comply with policy CP9 of the Brighton and Hove City Plan Part One.

29. The residential units hereby permitted shall not be occupied until an internal noise survey has been carried out and evidence submitted to the Local Planning Authority to demonstrate that British Standard 8233:2014 has been met.

Reason: In the interests of the amenity of occupiers of the development, to comply to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

30. The submitted Acoustic Report by Hoare Lea and the recommendations on fixed plant selection and fenestration standards shall be followed within the development. 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 a level 5dB below the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142:2014. 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 SU10 and QD27 of the Brighton & Hove Local Plan.

31. No customers of any A3 and A4 uses hereby approved within the development shall remain on the premises outside the hours of 07:00 to 23:00 on Mondays to Saturdays (excluding Bank Holidays) and 08:00 to 22.00 hours on Sundays and Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and occupiers of the development and nearby residential properties, to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

32. No odour control equipment associated with any A3 and A4 uses hereby permitted shall be fitted to the building until a scheme has first been submitted to and approved in writing by the Local Planning Authority. The odour control measures and associated sound insulation of such equipment shall be implemented in strict accordance with the approved details prior to the first occupation of any A3 and A4 uses within the development and shall thereafter be retained as such.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

33. The development hereby permitted shall not be first occupied until:
- i. details of external lighting, which shall include details of; levels of luminance, hours of use, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation and details of maintenance have been submitted to and approved in writing by the Local Planning Authority.
 - ii. The predicted illuminance levels have been tested by a competent person to ensure that the illuminance levels agreed in part i) are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part i).

The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan.

34. The development hereby permitted shall not be first occupied until a Scheme for Crime Prevention Measures has been submitted to and approved in writing by the Local Planning Authority. The agreed crime prevention measures shall be implemented and retained within the development thereafter.

Reason: In the interests of crime prevention, to comply with policy CP12 of the Brighton and Hove City Plan Part One.

35. Unless otherwise agreed, the development hereby permitted shall not be occupied until details showing the type and location of 6 swift nesting boxes, 6 sparrow boxes and 6 starling boxes have been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall then be carried out in strict accordance with the approved details before first occupation and thereafter retained.

Reason: To ensure appropriate integration of new nature conservation and enhancement features in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One and SPD11: Nature Conservation and Development.

36. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, 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.

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

Reason: To safeguard the appearance of the building and the visual amenities of the locality and to comply with policy HE6 of the Brighton & Hove Local Plan and CP12 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. With reference to condition 34 above, crime prevention measures could be evidenced by a Secure By Design Developers Award Certificate or equivalent Informative: Parking Permits
3. The applicant is advised that the scheme required to be submitted by condition 26 above should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers of the restrictions upon the issuing of resident parking permits.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The site is located between London Road and Brighton Station. The area is mixed in character, with commercial and residential properties of varying architectural styles.
- 2.2. The site currently comprises a flat roofed brick and metal clad building on the east side of New England Street, between New England House and Vantage Point. The building has a total floor area of approx. 3000sqm. The building is the equivalent of about three domestic storeys high on New England Street (and appears as two-storeys due to being set down in site) and about four storeys high on Elder Place. The site is fully occupied for light industrial (B1c) and warehousing (B8) uses.
- 2.3. There is vehicular access from Elder Place to the east and New England Street to the west, with parking forecourts. Immediately to the south is the New England House car park and servicing area. There are some residential properties to the rear of London Road fronting Elder Place opposite the site to the east. There are residential properties set back to the rear of Circus Parade to the north, and Vantage Point car park. To the west are commercial properties including the Clarendon Centre, a church/conference centre and

Samurai recreation centre. The land levels rise up from east to west, and also from north to south.

2.4. The site is located within the DA4 New England Quarter and London Road Development Area as defined in the Brighton & Hove City Plan Part One.

2.5. The application proposes demolition and redevelopment of the site to provide:

- 3,270sqm of office/research/development floorspace (B1 (a)/(b) use) on mid and upper ground levels
- 308sqm of flexible commercial/retail floorspace fronting Elder Place (B1 (a)/(b) and A1-A4 use)
- 201 'Build to Rent' residential units (C3 use) including 10% affordable housing provision and supporting facilities incl gym and communal spaces
- Buildings ranging between 3 and 18 storeys plus roof plant level
- Outdoor courtyard and roof terraces and balconies
- Sustainable features including green roofs and photovoltaic array
- Associated car and cycle parking
- Plant at lower ground level
- Highways works to immediate pavement
- Submission of indicative landscape strategy which shows commitment to off-site public realm enhancement and street planting

2.6. The application has been amended since first submitted, the main changes being:

- Reduction in footprint of building by setting façade back from New England Street 2.5m
- Reduced massing of tallest tower
- Removal of pavement build-out into New England Street
- Reduced kerb build outs in Elder Place
- Reduction in overall residential units (from 208 to 201)
- Different housing mix (was 18 studios/96 1-bed/72 2-bed/22 3-bed and now 36 studios/102 1-bed/41 2-bed/22 3-bed)
- Reduction in commercial B1 floorspace (from 3,333sqm to 3,270sqm)
- Reconfiguration of internal cycle parking
- Revised servicing options
- Revised sustainability measures

3. RELEVANT HISTORY

OFFRPT

Pre-Application History and Design South East Review Panel:

3.1. Design Review Panel and Officer feedback:

Initial written pre-application advice was given by officers in March last year. Officers welcomed redevelopment of the site in principle. A mixed use was welcomed and considered policy-compliant in principle, although some concern was expressed that the opportunity to incorporate more commercial floorspace was not taken given this is the priority for the DA4 area. Build to Rent was welcomed in principle, although more information and examples were requested. Redevelopment of an unattractive building was welcomed in principle. A u-shaped footprint was agreed to be the most appropriate option. A tall building (defined as 6+ storeys) was considered acceptable in principle as SPG15 identifies the site as a tall buildings corridor. Advice in SPD10 however suggests heights should respect topography and step down the valley from the west to London Rd and it suggests an 8-15 storey range here, and therefore it was advised that testing of the scheme in wider views would be needed to justify this departure. Impacts to heritage assets needed to be tested. On the limited information, initial concern was expressed by officers regarding the overall scale, bulk and mass of the development and that this could result in an overly dominant scheme. Officers advised that the overall bulk and mass needed to be simplified and the tower given greater definition and made more elegant. Significant public realm enhancement of Elder Place and to wider walking/cycling network was encouraged given the aspiration of SPD10 in this regard.

- 3.2. The design and scale/bulk/mass of the scheme has evolved significantly since first presented to the council in March last year. The scheme has been presented at Design Panel twice. Initial Panel advice was that a masterplan approach for the wider areas was welcomed. Initially, they felt they had insufficient information to fully assess the scheme. On the initial information, concern was expressed that the tall height and deep plan resulted in a bulky building which could be difficult to resolve elegantly. Subsequently they advised the shoulder blocks should be reduced in height. They suggested slightly staggering the floorplan. They advised the internal arrangements and layouts needed further work and single aspect flats facing north or west should be avoided. They suggested the gym should be relocated. Public realm improvements needed to be resolved and options for linking through to New England House. Sunlight/daylight needed to be considered as courtyard will be overshadowed. They advised the commercial units fronting Elder Place should be given more prominence and a proposed substation relocated. They advised sustainability should be integral to the design. Note: A comprehensive Heritage and Townscape Visual Impact Assessment was since submitted.

3.3. Following officer's and the Panel's advice the scheme evolved. Officers still however raised concern regarding the dominance of the scheme in the streetscene and in terms of building lines and relationship to existing development, and regarding the pedestrian experience at its base. Officer's sought more breathing space to the boundaries of the site, and New England Street in particular. Some concern was also expressed regarding the height of the shoulders of the building and the relationship to development on the horizon to the west. Also concern was expressed regarding the width of the main tower element. Concern was expressed regarding the relationship across Elder Place to Vantage Point, as officers advised it would be important this scheme does not prejudice any future redevelopment opportunities for that site and the wider area. The Highways Authority (HA) welcomed the commitment to enhanced public realm in principle however expressed concern regarding the principle of creating build outs into New England Street given this could prejudice future plans for the strategic road network. The HA raised no objection with the proposed new access, on-site parking levels or general configuration but did highlight potential issues with cycle parking and loading.

Note: The scheme has been amended and evolved further in response to some of the issues raised by the Panel and officers.

3.4. Members Briefing Feedback 8/5/18:

Councillors welcomed that the proposal would make effective use of this unattractive and underused site and could help regenerate the area.

3.5. Build to Rent was welcomed in principle however further information was needed, and some concerns were expressed around provision of affordable housing and how this could work for local people and be at truly affordable rent levels.

3.6. Whilst it was welcomed that the minimum B1 floorspace stated in DA4 was being met some concern was expressed that the opportunity for business floorspace had not been maximised in an area identified as a business quarter primarily.

3.7. Some councillors wished to see general on-site parking. Promotion of sustainable modes was felt important in this busy area.

3.8. Councillors expressed concern about the scale and density of the scheme base on the limited information provided at that stage. Some felt the scheme was too tall and inappropriate in its context. Councillors advised more work was needed to reduce the bulk and mass of the schemes, and testing it in viewpoints.

3.9. Some councillors expressed concern about potential daylight/sunlight impacts to prospective occupiers and neighbours and regarding the limited on-site amenity space and size of main courtyard.

3.10. Councillors welcomed proposals for public realm enhancement and agreed there are opportunities in Elder Place in particular to achieve this. Street trees should be considered.

Note: The scheme has since evolved and been amended. #

3.11. Other (non-planning) background including council resolutions:

3.12. Brighton & Hove City Council owns New England House (NEH) - which is located immediately adjacent to the Longley site. NEH is a major business centre, accommodating over 100 small to medium enterprises (SMEs) with a focus on the Creative, Digital and IT (CDIT) sector. The council has been seeking a viable delivery route to meet its Greater Brighton City Deal outputs in respect of NEH with the purpose of consolidating and strengthening the building's role as a flagship hub for CDIT businesses. Under City Deal the council has already received a grant of £4.9 million towards delivering the building's refurbishment and expansion with a minimum net additional 7,090 square metres of new employment floorspace.

3.13. The council is also the freeholder of the Longley site. For the last few years it has been engaged in discussions with Maplebright (holder of the long lease on Longley) and Legal & General (L&G), in working towards a land deal that would help secure its City Deal outputs for NEH. The Longley land deal would assist City Deal outputs for NEH in the following ways:

- The employment floorspace element of the current planning application for Longley would help provide part of the 7,090 City Deal output for NEH, thereby reducing the amount of floorspace to be delivered on the NEH site. This would reduce building costs for the NEH project, along with the level of disruption to existing businesses in the building.
- The council would also secure a premium from L&G which would be combined with the City Deal funding already secured from government towards the expansion and refurbishment of NEH.

3.14. The Longley land deal was approved by the council's Policy, Resources & Growth Committee at its meeting on 14 June 2018. As well as approving the heads of terms for an agreement for lease and new lease (to L&G) the committee agreed to 'ring-fence' the premium received from L&G for the extension and refurbishment of NEH. All aspects of the Longley land deal are conditional on L&G receiving planning permission for its Longley proposal.

- 3.15. It should be noted the above is included for information only, and that such matters are not material planning considerations and cannot be given planning weight, as there is no planning mechanism to secure delivery of the City Deal aspirations (for example through a S106) and the NEH site does not form part of the application proposals and is not within the red line of the application site.

Planning Applications:

- 3.16. **BH2015/04474** Change of use of all units from light industrial (B1c) and warehousing (B8) to offices (B1a) together with external alterations and refurbishment including increase in height of building, installation of curtain walling system, metal faced cladding and glazed panelling, revised vehicular and pedestrian access, new cycle and motor cycle storage and disabled parking bays. Granted at Appeal 14/6/16.
- 3.17. **BN80/2161** Erection of building comprising 2 warehouses and 4 factory units on two floors with associated office accommodation. Approved 6/5/81.

4. REPRESENTATIONS

- 4.1. **Fifty (50)** letters have been received supporting the proposed development for the following reasons:
- Redevelopment welcomed as area is very run down and in need of improvement
 - Good design, is in keeping
 - Will be interesting landmark
 - Is well thought out and makes exceptional use of land
 - Height appropriate in context of other towers
 - There are numerous examples of cities where high rise is a prevalent and good feature
 - Will help shield views of New England House which is positive
 - Will improve safety of the area and discourage drug users and rough sleepers
 - Will help meet city's housing shortage and given constraints of sea and Downs, building taller is only option to meet this need
 - Will provide long-term secure tenancies
 - Area is perfect for big developments, close to London Rd and station
 - The more business space the better, and will help overall affordability in city
 - Will provide jobs
 - The city needs investment such as this

- Landscaping is attractive

4.2. **Seventy (70)** letters have been received objecting to the proposed development for the following reasons:

- Wholly inappropriate height of development, is massive and will tower over everything, is double the height of anything else, should be no taller than New England House, should be 3 or 5 storeys lower
- Height should not be justified against buildings that do not have permission
- Not in keeping with Brighton's architectural/townscape culture and appearance, ignores heritage of city. Will become Croydon
- Wider area needs to be properly masterplanned as seems little consideration of how this part of town will 'look like'
- Is bulky/monolithic
- Landmark not needed here
- Poor design, not worthy of landmark
- Overdevelopment, excessive density
- Too close to boundaries, needs to spill into pavement and road to fit
- A degree of openness is needed, is important for mental health
- Will cause additional traffic, congestion and air pollution, rush hour already at a stand still, junctions and road network cannot cope
- Inadequate provision for deliveries and loading
- Adverse impact to highway safety
- Will hamper emergency vehicles due to congestion
- Adverse impact to existing businesses in area
- Will result in overspill car parking
- Insufficient infrastructure/local amenities/services. Area already intensively developed
- Poor layout, small accommodation
- Will create wind tunnels
- Should re-use empty buildings in city first
- Loss of existing jobs on site and loss of valuable B1(c)/B8 Light industrial/storage distribution site
- Overshadowing including of north-facing creative workspaces in New England House which rely on good light, will lead to higher fuel bills
- Will result in businesses leaving New England House
- New England House visitors will find it hard to visit and deliver/load
- Loss of privacy
- No need for more retail space
- Should meet 40% affordable housing not 10%
- Affordable housing wont be 'affordable' to most local residents
- Loss of hard to find affordable commercial space for luxury flats

- City will lose its soul, character and creativity
 - Poor cycling access
 - Restriction of views
 - Adverse effect on property value
 - Concern regarding construction impact (noise/dust/disruption)
- 4.3. **One** letter of comment has been received stating:
- Would support if incorporates biodiversity enhancement including swift boxes
 - Will need to be maintained and of good quality (unlike rest of NEQ)
- 4.4. **London Road Area Local Action Team:** Comment as follows:
- Mixed views were expressed.
 - Potential for crime reduction positive and regeneration welcomed
 - Public realm enhancements positive
 - Good quality responsible rented accommodation welcomed in principle
 - The 3,000sqm commercial floorspace welcomed
 - Concerns about the height of the building and wide visual impacts (more visual information needed)
- 4.5. **The Brighton Society:** Objection on the following grounds:
- Too prominently visible from all over the city (including Conservation Areas, heritage assets and listed buildings including Grade I St Bartholomew Church),
 - Is bulky and intrudes obstructively above horizons defined by surrounding hills and tops of buildings surrounding site
 - Will be overbearing and act as a precedent, will adversely affect character of city, its landscape setting and urban scale
 - Is the harm caused by tower element worth only the 19 flats provided within tower? The adverse impact should not be balanced against any perceived public benefit of the whole development
 - Viewpoints from the Downs should be tested
- 4.6. **The North Laine Community Association:** Objection on the following grounds:
- Excessive height, will be very prominent from the many surrounding conservation areas
 - More views form Downs needed
 - The harmful 6 storey tower element houses only 19 units
 - Will set precedent
 - Will be obtrusive landmark. The listed station, St Barts Church and Viaduct are our landmarks in this part of the city

- The mistake of 19-storey Theobald house should not be repeated

4.7. **The Rosehill Residents Association: Objection** on the following grounds:

- Inappropriate height, will dwarf surrounding area
- Tower too bland a landmark
- Density of population of London Rd area has been increasing with recent developments without incremental increase in services and infrastructure
- We need social housing, should be 40% and range of properties.

4.8. **The West Hill Community Association: Objection** on following grounds:

- Height, design and massing of main tower would harm views from within West Hill Conservation Area and harm setting of heritage assets
- 18 storeys plus roof plant is wholly inconsistent with the existing roof lines viewed from within West Hill CA, which begin with listed station, will interrupt horizon beyond
- Square tower unwelcome intrusion into Brighton Greenway
- The top 6 storeys only provide an additional 19 dwellings (and these are unlikely to be affordable) so public benefit should not outweigh the harm

5. CONSULTATIONS

External:

5.1. **Building Research Establishment (BRE) (Daylight/Sunlight microclimate):**
Comment:

5.1.1. Original scheme (summary):

The applicant's daylight/sunlight report has been assessed and is considered generally robust.

5.1.2. The main concern is the major adverse impact to dwellings at 7-12 Elder Place as they would have a substantial loss of daylight. Dwellings at 8-10 Elder Place would also have major losses of sunlight. In addition there would be moderate impacts to 5 Elder Place, 64-69 London Road and first floor flat at Pullman Haul. Offices and workshops in New England House would also lose substantial amounts of daylight. The nature of the impact will depend on the types of businesses and their requirements for light - some occupiers include arts and craft businesses for which loss of daylight could be an issue.

- 5.1.3. Daylight provision within the new development itself appears reasonable, however, further information is required with regard to kitchens in some deep Lounge/kitchen/diners which may not meet guidelines.
- 5.1.4. The proposed courtyard would be marginally below the BRE guidelines for sunlight. The roof gardens would be sunlit. The overall sunlight provision would be good if every resident has access to at least one roof garden. Potential redevelopment of Vantage Point/Circus Parade site in the future could adversely impact the light to both existing and proposed properties.
- 5.1.5. Update following additional information:
The applicant's consultants have included new tables giving average daylight factors in all the proposed living/kitchen/diners, including the kitchen areas in every case. These tables are not specifically labelled, but are dated December 2018, whereas the table labelled June 2018 omitted some kitchen areas. According to the applicant, this results in 53 of the living/kitchen/diners not meeting the BS recommendation of 2% for such a room. 19 of these would not meet the lower recommendation of 1.5% for a living room.
- 5.1.6. Most of the poorly lit rooms look into the internal courtyard and therefore are heavily obstructed by their own development as well as by New England House. Although there are other developments in city centres with a similar overall proportion of rooms not meeting the guidelines, the layout of these rooms could be reviewed to see if there could be better daylight provision.
- 5.1.7. The applicant's consultants have now produced sunlight data for the proposed flats. As expected, sunlight provision is poor, with 62 out of 190 living rooms/studios (33%) meeting the BS recommendations of 25% annual probable sunlight hours and 5% in the winter. Another 20 living rooms would meet the winter recommendation but not the annual one.
- 5.1.8. The applicant identifies a number of rooms with more than 20% annual probable sunlight hours. This has no basis in published guidance, but does indicate that there would be a proportion of units that only just fail the guideline. However this includes those facing north east towards the low rise Elder Place, which would only receive sunlight in the early morning.
- 5.1.9. The site is constrained by the high rise New England House to the south, so a significantly better level of sunlight provision would be difficult to achieve without a drastic redesign.
- 5.1.10. Update on amended scheme Jan 2019:

The changes might give a marginal improvement for Pullman Haul and part of New England House, but do not affect the other existing dwellings. It is also agreed that the changes to layout might improve some of the average daylight factors slightly where rooms have been reduced in size, the layout could be further improved if the internal divisions for the courtyard facing flats were changed as they tend to have poorer light than the flats facing New England Square.

5.2. **BRE (Wind microclimate): Comment:**

- 5.2.1. Background – The original wind microclimate study undertaken by WSP was reviewed by the BRE, and the main BRE recommendation was that WSP work through the details of the review and its methodology, and answer additional questions. The BRE also carried out their own independent desk-based assessment. Further information has since been submitted and was again reviewed by the BRE.
- 5.2.2. Consideration - The further information submitted by WSP did explain and justify a number of concerns originally raised by the BRE. Some issues with the methodology do however remain. Whilst the ‘binning’ approach taken is not considered to represent best practice, the BRE consider that in the overall scheme of things, it is likely to give sensible and believable assessments of wind microclimate. A properly conducted wind tunnel test would have addressed all of the BRE issues of concern, and for wind microclimate studies wind tunnel testing is generally recognised as being best practice. There remains one area (contour plots) where WSP should provide the LPA with an appropriate explanation.
- 5.2.3. The WSP study states that after mitigation, “the results of the wind assessment indicate that the site and surrounding area with the proposed development in place with the wind mitigation adopted will result in a wind environment that remains within the recommended criteria for safety and comfort and thereby being suitable for all pedestrians.”
- 5.2.4. The BRE’s own desk-based study identified only one location of concern (the new pedestrian crossing), and advised that areas of the roof terraces near to adjacent tall buildings were not likely to be suitable for the most wind-sensitive activities (long-term sitting and entrance doors). It was judged that apart from these identified areas, that the remainder of the site and surroundings were likely to be suitable for the intended pedestrian activities.
- 5.2.5. Comparing the findings of the BRE desk-study and the WSP findings, they are for all practical purposes the same. The WSP approach shows that the wind conditions at the new pedestrian

crossing are less windy than predicted by the BRE in their desk-study. Desk studies should however be conservative, and the BRE is happy to agree with the WSP findings that the wind conditions at this location will be suitable for its intended purpose.

5.2.6. Conclusion: In the opinion of the BRE, WSP have not used best practice in their assessment of the wind microclimate which is the basis of the report submitted by the applicant. Notwithstanding these concerns, the assessment approach used by WSP gives findings that are consistent with the BRE's own assessment and expectations about the wind microclimate.

5.2.7. Notwithstanding the limitations of the WSP assessment procedure, the BRE do agree with the conclusions they reached. If the findings of the assessment provided by the applicant are accepted, then based upon wind microclimate considerations there is no reason that planning permission should be refused.

5.3. NHS CCG: No response.

5.4. Southern Water: Comment:

5.4.1. There should be no development within 6m of a public water main without consent from Southern Water.

5.4.2. Our initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development. This requires a formal application to Southern Water for a connection to the public sewer to be made by the applicant or developer and an appropriate Informative is recommended.

5.4.3. Southern Water has undertaken a desk study of the impact that the additional surface water sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water. Southern Water and the developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement. An appropriate condition to secure phasing of the development to align with any sewage network reinforcement is therefore recommended. *Note: Evidence has since been submitted to demonstrate that there is adequate capacity (a letter from Southern Water to the applicant).*

5.4.4. The application makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Under current legislation and guidance SUDS rely upon facilities which are not adoptable by

sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system. Thus, where a SUDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SUDS scheme
- Specify a timetable for implementation
- Provide a management and maintenance plan for the lifetime of the development.
- This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme
- Specify a timetable for implementation
- Provide a management and maintenance plan for the lifetime of the development.

5.4.5. This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

5.4.6. Following initial investigations, Southern Water can provide a water supply to the site.

5.5. **Sussex Police:** The area is within the parameter of the late night economy of the City centre and as such it experiences large amounts of footfall, noise, litter and acts of anti-social behaviour, in fact the level of crime and anti-social behaviour here is high when compared to the rest of England and Wales. A number of crime prevention measures are recommended and the applicant is directed towards Secure by Design. Security measures, good management, casual surveillance and CCTV will help overcome issues identified, e.g. with steps and colonnade.

5.6. **UK Power Networks:** (Comment)

5.6.1. On the mains record it may be seen that there are low/medium/intermediate pressure gas main near the site. There should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system. The developer should, where required confirm the position using hand dug trial holes. The Company is the owner/occupier of the electricity substation located

within 6m of the proposed works and it is believed that the proposed works are notifiable under the Party Wall etc. Act 1996. The Company objects to the planning application for the Development, as the Applicant has neither served Notice in accordance with the Party Wall etc. Act 1996 nor satisfied the Company that the works are not notifiable.

Internal:

5.7. **Arboriculture:** Comment:

5.7.1. Original comment:

Objection on grounds of loss of valuable highways trees with no guarantee that new trees can be planted.

5.7.2. The area is a very development heavy location with little in the way tree or shrub planting and the few trees that grow around this site are extremely important in providing some amenity and textural diversity to the site. The arboricultural team would expect the applicant to explore the possibility of planting trees all around the site, and not just on the western and north western corner at the junction of Elder Place and New England Street, to soften the development in future years. Any trees planted would be semi-mature specimens with a robust aftercare and watering schedule.

5.7.3. Given the significance of trees within this area, the council would require a significant feasibility study to explore the possibility of planting replacement trees in this location. As the planting of trees is proposed within the existing highway, the council would expect the survey of the highway area to a high standard such as PAS 128 Quality Level A to include excavation of it. Until this survey is carried out and its results prove that trees can be successfully planted at this location, the arboricultural team recommend refusal for the current proposal due to the loss of important highway trees.

5.7.4. Further comments following submission of further information: The council preference would be a PAS 128 level A survey is carried out for new tree planting as this requires excavation to actually see what is underneath the footway. However, in this case the request of the most thorough survey methodology for level B (M4P to quality level B1P) was requested. Unfortunately, the applicant was unable to confirm which level of the level B survey was carried out, and it can only be assumed at this stage that it is the lowest of the four level B qualities without evidence at this time. Due to this being a busy urban situation there will be many services under the footway and the most detailed level B survey will enable services to be detected to within 150mm, rather than the least

detailed survey within level B which detects services to within 500mm. This is quite a difference within a confined space between a road and a building and why it is recommended that the top level PAS 128 level B survey as a minimum in this instance.

- 5.7.5. The applicant has an updated cost plan of around £500K as required by the council as part of the revisions to the scheme. However, it is challenging to estimate what the full cost will be for re-routing services to allow for the planting of nine mature trees on highway land to the south west of the proposed development. We do not know the type of services involved or to what extent that the services will have to be moved. There does not appear to be a detailed design based on a high accuracy utility survey to PAS128 standard, and a quote from the statutory undertakers for any diversion works required.
- 5.7.6. Whilst the arboricultural team object to the proposal to remove the healthy hornbeam tree to the south west of the existing development, the applicant has been looking at suitable species for the site and nine new trees have been proposed. There is a conflict between the wind mitigation required at the site by the planting of trees and large trees near buildings. Due to the close proximity of the proposed trees to the building, a right-tree-right place approach should be used and the form of tree should be one that will not require frequent pruning, columnar or fastigiated trees are useful in these cases. However, narrow trees will provide less wind mitigation compared to wide spreading trees. The original proposal of nine *Carpinus* 'Frans Fontaine' was considered too narrow to have a substantial effect on wind speed if this species were planted alone. The landscape architect has proposed some tree species for the site that will mitigate both concerns. The proposed trees include three *Corylus colurna* 'Obelisk', *Acer campestre* 'Elsrijk' and the original *Carpinus betulus* 'Frans Fontaine' are both tolerant of chalk soils and are also of a fastigiated upright form. These species would be acceptable to the arboricultural team at this location.
- 5.7.7. Tree pit details should include shared a rooting space for the nine trees, and not individual tree pits, to maximise future rooting potential. The Longley Place tree trench diagram states that each tree will have over 10m cubed rooting volume, with trees at 5m spacing's. The nine proposed trees will be planted at 8-9 m in height and will provide an instant impact at these dimensions; this is to be welcomed by the arboricultural team. It is satisfactory that a recessed grille has been proposed as this can be removed in sections as the tree stem grows. If silva cells are used, the footway design must restrict vehicles from driving upon the footway. Highways may prefer a structural CU soil is used rather than a

cellular system but they should be consulted in these matters. Due to the size of the trees proposed, a maintenance period of at least five years by the applicant is required to ensure that these trees fully establish before the highway department take on the responsibility of these. This must include a robust irrigation programme especially in Spring and Summer months. It is suggested that a sum of money is acquired for the maintenance for the following 20 years (total cost for 9 trees over 20 years= £11,310 which includes potential replacements for 3 trees if required, which equates to £565.50 per year).

5.8. **County Archaeology:** Although this application is situated within an Archaeological Notification Area, based on the information supplied, it is not believed that any significant archaeological remains are likely to be affected by these proposals. For this reason there are no further recommendations to make in this instance.

5.9. **County Ecology:** No objection subject to appropriate mitigation and enhancement.

5.9.1. Potential impacts on biodiversity:

The nearest sites designated for their nature conservation interest are Brighton Station Local Wildlife Site (LWS or Site of Nature Conservation Importance) which lies c. 70m to the west and London Road Station LWS which lies c. 370m to the north. Given the nature, scale and location of the proposed development, there are unlikely to be any significant impacts on either of these sites.

5.9.2. The site currently comprises buildings and hardstanding within an urban setting and is of low ecological value. There are currently four trees on site, two of which would be lost to the development. As the proposed development will lead to a net gain of seven street trees, with additional tree planting within the public realm areas and on the roof, this is acceptable.

5.9.3. There is the potential that the building due for demolition is used by nesting birds. Under Section 1 of the Wildlife and Countryside Act 1981, as amended, wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. To avoid disturbance to nesting birds, any demolition of buildings or removal of trees that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained, qualified and experienced ecologist, and if

- any nesting birds are found, advice should be sought on appropriate mitigation.
- 5.9.4. The site is unlikely to support any other protected species. If protected species are encountered during development, work should stop and advice should be sought on how to proceed from a suitably qualified and experienced ecologist.
- 5.9.5. Mitigation Measures/Enhancement Opportunities:
In addition to the mitigation measures recommended above, the site offers potential for enhancements for biodiversity that will help the Council meet its duties and responsibilities under the NERC Act and NPPF. Opportunities include, but are not limited to, the provision of green (biodiverse) roofs and walls, the use of species of known wildlife value within the landscape scheme and the provision of bird, bat and insect boxes.
- 5.9.6. It is noted that green and brown roofs are proposed, although the areas have significantly reduced from those stated in the sustainability checklist. The roof layout plans and the Living Roof Strategy received 13/02/19 state that the green roof will use a special cornfield mix. Whilst the provision of a green roof is supported, the species mix should be chalk grassland to help meet Biosphere targets. It is recommended that green roofs are also provided in the areas proposed for PV arrays to increase the biodiversity benefits. Green roofs also increase the efficiency of PV panels. The sustainability checklist states that the brown roof will create a vegetated shingle habitat. However, the aforementioned roof plans and living roof strategy state that the brown roof will be made up of excavated site spoils and Icopal Habitat Zone Packs. Whilst this is acceptable and will be beneficial to biodiversity, it is not vegetated shingle, nor will the proposed materials encourage that habitat to develop. It is stated that the habitat zones on the brown roof will be augmented with bug hotels to be constructed using materials from site construction. The green (chalk grassland) roof should also include insect boxes to encourage pollinators; at least one box should be provided in every area of green roof.
- 5.9.7. It is noted that green walls are proposed. This is supported. Advice on appropriate species for the green walls and the wider landscape scheme is available in Annex 7 of SPD11 Nature Conservation and Development. Wherever possible, seed mixes and plants used in the landscaping scheme should be locally native and of local provenance.
- 5.9.8. It is noted that six swift boxes will be provided. This is supported. Additional boxes for house sparrows and starlings should also be

provided. Given the site's location, bat boxes are not considered to be appropriate.

5.10. **Economic Development:** Support the proposal.

- 5.10.1. The Longley Industrial Estate is within the New England Quarter to the north of Brighton Station and this area is the Council's preferred location for new office space. The brownfield site currently facilitates (B1c/B8 uses) within a key commercial area of the city. The current use of the site, as specified on the application form, is six light industrial /warehousing units (Use Classes B1c/B8) with a GIA of approximately 3,000 sqm and associated hardstanding and car parking. However the existing buildings are dated and the site at present underperforms given its location.
- 5.10.2. The proposals are for the comprehensive redevelopment of the site.
- B1(C) – Light Industrial, gross internal floorspace to be lost is 1,525 sqm
 - B8 – Storage or distribution, gross internal floorspace to be lost is 1,534 sqm
 - Other – Total gross new internal floorspace is (revised) 3,270 sqm.
- 5.10.3. This would result in a total (revised) net additional gross internal commercial floorspace of 211 sqm.
- 5.10.4. The Planning Statement (paragraph 4.11) says that most of the employment floorspace will be located at mid and upper ground floor levels. The area will allow for two large and flexible floorplates which will accommodate a variety of future businesses but equally could accommodate a single occupier. Permission will be sought for B1a / B1b uses for these levels (revised) (3,270 sqm) which would offer space for offices, start-ups of SMEs to compliment the provision at New England House.
- 5.10.5. In addition the plans propose three smaller commercial units (308sqm GIA) at lower ground floor which will be utilized as flexible uses (Use Classes B1a/B1b, A1-A4) and allow for some ancillary retail provision to support the new offices.
- 5.10.6. City Regeneration welcomes LGIM's proposals for a major new business quarter at Longley Industrial Estate which will revitalize the area and provide the opportunity to deliver a mix of high quality office/R&D floorspace. City Regeneration notes that LGIM's proposals exceeds the minimum employment floorspace, albeit marginally, as stated in City Plan Part One (Part C of Policy DA4).

- 5.10.7. The development of the right type and mix of new high quality employment space is fundamental to the economic wellbeing of the city, to ensure provision meet the demands of our existing businesses and optimizing inward investment. Move-on space is also in high demand locally and we welcome the proposals for move on space for SMEs who have outgrown first incubator premises e.g. companies with approx. 10 staff that have outgrown New England House. The proposed floorplates are large but can be used flexibility to create smaller spaces. The city also needs to provide premises for businesses to prosper and grow by ensuring the number of medium-sized (50-250 employees) and large employers (250+ employees) are at a level that reduces the risk of reliance on a small number of key employers operating in the city. City Regeneration therefore endorses the approach suggested in the Planning Statement (paragraph 4.11) which proposes flexible floorplates which can be utilized for either a single occupier or multiple occupiers.
- 5.10.8. In addition, City Regeneration welcomes the proposed ancillary space (retail, restaurants / cafe floorspace) proposed for the site which equates to 8.5% of the employment floorspace and endorse the proposals for flexible use of these units on the basis they are safeguarded for commercial purposes only.
- 5.10.9. City Plan Part One says there is a need to increase density on brownfield sites and that the New England Quarter/Brighton Station area is a prime location. City Regeneration endorses this approach, as set out in the London Road Central Masterplan SPD10, in order to maximise the opportunities for business growth and inward investment and thereby support the employment opportunities for the city's residents.
- 5.10.10. The Planning Statement says the site currently provides for the following jobs (based on the Homes & Communities Agency's Employment Density Guide, November 2015):
- 1,525 sqm GIA of B1c floorspace attracting 28 FTE jobs;
 - 1,534 sqm GIA of B8 floorspace attracting 23 FTE jobs;
 - This equates to a total of 51 FTE jobs.
- 5.10.11. The proposed development could create between 55 to 411 FTE jobs which is equivalent to a net increase of between 4 and 360 existing FTE jobs. The Planning Statement says 'in reality however it is considered likely that the net increase in FTE jobs will be in the region of 250 based on the type of occupiers'. City Regeneration welcomes this net increase in employment provision in the proposed new business quarter which, in turn, could reduce the need for our residents to commute out of the city for work.

- 5.10.12. There are sensitivities to consider in relation to development aspirations specifically for the council-owned New England House which sits alongside this site. It is important that this application is viewed with the wider synergistic implications in mind with the CDIT businesses located at New England House. City Regeneration welcomes this application which will benefit the two universities in the city with the inclusion of R&D space and with the inclusion of CDIT floorspace, will afford opportunities to synergize and complement with the neighbouring creative/tech hub at New England House (NEH).
- 5.10.13. City Deal's target is for 7,090 sqm of net additional employment floorspace at New England House. The provision of over 3,000 sqm of employment floorspace at Longley Industrial Estate will in turn help to ensure the workspace at New England House remains competitively priced.
- 5.10.14. Developer Contributions:
Should this application be successful, due to the size of the development and in accordance with the council's Technical Guidance for Developer Contributions, a sum of £57,500 is requested towards the Employment Scheme as a condition of any S106 agreement and paid prior to formal site commencement. Also, should this application be approved, there will be a requirement, detailed through a S106 agreement, for the developer or designated contractors to submit an Employment & Training Strategy to the Council in writing for approval, at least one month before the intended date of Commencement of Development.
- 5.10.15. In summary, City Regeneration welcomes the proposals at Longley Industrial Estate which will help alleviate and benefit the City's demand for high quality commercial accommodation.

5.11. **Education: Comment:**

- 5.11.1. The level of contribution towards education infrastructure that would be expected if this development was to proceed and the number of pupils that are likely to be generated by the development is as follows. In this instance we will not be seeking a contribution in respect of primary education places as there are sufficient primary places in this part of the city and the city overall. The calculation of the developer contribution shows that we will be seeking a contribution of £122,086.40 towards the cost of secondary provision. With regard to the secondary provision, the development is in the catchment area for Varndean and Dorothy Stringer Schools. At the present time there is no surplus capacity in this

catchment area. Secondary pupil numbers in the city are currently rising and it is anticipated that all secondary schools will be full in a few years' time, any funding secured for secondary education in the city will be spent at either Varndean and Dorothy Stringer Schools.

5.12. Environmental Health: Comment

- 5.12.1. Noise/vibration/odours/land contamination/lighting/air quality:
The Acoustic Report by Messrs Hoare Lea Acoustics and the recommendations on fixed plant selection and fenestration standards shall be followed. All permanent plant, when running cumulatively must meet the City Council's noise standard which is 5dB below background noise (with reference to BS4142). It is important too that any external plant is free from any low frequency tones which are likely to attract complaints.
- 5.12.2. Prior to occupation an additional noise survey should be carried out to measure noise levels internally to demonstrate that the levels in British Standard 8233:2014 are met. The results shall be communicated to the local planning authority in writing and if the standard is not met, a report shall demonstrate what additional measures are needed and when these will be implemented and a further test carried out to demonstrate compliance. There is no reference in the Hoare Lea report showing how a satisfactory internal noise environment will be verified.
- 5.12.3. A Construction Environmental Management Plan should be submitted to reduce noise levels from the construction in the interests or protecting amenity.
- 5.12.4. A scheme for odour control is required for any odour-producing uses.
- 5.12.5. WSP recommendations that a ground investigation compliant with BS10175 and a Phase 2 Ground Investigation Report, including a Generic Quantitative Risk Assessment (GQRA) is carried out to quantify the contamination risk and confirm the presence or absence of plausible contaminant linkages shall be followed.
- 5.12.6. This will also allow for the design of a remediation strategy, if required, to enable the safe and sustainable redevelopment of the site. this can be appropriately conditioned.
- 5.12.7. External Lighting should be controlled by condition.
- 5.12.8. With regard to air quality, approval is recommended however without a CHP plant due to the risk of NO₂ impacts and cumulative pollution contribution to the London Road corridor (an Air Quality Management Area). Conditions can mitigate air quality impacts during construction. The following aspects are welcomed from an air quality point of view:

- Residential units to be located where air quality is clean and easily complies with all Air Quality Assessment Levels set out in the (national) Air Quality Strategy
- Provision of housing at a central location with excellent services and public transport links
- Low allocation to car parking in combination with secure cycle storage
- At the time of residential occupancy a reduction in heavy and light vehicle trips to and from the site compared to the extant planning use
- A reduction in road traffic emissions to and from the site compared to the current land use

5.13. **Heritage:** Comment

5.13.1. Original comments:

Summary: This is a very substantial high-density development proposal, of exceptional scale in its local context, and it would have a quite profound impact on the townscape and skyline of central Brighton due to its scale and massing, particularly in views from the surrounding streets but also in some cases in longer views. It would have no direct impacts on any heritage assets and, whilst it would visually impact on the settings of a number of designated and non-designated heritage assets, in the majority of cases there would be no notable harm caused. The exceptions to this are that it would cause varying degrees of harm to the settings of: St Bartholomews Church (grade I); the London Road Railway Viaduct (grade II*); and the Arundel Building at Brighton General Hospital (grade II). The harm to the setting of the Arundel Building is the most demonstrable, though in each case the harm is 'less than substantial' under the terms of the NPPF and must be weighed against the public benefits of the development whilst having special regard to the desirability of preserving the listed building's setting as per the statutory duty.

5.13.2. Statement of Significance:

The site contains no designated or locally listed heritage assets. The site sits roughly westwards of the foot of the central valley in Brighton, on the beginning of steeply rising ground. The scale of the proposed development potentially impacts on the settings of a significant number of heritage assets over a wide (180o) area. These have been identified as follows:

- 5.13.3. The site is roughly equidistant (c350m) between two nearest conservation areas: West Hill to the south west and Valley Gardens to the south east. A little further away are a further four conservation areas: Preston Park and Preston Village to the north; Round Hill to the north east; and North laine to the south. Preston Village Conservation area contains the grade II registered park and garden of Preston Park. The greatest potential impacts of the development fall on the West Hill and Valley Gardens conservation areas.
- 5.13.4. Closer to the site and outside conservation areas are the listed buildings of St Bartholomew's Church (grade I); London Road Railway Viaduct (grade II*); The Duke of Yorks cinema (grade II); Number 87 London Road (grade II); the Brighton Business Centre (and boundary walls) in Ditchling Road (grade II); Stanford County Junior School in Stanford Road (grade II); the New England Viaduct (grade II) and the New England Road Railway Bridge (grade II).
- 5.13.5. In addition, all of the nearby conservation areas contain listed buildings and the most notable in terms of potential impacts on settings are Brighton Station (grade II*) within West Hill; St Peter's Church (grade II*); 33-48 Park Crescent (grade II*); and 1-9 St Peter's Place (grade II) within Valley Gardens.
- 5.13.6. Much further away from the site, at the top of the valley side to the east, is the grade II listed Arundel Building at Brighton General Hospital in Elm Grove, the former workhouse and infirmary building dating from 1867. This is a local landmark at the top of the hill, with its long massing and distinctive tower, and is a focal point in views from the west side of the valley across the application site.
- 5.13.7. There are a number of locally listed heritage assets within the vicinity of the site whose settings are likely to be impacted. These are 87 Preston Road (former late Victorian school); Preston Circus Fire station of 1938 in 'moderne' style; The Joker PH at 2 Preston Road (mid-to-late 19th century); the 1930s former Co-operative store frontage in London Road; and The Level open space.
- 5.13.8. Most of the designated heritage assets identified above are assessed further in the submitted Heritage, Townscape and Visual Impact Assessment (HTVIA). The locally listed heritage assets referred to above are mapped in the HTVIA and some are included within the verified views.
- 5.13.9. Relevant Design & Conservation Policies and Documents:
The NPPF and NPPG. Historic England GPA Note 3. City Plan Part One policies CP12, CP13, CP14 and CP15. Local Plan policies QD5, HE3 and HE6. SPD10 London Road Central Masterplan. SPGBH15 on Tall Buildings.

- 5.13.10. The Proposal and Potential Impacts:
Scale, Massing and Design:
The site falls within a tall building area under policy CP12 and SPGBH15, but it must be noted that sites within such areas are considered to have the potential for building over 18m in height (6 storeys). The supporting text to policy CP12 makes clear that particular regard must be had any potential impact on heritage assets or their settings. SPD10 London Road Masterplan provides more detailed guidance on the potential for taller buildings and sets an upper limit of 15 storeys for development in this area whilst the development proposed, at up to 18 storeys, falls within the 'very tall' category set out in SPGBH15. This additional height requires careful consideration and justification. The site is just east of the valley floor in an area of very mixed townscape and poor public realm, contains no heritage assets and is c350m outside the nearest conservation area. These factors limit the sensitivity of the site and the development provides an opportunity for public realm improvements to benefit the surrounding streets, including Elder Place as an approach to St Bartholomew's Church. Nevertheless, this proposal is a very high density development and is of scale and massing that would be substantially greater than its surroundings, even including the New England Quarter. It would be very much the dominant building in local views from all around the site, dwarfing New England House, and would impact on the wider townscape and skyline of the city from many viewpoints.
- 5.13.11. The design and massing of the development has evolved positively since the initial pre-application submission. The massing of the scheme responds to the topography of the site by stepping up the valley side from east to west, whilst the east and west 'shoulders' of the development relate to the height of New England House and the taller 'tower' element extends up to six storeys above the shoulders to give it some clear distinction. Given the scale of the development it will be especially important the way in which it meets the ground and works at pedestrian level. Whilst the proposal has sought to address this with the double height 'podium' level, active ground floor frontage and legible colonnaded corner entrance, there is some concern that the development footprint is very tight to the boundary of the site and leaves little 'breathing space'.
- 5.13.12. With regard to design and materials, it is noted that the surrounding area is architecturally very mixed with significant examples of poor quality buildings. The design proposals, in terms of elevational proportions and detailing and how this reads at distance as well as close up, would represent a significant step up in quality in this

respect and the indicated materials are considered appropriate in this context.

5.13.13. The proposed public realm works would be considered a clear urban design benefit in this area. As shown on the 'public realm plan' these improvements are however very limited in scope and extent to the immediate vicinity of the site around the corner entrance. Whilst welcome, the wider public realm improvements outlined in the Design and Access Statement would be much more positive.

5.13.14. Views and Heritage Assets:

The Heritage, Townscape and Visual Impact Assessment (HTVIA) includes the view from the scheduled monument at Hollingbury Hillfort (View 27). It is agreed that the development would have a negligible impact on the setting of the scheduled monument in this view and would cause no harm.

5.13.15. The HTVIA has considered the impact of the proposed development on the settings of the West Hill, Valley Gardens, Preston Park and Preston Village conservation areas and has concluded that, where there is some impact on the way that these conservation areas are experienced, that impact would not be harmful and that their settings would be preserved. This assessment is generally considered to be sound. There would be comparatively limited visual inter-visibility between these heritage assets and the development (despite its scale) and whilst there would be some visual impact it would not be harmful. In the light of the generally busy urban context of these conservation areas, no other significant impacts on the way these areas are experienced have been identified. Potential impacts on the settings of the North Laine and Round Hill conservation areas have not been considered but, in the light of the assessment of the other conservation areas and the verified views, it is not considered that any harm to their settings would result from the development.

5.13.16. As part of the assessment of the impact on the setting of the Preston Village conservation area the HTVIA has included assessment of the impact on the registered park and garden and concluded that there would be no harm. Again this conclusion is considered to be sound. The tall 'tower' element would form a new focal point, above the horizontal line of the viaduct, in views south-westwards from the Rose Garden but the context of this view is already one of modern later 20th century development.

5.13.17. The HTVIA has considered the impact of the proposal on the settings of the listed building within 750m of the site and in addition on the setting of the Arundel Building at Brighton General Hospital.

Again the HTVIA has concluded that, where there would be some impact on the settings but that the impact would not be harmful. In the majority of cases this conclusion is considered to be sound but there are notable exceptions where the visual impact on the settings of the buildings (taking account how setting contributes to the significance) would cause harm, as follows:

- 5.13.18. The most notable harm would be caused to the setting of the Arundel Building at the Brighton General Hospital, originally built as the Elm Gove workhouse in 1867, replacing the old and overcrowded workhouse at Church Hill (in the West Hill CA). This large building was the main element of the workhouse complex, which deliberately occupies a site on high ground at the ridge of the eastern valley side. It is a city-wide landmark that is visible on the ridgeline from a number of locations in the city, silhouetted against the sky. This planned scale and prominence is part of the building's architectural and historic interest and therefore part of its significance. View 4 from Old Shoreham Road is one of the key long views of the hospital site, an enclosed view (or vista) looking across the valley. Whilst the previous development on the New England Quarter has impacted on this view it is largely below the ridgeline and the Arundel Building remains the focal point on the ridgeline. The proposed 'tower' element of the development rises substantially above the ridgeline immediately adjacent to the listed building; it dwarfs the scale of the listed building and greatly diminishes its prominence. The Arundel Building would no longer be the landmark in this view. Moreover, the tower in this view displays both its north and west elevations (either side of a splayed corner) and so cannot, in this context, be considered slender or elegant despite careful detailing that emphasises its verticality. Therefore it is considered that the proposals cause very clear harm to the setting of the listed building, though the harm is 'less than substantial' under the terms of the NPPF.
- 5.13.19. In View 14 some harm would be caused to the setting of the grade I listed St Bartholomew's Church. The HTVIA notes that this is an incidental rather than planned view of the Church. However, the assessment also notes how the sheer scale of the church – emphasised by its austere design – is a key element of its significance. The church was deliberately designed, in general terms, to be visible from distance and to stand out proudly amongst smaller-scale residential and commercial development. By rising up directly alongside the church – and by breaking the skyline – the proposed development would supersede the church as the primary structure in this view. This would to some degree erode the historic visual supremacy of the church and challenge its scale. The

development would therefore cause some harm to the setting of the church; this harm would be clear but 'less than substantial'.

- 5.13.20. In View 1 some minor harm would be caused the setting of the London Road Railway Viaduct where it crosses Beaconsfield Road, as the 'tower' element of the development would impact on the very distinctive arched silhouette of the viaduct where it straddles the road above roofs on a main approach into the city centre. This harm would be at the low end of 'less than substantial'.
- 5.13.21. The HTVIA has omitted detailed consideration of impacts on the locally listed heritage assets but some are included in the verified views (87 Preston Road in View 2, The Joker PH in View 18, and The Level in View 20). The impact on the setting of the locally listed heritage assets is considered to be largely minor and not harmful. The exception is in the case of The Joker PH, where the impact would be quite substantial. This mid-to-late Victorian pub sits in a carefully-designed manner at one of the corner sites of the busy, commercial Preston Circus. Seen from Beaconsfield Road in the foreground of the development site, the pub's hipped roof and tall chimneys are distinctive features. The proposed development would dramatically change this view and impact on the silhouette of the pub roof. However, this is not the primary view of the pub (which is from London Road to the south) and the pub (like the Duke of Yorks cinema and the Fire Station) is currently experienced as part of a very busy vehicular junction with predominantly commercial uses in the vicinity in various architectural forms. Therefore it is considered that whilst the impact on the pub's setting would be quite substantial it would not be harmful.
- 5.13.22. Conclusion:
In conclusion, the proposed development would cause varying degrees of harm to the settings of: St Bartholomews Church (grade I); the London Road Railway Viaduct (grade II*); and the Arundel Building at Brighton General Hospital (grade II). The harm to the setting of the Arundel Building is the most demonstrable, though in each case the harm is 'less than substantial' under the terms of the NPPF and must be weighed against the public benefits of the development. The NPPF makes clear that great weight should be given to a heritage asset's conservation "irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".
- 5.13.23. There are no heritage benefits that may be weighed against that harm. The proposed public realm works would be considered a clear urban design benefit in this area but the wider public realm

improvements outlined in the Design and Access Statement would be much more positive.

5.13.24. Mitigations and Conditions:

The harm identified above to the settings of the three listed buildings could, in each case, be mitigated to some degree by a reduction in the floorplate of the upper 6 storeys of the tall 'tower' element, so that it would have a more slender and elegant profile. This would especially be the case in respect of View 4 and the adverse impact on the setting of the listed Arundel Building.

5.13.25. Updated comments following amended scheme:

The narrowing of the 'tower' element by one bay as a result of the 2.5m set back on the west side, so that it would now be square on plan, is welcomed. It would make the 'tower' notably more slender in profile from viewpoints north-west and south-east of the site, particularly in the shorter views such as views 3, 18, 22 and 25. View 25 has been amended to illustrate this and it may be beneficial to provide revised views of these other relevant viewpoints, especially view 18 from Preston Circus. It is noted that, in setting the building line of the 'tower' element back on the west side, the previously slight set-back that provided a visual break to the lower part of the building on this face has been lost and the building line would be on a continuous plane here. This is regrettable and the possibility of reinstating this slight set-back should be explored or, failing that, the elevational treatment and/or finishes should seek to form a visual break or shadow line here.

5.13.26. With regard to the three viewpoints where harm to the settings of heritage assets was identified in the previous comments, the amendment to a more slender 'tower' would however make no difference to view 1 and only a negligible improvement to views 4 and 14. It therefore remains the case that the proposal would cause some harm the settings of the listed buildings in these views. In each case the harm is 'less than substantial' under the terms of the NPPF and must be weighed against the public benefits of the development. In this respect it is noted that the development would now be financially contributing to the wider public realm improvements outlined in the Design and Access Statement, which is welcomed.

5.14. **Housing Strategy:** Comment:

5.14.1. The scheme is the first large scale 'Build to Rent' development in the city. Build to Rent means that all the units provided will be

rented out for or on behalf of the owner from completion of the building. Such schemes can offer good quality accommodation as well as longer tenancies of up to five years. Good quality private rented accommodation and longer tenancies are welcomed by Housing Strategy.

- 5.14.2. The council's policy CP20 requires 40% of housing to be affordable at schemes that develop more than 15 homes, where viable. Affordable housing has previously been provided through an agreed Registered Provider (RP) as a mix of affordable rent and low cost home ownership with a preferred 55%/45% tenure split. Rent levels for affordable rent homes are currently capped at Local Housing Allowance (LHA) levels by our RP partners.
- 5.14.3. A new form of tenure has been created for Build to Rent schemes. This is Affordable Private Rent and was introduced in the updated National Planning Policy Framework (NPPF) 2018. This requires a minimum rent discount of 20% relative to local market rents and does not require the owner/developer to accept direct nominations from the council to the homes provided. Who will be housed in these homes will be set via criteria agreed between the owner and the council.
- 5.14.4. Council policy requires 5% of all homes across the whole development and 10% within the affordable housing element to be provided as fully wheelchair accessible homes in accordance with Building Regulation requirement Part M4 (3), and it is hoped these can be target marketed at suitable households. The developer has confirmed that all units will meet the national space standards.
- 5.14.5. Assessment of housing needs shows that although greatest need (numerically) is for smaller one and two bed properties there is significant pressure on larger family sized homes, and the affordable housing brief sets out a scheme mix based on this, requiring a balance of unit sizes stated as : 30% 1 beds, 45% 2 beds and 25% 3 beds where possible. This development overall has a higher proportion of smaller units with only 11% of homes overall being provided as three beds. The affordable housing element can be adjusted to reflect the scheme mix and so the projected mix containing a higher proportion of 1 and 2 beds is acceptable at this scheme.
- 5.14.6. This scheme currently offers 21 homes to let as Affordable Private Rent at a rent level of 75% of the local market rent. 21 homes represents 10% of the overall units. Any additional provision or lower rent level has been assessed as not viable as confirmed by an independent viability assessment commissioned by the council in line with Policy CP20. A Review Mechanism based on actual

rather than projected rental income will be used to re-assess the viability after completion of the scheme.

- 5.14.7. The number of units is disappointing in the context of the council's 40% requirement, however, as is the first scheme of this type in the city it is being viewed as a learning process to inform the council's policy on this emerging housing sector. Similarly the rents are higher than the usual affordable rent which is capped at LHA. The council has commissioned a Build to Rent Study to assist in formulating detailed policy relating to such schemes including rent levels and need for this tenure type.
- 5.14.8. Proposal is supported by Housing in the context of an emerging procedure around Build to rent / affordable private rent schemes.

5.15. **Planning Policy: Comment**

- 5.15.1. Employment Provision:
The proposal would contribute positively towards the 20,000 sq. m of new office floorspace identified for the DA4 area in the City Plan Part 1 and provide an uplift of job generation on the site which is welcomed.
- 5.15.2. However given the shortage of employment sites to meet forecast employment needs in the city over the plan period and current demand and supply of office floorspace in the city it was considered appropriate for the policy comments to consider the role the site could play in addressing the shortfall given the emphasis in the overarching Development Area priority to create a major new business quarter. It is noted that the revised scheme January 2019 sees a reduction of the GIA B1a/B1b floorspace from 3,330 sqm to 3,270 sq m. Whilst the proposal has not optimised the potential of the site to deliver employment floorspace it is acknowledged that the proposal provides the minimum requirements of the policy.
- 5.15.3. The policy comments did acknowledge the relationship of the proposed scheme at Longley Industrial Estate with the City Deal programme for New England House which has the potential to bring forward net additional employment floorspace – a net gain not envisaged in the adopted DA4 Policy. However whilst some weight could be given to wider corporate aspirations for delivering additional office floorspace across the wider Development Area this can only be given limited weight as the proposed scheme for New England House is not within the red line for this application.
- 5.15.4. Clarification from the applicant is required on the marketing strategy that would be employed to secure the successful take up of employment floorspace and level of fit out that will be provided.

5.15.5. Housing Provision:

There is recognition that the proposals for 208 housing units (now amended to 201 housing units following January 2019 revisions) would contribute positively to the city's adopted housing target for 13,200 new homes as set out in Policy CP1 Housing Delivery.

5.15.6. With respect to housing land supply, the Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However it is acknowledged that the Inspector for a recent planning appeal (land south of Ovingdean Road APP/Q1445/17/3177606) concluded that there is a potential five year housing land supply shortfall of at least 200 dwellings. The appropriateness of delivering more housing units on the site will therefore need to be considered against:

- The five year housing land supply position.
- The requirements of Policy DA4 to create a major new business quarter for the city;
- The need for high quality design; and to consider the impact of the proposal on the character and appearance of the locality (Policy CP12 Urban Design, CP14 Housing Density and the impact on amenity (QD27 Amenity).
- The need for the proposal to address other priorities for the strategic allocation including an improved public realm and connectivity to the wider development area for the pedestrians and cyclists.
- In light of the five year housing land supply position, when considering the planning balance in the determination of planning applications increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF.

5.15.7. Housing Mix:

Policy CP14 allows for higher density where this would include a mix of dwelling types, tenures and sizes that reflect identified local needs and Policies CP19 and SA4 seek that there is an appropriate mix. The supporting text to Policy CP19 at 4.213 and within the latest objective assessment of housing need for Brighton & Hove (Objectively Assessed Need for Housing:

5.15.8. Brighton & Hove, GL Hearn (June 2015) indicates that for market housing, most demand is likely to be for 2 and 3 bedroom properties (35% each) - although the analysis also suggests a notable need for both 1-bedroom and 4 or more bedroom homes. 70% of future needs are for 2 and 3 bedroom homes. This reflects

continuing demand for housing from younger persons and young families. There may also be some demand for medium-sized properties (2 and 3 beds) from older households downsizing and looking to release equity in existing homes, but still retain flexibility for friends and family to come and stay. Studio flats offer limited flexibility to changing household circumstances.

5.15.9. The council gives high priority to the importance of achieving a good housing mix that responds to the city's assessed local needs and which will contribute to mixed and balanced communities (Policies SA6.8 and CP19). The applicant considers that the proposed unit mix supports the most effective use of the site and with Build to Rent; the mix of unit sizes enables existing residents to up or down size within the development in response to their circumstances at that point in time. With the January 2019 scheme revisions the overall number of 2 bedroom units have been reduced from 72 units to 41 units and the number of 1 bed and studio flats have increased from 96 and 18 units to 120 and 36 units. For those market build to rent units the mix is:

- 132 x studio and 1 bed units; 31 x 2 bed units and 11 x 3 bed units.

5.15.10. It is considered that given the balance of dwelling mix with 73% of the market units are studio and 1 bed units there would be limited opportunities to up size within the development. Whilst it is recognised that there has been a reconfiguration of units following changes to the New England Street wing to reduce the footprint of the building at New England Street, it is disappointing that the opportunity was not taken to improve the dwelling mix with a higher proportion of 2 and 3 bed units overall to accord with CP19 Housing Mix.

5.15.11. Affordable Housing:

Given the substantial need for affordable housing in the city it is important that build to rent schemes provide a proportion of homes at genuinely affordable rental cost for households in need. In accordance with Policy CP20 Affordable Housing the council will seek the provision of 40% affordable housing, with the provision made to maintain the affordability in perpetuity. It is recognised that the Build to Rent model differs from build for sale in that it is based on a long term income stream and does not generate an early capital sum and this may create difficulties in assessing affordable housing contributions and viability at the outset. It is noted that the National Planning Practice Guidance (NPPG) sets out a typical expectation of 20% affordable housing provision for BTR schemes.

- 5.15.12. The applicant submitted a Housing & Viability study which concluded that the scheme was unable to provide affordable housing. However it was noted the applicant offered to provide 10% affordable housing at Discounted Market Rents at a range of discounts (Local Housing Allowance to 20% discount market rents).
- 5.15.13. This was reviewed by the District Valuer (DVS) who concluded in December 2018 that the 10% affordable housing offer was marginally viable and that the 10% affordable housing level was the maximum reasonable for the scheme. The applicants addendum to the Housing & Viability Study (January 2019) suggests the scheme amendments have impacted negatively on viability but notwithstanding this the applicant's offer of 10% will be maintained. A further DVS report is awaited.
- 5.15.14. Affordable housing mix is provided 6 x 1 bed units, 10 x 2 bed and 5x 3bed units. The views of the Council's Housing officers should be sought on the suitability of the proposed size and tenure mix and the proposed distribution of the APR units within the development.
- 5.15.15. Should the scheme be approved, provision will need to be made in the S106 agreement for a review mechanism (or re-appraisal of scheme viability) to ensure that any uplift in development value is shared with the Council in the form of an improved affordable housing contribution. As this is a build to rent development where it is proposed that the affordable units will remain in the ownership of the developer/operator in the long term, specific mechanisms will need to be set out in the S106 to ensure that any future uplift in value is identified and to ensure the retention of the affordable housing in perpetuity.
- 5.15.16. Any S106 should therefore include a requirement for a marketing and lettings plan and make provision for annual statements setting out the tenancy details and rental levels charged for all units being let as APR. Provision should also be made for a full viability re-appraisal to be undertaken after 15 years (or period defined by the covenant), and also in the event that any part of the development is sold or converted to another tenure within this year period. In any circumstances where it is not possible to retain the affordable housing onsite, provision should be made for equivalent provision on a different site or for a financial contribution equivalent to the value of the affordable housing lost.
- 5.15.17. Private amenity space:
Policy HO5 requires the provision of private useable amenity space appropriate to the scale and character of the development. The applicant argues that the Build to Rent developments are designed to provide less private amenity space in favour of more communal

amenity space – to allow for social interaction and shared experience of residents with the range of managed and maintained internal and external community space providing an approximate 9.4 sq m per unit. The applicant has also set out in the balcony strategy provided that there are specific site constraints and design consideration which precludes more balconies being provided by the scheme and this should be assessed by the case officer alongside the advice from the Design Review Panel.

5.15.18. Open space and sports provision:

It is welcomed that the applicant has agreed in principle to an off-site financial contribution for open space and sport provision to meet the requirements of CP16 and CP17. The ready reckoner previously provided an indication of the space requirement by type of open space and offsite contribution where this cannot be provided on site (and a figure of £516,916 with reductions in the number of residential units and unit mix following revisions to the scheme in January 2019 the figure is £453,980). It is also recognised that the nature of this ‘urban block’ site it may not be suitable or practical to provide a fully equipped play space.

5.15.19. Public Realm:

It is welcomed that to further address the requirements of Policy DA4 and SPD10 that the applicant has committed in principle to a financial contribution towards public realm enhancements across the wider area.

5.15.20. Other Proposed Uses:

It is acknowledged that a flexible use of the 3 ground floor units for a wider range of retail uses A1 – A4 although not envisaged in the policy would potentially help to activate and enliven the ground floor fronting Elder Place. However there remains concern that if all three units were to be in B1a/B1B use this would provide not an active ground floor frontage in the evenings or weekend as envisaged by the policy. The case officer should consider limiting the number of units that could potentially be in B1a/B1b use.

5.15.21. Public Art:

Adopted City Plan Policy CP5 supports investment in public realm spaces suitable for outdoor events and cultural activities and the enhancement and retention of existing public art works; CP7 seeks development to contribute to necessary social, environmental and physical infrastructure including public art and public realm; and CP13 seeks to improve the quality and legibility of the city’s public

realm by incorporating an appropriate and integral public art element.

5.15.22. To safeguard the implementation of these policies, it is important that instances in which approval/sign off from the council is needed is clearly identified and secured. The level of contribution is arrived at after the internal gross area of the development (in this instance approximately 16512 sqm) is multiplied by a baseline value per square metre of construction arrived at from past records of Artistic Component contributions for this type of development in this area. This includes average construction values taking into account relative infrastructure costs. It is suggested that the Artistic Component element for this application is to the value of £83,000.

5.16. Private Sector Housing: There are concerns that from the first floor upwards there are a number of flats on each level that have inner bedrooms, with a means of escape through the living area and kitchen.

5.17. Sustainable Drainage: No objection subject to condition.

5.17.1. In principle, the Lead Local Flood Authority (LLFA) have no objections to this development. The applicant will also need to provide a comprehensive maintenance plan for the drainage system in a formal maintenance plan. This should describe who will maintain the drainage, how it should be maintained and the frequency needed to monitor and maintain the system for the lifetime of the development.

5.18. Sustainable Transport: Objection:

5.18.1. Summary of updated comments:
Several rounds of revisions have been made to originally submitted proposals in response to our comments. These resolve major concerns about the impact of a proposed footway buildout on New England St which compromised strategic highway planning (which has now been removed) and the quality of cycle parking provision (which has been revised) to the extent that these can now be managed through appropriate conditions and planning obligations. Other concerns about the impact of an unrealistically low mode share for single occupancy car trips have also been resolved by assessing trips generated by a more appropriate share.

5.18.2. However, concerns about the proposed delivery and service arrangements have not been satisfied. These continue to rely entirely on on-street facilities, with no facilities proposed within the development itself. In particular:

- Providing some loading facilities on Elder Place is essential as bin stores etc... are only accessible from here. Unfortunately a Road Safety Audit has found the applicant's preferred location for a bay to be unsafe. Whilst they have since looked at some alternatives, all carry clear safety risks and none have been put through a Road Safety Audit. We therefore cannot be confident that these or any other are feasible such that we can recommend a section 106 scheme to secure an alternative. It should also be noted that introducing on-street loading facilities in this general location is likely to prejudice delivering a suitable s106 public realm scheme on Elder Place to satisfy DA4 and SPD10 requirements.
 - The applicant's analysis shows that the capacity of the proposed on-street facilities will be substantially below that necessary to accommodate predicted demand during peak periods. This remains true even without deducting the unfeasible bays on Elder Place. It is not considered that a Delivery & Service Management Plan could remedy this.
- 5.18.3. Given the sensitivity of this location, the result is that the proposals would result in formal loading that would compromise highway safety and, because of the inadequate capacity, sporadic loading in locations that would obstruct traffic and/or impact on highway safety. Unfortunately they are therefore deemed to fail Local Plan policy TR7 (safety) and the requirements for safe access for servicing in NPPF para 108. By turns they are deemed to meet the test for refusing development on transport grounds that is set out in NPPF para 109. Unfortunately, because of the likely severity of impact on the highway we must object and recommend refusal.
- 5.18.4. Notwithstanding the objection and recommendation to refuse, if the application is minded to be approved, a number of conditions and section 106 obligations are recommended. These include securing –
- a section 106 contribution of £746K towards implementing a public realm scheme for Elder Place;
 - a further £202,894 sustainable transport contribution towards other improvements; and
 - a scheme of highway works for the immediate development frontage, including repaving of footways, minor kerb-line adjustments, the introduction of street trees on New England St, and relocating/extending the existing loading bay and signalised pedestrian crossing on New England St.

- 5.18.5. Sustainability:
The residential parts of the proposals are expected to meet energy efficiency standards of a 19% reduction in CO2 emissions over Part L Building Regulations requirements and Water efficiency standards of 110litres/person/day. The non-residential parts of the scheme are expected to meet BREEAM Excellent as part of a major development. The scheme as a whole should also incorporate infrastructure to support low and zero carbon decentralised energy networks (in particular heat networks).
- 5.18.6. The proposal addresses all parts of CP8 via the following documents:
- Energy strategy
 - Sustainability strategy
 - Sustainability checklist
- 5.18.7. A BREEAM pre-assessment has been submitted which indicates that the application indicates that the development will achieve BREEAM Excellent standard.
- 5.18.8. The energy solution for the building utilises a Low Temperature Hot Water system delivered from a CHP unit and gas-fired boilers, MVHR units, an AHU with heat exchanger and solar PV panels. The size of the modelled CHP/boilers is unclear.
- 5.18.9. No potential pathways have been identified in order to connect the development to a future district heating network. It is not clear whether the location of the existing would preclude this from happening. Aside from this, the proposed solution meets the emerging CPP2 policy for heat networks (DM46).
- 5.18.10. The Energy Strategy notes that an Air Source Heat Pump solution is being explored. It also notes that this solution is best placed to take advantage of future grid decarbonisation and would also benefit the local environment in terms of improved air quality over any of the alternative options. It is strongly recommended that this option be explored further.
- 5.18.11. The proposed development achieves a 100l/p/day water consumption, exceeding the requirement in CPP1.

6. MATERIAL CONSIDERATIONS

- 6.1. 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.

6.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3. 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.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment land
CP4	Retail provision
CP5	Culture and tourism
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

Brighton and Hove Local Plan (retained policies March 2016):

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
SR5	Town and district shopping centres
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE10	Buildings of local interest
HE12	Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Guidance:

SPGBH15 Tall Buildings

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPD10	London Road Central Masterplan

8. CONSIDERATIONS & ASSESSMENT

8.1. The main considerations in the determination of this application relate to:

- The principle of re-development of the site, and type and scale of uses proposed in this location
- Housing: layout, mix, viability and affordable housing provision
- Impact on the amenity of existing nearby occupiers and proposed occupiers
- Design including scale and density and impact on character and appearance of the locality, including the setting of heritage assets
- Sustainable transport, parking and highway safety
- Sustainability, biodiversity and flood risk
- Accessibility

- Infrastructure and developer contributions

8.2. Planning Policy Context:

The site is located within the New England Quarter and London Road Development Area as identified in Policy DA4 of the Brighton & Hove City Plan Part One. This area is located along the Preston Park and London Road corridor between the Park, Brighton Station, The Level and the North Laine area of the city. Development Areas in the City Plan Part One are identified as offering significant capacity for new development.

8.3. The supporting text to Policy DA4 states that opportunities for further development within this area arise from it being in close proximity to the retail and commercial core of the city and the area is well placed to capitalise on excellent transportation links provided by Brighton Station, London Road and Preston Road Stations. To the south, Trafalgar Street provides a link to the vibrant North Laine shopping and conservation area. There is real potential to invigorate this part of the city and create a high quality public realm which improves the arrival experience of those coming to the city by train.

8.4. The overarching strategy for the DA4 Development Area is to:

‘... revitalise the London Road shopping area, create a major new business quarter connecting London Road to the New England Quarter, and to maintain and enhance a green gateway to the city to the west of Preston Road.’

8.5. Part A.1. of Policy DA4 states that the provision of 20,000sqm of additional new office floorspace post 2016 is a priority.

8.6. Part B of Policy DA4 allocates the Development Area for the following minimum amounts: 1185 residential units; 20,000sqm B1a and B1b floorspace; and 300 student housing beds.

8.7. Part C of Policy DA4 identifies the Strategic Allocations in this area (including Longley) and states provision is made for 20,000 s.q. m net additional B1a, B1 b floorspace and 165 residential units through the implementation of extant commitments for B1 floorspace and the mixed use development of the following 5 sites:

- Vantage Point, Elder Place (including Circus Parade) - no net loss of B1a floorspace;
- Trade Warehousing (Longley Industrial Estate) 4-6 New England Street - 3,000 sqm;
- Richardson's Scrapyard and Brewers Paint Merchant Site, New England Street - 3,000 sqm;

- d) Cheapside (south between Blackman Street and Whitecross Street) - 2,000 sqm;
 - e) Blackman Street Site (land adjacent to Britannia House) - 2,000 sqm
- 8.8. DA4 states that an appropriate mix of uses including ground floor ancillary retail (A1) and restaurants and cafes (A3) will be permitted.
- 8.9. The most up to date Strategic Housing Land Availability Assessment (SHLAA) for the city is a material consideration and it identifies the Longley site as having potential for 45 residential units.
- 8.10. The Urban Capacity Site Assessments (2012) is a background document to the City Plan and is a material consideration, and this recommends a 90 unit residential allocation is spread across the Longley and Vantage Pt/Circus Parade two sites to reduce the massing on Vantage Point and enliven Elder Place. This latter Assessment identifies Longley Industrial Estate as having capacity to accommodate 10 residential units, with the remaining 80 at Vantage Point. It identifies the site as having potential for 6000sqm of B1 floorspace and underground car parking within a development of between 3-6 storeys high.
- 8.11. The site lies within the area covered by Supplementary Planning Document 10: London Road Central Masterplan, which was adopted in December 2009. It is a material consideration in the assessment of this application, and seeks the provision of an economically and environmentally healthy town centre and proposes a series of enhancements and opportunities for redevelopment for the area. The document outlines masterplan principles and proposals and provides detailed guidance for potential developers bringing forward individual development proposals in the masterplan area. SPD10 identifies the Longley site as being within a development zone and as having potential as part of a wider comprehensive redevelopment with Vantage Point/Elder Place or redevelopment with business units. SPD10 identifies sites close to the valley floor and London Road as the preferred location for 'tall' buildings. These are expected to fall within the range an 8-15 storey 'Tall' building as set out in the in Tall Building Study (see SPGBH15) and to form a distinct cluster.
- 8.12. SPD10 identifies the adjacent site, New England House, for refurbishment, or replacement within a wider comprehensive development with Longley Industrial Estate and Vantage Point. SPD10 identifies Elder Place and York Hill as having poor streetscape and maintenance and identifies urban design priorities such as introduction of active frontages, greenery and enhanced public realm, together with significantly improved pedestrian and cycling

linkages. Vantage Point / Elder Place are identified as having the opportunity to improve and/or relocate existing open space.

- 8.13. In addition to the above key policies and material considerations, a number of other local planning policies are relevant to this proposals, as outlined in the Planning Policy Team's response. These shall be discussed in more detail under the relevant sections below.
- 8.14. Principle of mixed use redevelopment on this site and loss of existing uses: The principle of mixed use is accepted in this location given the policy context outlined above. The site is well located to take advantage of sustainable transport provision and local services. Mixed uses contribute towards a sustainable and vibrant community. The provision of B1 (a) and (b) floorspace, housing and retail units is in accordance with the aims of policy DA4.
- 8.15. There is some concern regarding the loss of the existing B1(c) light industrial and B8 warehousing uses and associated employment given the shortage and need in the city of such uses. Policy DA4 does not however seek to retain such uses on the site and its primary aim is the provision of modern B1 a) and b) floorspace. In this context DA4 is considered to outweigh policy CP3, which seeks to safeguard existing employment sites and premises. The council's Economic Development Team confirm that the site is currently underperforming economically given its location, and the proposed redevelopment would make a much more effective use of this central city site, with uses more appropriate to its location. In addition, the proposed redevelopment would remove an unattractive utilitarian building, which is welcomed in principle. Industrial and warehouse uses can require significant vehicular movements and this is discouraged within as designated Air Quality Management Area as is the case here. The development of the right type and mix of new high quality employment space is fundamental to the economic wellbeing of the city, to ensure provision meets the demands of existing businesses and optimizing inward investment. The provision of B1 a) and b) floorspace will provide significantly greater number of jobs than the current use, creating between approx. 55-411 full time equivalent (FTE) jobs compared to approx. 51 FTE jobs at present (see Economic Development comments).
- 8.16. The Planning Policy Team raise no objection to the loss of the existing uses and proposed redevelopment of the site for mixed use purposes in principle, and the Economic Development Team similarly support the proposal.
- 8.17. Employment provision:

The main aim of Policy DA4 is the provision of a new business quarter, and securing B1 floorspace is therefore a priority.

- 8.18. In this context it is disappointing that the opportunity to maximise the potential of the Longley site for business uses has not been taken, particularly as the site has now been identified to have the potential to deliver significantly more floorspace than was originally envisaged in the policy allocation and background documents to it. The proposal does however meet and indeed slightly exceed the minimum B1 floorspace requirement stated in Policy DA4, which is very welcome. DA4 requires a minimum of 3,000sqm and the proposal is providing 3,270sqm of B1 (a)/(b) use, plus an additional 308sqm of flexible commercial uses which include B1 uses.
- 8.19. As has been stated above, mixed uses are encouraged in this location and therefore there is no objection to an element of housing as part of the development, albeit a much more substantial element than was originally envisaged. The council is giving increased weight to housing provision given para 11 of the NPPF (see Housing Provision section below). The commercial floorspace proposed will provide a significant net increase in jobs at the site and deliver higher quality employment floorspace than existing. The proposed amount of B1 floorspace is still considered significant and will help regenerate the wider area and could act as a catalyst for further jobs in the area.
- 8.20. In addition to the above, the amounts of B1 floorspace and housing proposed for Longley should be viewed in the context of that currently being delivered on the Blackman Street Site adjacent to Britannia House where a 5,445 sqm B1 office development is being built (3,445sqm above the minimum strategic allocation of 2,000sqm), with no housing. Overall, it is considered the aims of Policy DA4 and the amounts of B1 floorspace and housing it seeks to provide across the 5 strategically allocated sites would not be compromised by the current scheme.
- 8.21. Whilst not a material planning consideration, it should be noted that the scheme could help deliver Greater Brighton City Deal outputs in respect of New England House (NEH) as part of the land deal with the council as freehold owner of the site (see History section above). The Longley scheme could provide employment floorspace that counts towards the City Deal requirement of 7,090sqm for NEH which would help facilitate a significant upgrade of NEH and consolidation and strengthening of that building's role as a flagship hub for creative, digital and IT sector businesses. Longley could provide 'move on' employment floorspace for those businesses that have outgrown NEH but who wish to retain links with other businesses there. This would accord with policy DA4 which seeks to maintain and strengthen NEH

and the significant creative digital and information technology cluster in the area.

- 8.22. In accordance with policies CP7 and DA4, and the Developer Contributions Technical Guidance, it is welcomed that the applicant will enter into a training place agreement to secure construction training for local people under the Local Employment Scheme and commit to use of 20% local labour, and provide an appropriate financial contribution towards implementation of this.
- 8.23. Housing provision:
The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.24. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). The figures presented in the SHLAA reflect the results of the Government's 2018 Housing Delivery Test which was published in February 2019. The Housing Delivery Test shows that housing delivery in Brighton & Hove over the past three years (2015-2018) has totalled only 77% of the City Plan annualised housing target. Since housing delivery has been below 85%, the NPPF requires that a 20% buffer is applied to the five year housing supply figures. This results in a five year housing shortfall of 576 net dwellings (4.5 years supply). In this situation, when considering the planning balance in the determination of planning applications, increased weight is given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 8.25. Given the policy context outlined previously, mixed uses are encouraged in principle and the site has been identified as being suitable for an element of housing provision. There is no objection to a significant element of housing provision on this site given that this would not compromise the required B1 floorspace in this case, and indeed, given paragraph 11 of the NPPF, increased weight is given to the benefits of housing delivery.
- 8.26. Build to Rent:
This application proposes the city's first ever large scale 'Build to Rent' (BTR) housing scheme. Build to rent is an emerging sector in the housing market, comprising large purpose-built developments for private rent. This type of housing is associated with long term institutional funding/investment and is a growing sector in major urban areas. The Government is promoting BTR as a means of improving the supply, choice and quality of private rented

accommodation. BTR has been defined as a distinct housing category in the NPPF (July 2018) and is referred to in the NPPF Planning Practice Guidance (NPPG). The NPPF defines build to rent as:

- 8.27. Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control.
- 8.28. Given the above, the council is in the process of formulating a local policy for BTR in City Plan Part Two (draft policy DM6). The initial wording for DM6 is outlined below for information, however, this is an evolving policy and the council is in the process of commissioning further evidence looking at the viability and deliverability of BTR in the city, so the policy may change as planning policy and practice with regard to BTR evolve further. The wording is largely based on current advice in the NPPF/NPPG:
- 8.29. Draft Policy DM6
Proposals for the development of Build to Rent housing will be required to meet all of the following criteria:
- a) the development will improve housing choice and make a positive contribution to the achievement of mixed and sustainable communities in accordance with City Plan Part One Policy CP19 Housing Mix;
 - b) the development will not lead to an over-concentration of build to rent within sites designated as Strategic Allocations in the City Plan;
 - c) all of the dwellings are self-contained and let separately;
 - d) the homes are held as build to rent under a covenant for at least 15 years;
 - e) the build to rent housing is under unified ownership and will be subject to common management;
 - f) the development will provide professional and on-site management;
 - g) the development will offer tenancies of at least 3 years available to all tenants with defined in-tenancy rent reviews;
 - h) the development provides a high standard of accommodation that complies with the requirements in Policy DM1 Housing Quality, Choice and Mix; and
 - i) the provision of affordable housing complies with the requirements in City Plan Part One Policy CP20 Affordable Housing, subject to the criteria set out in part 2 of this policy.

- 8.30. Build to rent developments will be expected to contribute towards meeting the city's identified need for affordable housing. The council will negotiate to achieve the following requirements:
- a) a proportion of affordable housing based on the requirements of Policy CP20 (40% on sites of 15 or more (net) dwellings), normally in the form of affordable private rent;
 - b) the affordable homes to be offered at discounted rent levels to be agreed with the council;
 - c) eligibility criteria for the occupants of the affordable homes to be agreed with the council and included in the S106 agreement;
 - d) the size mix of affordable housing units to be agreed with the council in accordance with Policy CP20; and
 - e) the affordable homes to be secured in perpetuity - the council will seek inclusion within the S106 agreement of a 'clawback' arrangement in the event of affordable units being sold or taken out of the build to rent sector.
- 8.31. Whilst emerging policy DM6 holds limited weight at this stage, it does give the direction of travel of local policy and does broadly accord with national policy guidance, which is a material consideration of some weight.
- 8.32. In view of the above national policy context and emerging local policy, the provision of BTR housing is welcomed in principle. Policy CP20 promotes mixed tenure as the most effective way of ensuring a balanced community. The council considers that BTR can help to boost the supply of housing to rent in the city by providing more choice of good quality rented accommodation and secure longer term tenancies. The council's Housing Strategy Team welcome the proposals in principle. The emerging policy aims to facilitate the delivery of high quality BTR schemes that will contribute towards meeting identified housing needs in the city. Provided appropriate Heads of Terms are secured via S106 to accord with emerging policy DM6, and the scheme is covenanted as a BTR tenure, the proposal is considered acceptable in principle.
- 8.33. Affordable Housing and Viability:
City Plan Policy CP20 requires housing development of over 15 units to provide 40% affordable housing. The 40% target may be applied more flexibly where the council considers this to be justified, as set out in the policy. Of consideration in particular is the financial viability of developing the site (as demonstrated through the use of an approved viability model).
- 8.34. The NPPG recognises that the economics of BTR schemes differ from build for sale in that they are based on a long term income stream and do not generate an early capital sum. As a consequence, viability assessment

requires a different approach. The NPPG states that 20% affordable housing is generally a suitable benchmark for the level of affordable private rent homes to be provided (and maintained in perpetuity) in any BTR scheme. Local authorities wishing to set a different proportion should justify this using the evidence emerging from their local housing need assessment and set the policy out in their local plan. Currently emerging policy DM6 in the City Plan Part Two cites a 40% target.

- 8.35. In this regard, the applicant has provided a Viability Assessment (and subsequent revision) which concludes that the overall costs of the scheme mean it is not viable to provide any affordable housing. Notwithstanding this, the applicant has offered 10% affordable rented (21 units) at 75% discounted rent from market rates.
- 8.36. The council commissioned the District Valuer Service to assess the applicant's viability case. The DVS disagreed with the applicant with regard to the conclusion of the original 208 unit scheme, as the DVS concluded 10% would be indeed be viable. Despite some differences in inputs, they did reach a common position that the previous scheme could not provide any more than 10% and the S106 payments proposed at the time.
- 8.37. The DVS has subsequently appraised the amended 201 unit scheme with a different housing mix and reduction in commercial floorspace. Whilst there remain some areas of debate regarding approach and costs, they do essentially agree, and the DVS considers the figures are generally reasonable. The revised Gross Development Value (GDV) provided by the applicant only marginally differs from DVS. The appraisal results in a Profit on Cost of 10.16%, which is below the minimum target profit on cost of 15%. This suggests that no additional affordable housing could be viably provided. A number of scenarios were tested (e.g. at different affordable rent levels and unit numbers), and the DVS is of the opinion that the reduction of the total number of units from 208 to 201 makes the scheme unviable regardless of the number and mix of affordable housing. It should be noted the Housing Strategy Team advise that it is not appropriate to secure lower local housing rent allowance levels in BTR cases as council nominations are not a legal requirement for BTR schemes where the developer would intend to remain the owner/landlord of the building/homes.
- 8.38. Given the DVS conclusions it is therefore considered that a robust case has been made to accept a lower affordable housing percentage than is targeted by policy. The provision of 10% is welcomed as it would make a valuable contribution towards the housing need in the city and would help provide balanced mix of housing provision in the scheme, in accordance with policy. Whilst not formally nominating, the council will still be involved in setting

eligibility criteria for tenants (secured by S106). Affordable rent levels of 75% of market rate are welcomed particularly given that the NPPG suggest levels should be 80%. Whilst the BTR tenure would be covenanted for 15 years only (as per policy advice) affordable units would still be provided in perpetuity. The NPPG does indicate that both the proportion of affordable private rent units, and the discount offered on them can be varied across a development, over time. This can potentially be addressed through provision for viability review mechanisms to be included in the S106 agreement. A clawback mechanism can also be secured should any of the units be taken out of the BTR tenure.

- 8.39. At the request of the LPA, the DVS also carried out an alternative appraisal based on the scheme being carried out on Private Market sale basis as opposed to a BTR scheme. Whilst an alternative scheme is not an option, this was requested to help inform the direction of council policy. This concluded that, with the information available, it is not possible to provide a good comparison to the BTR scheme. A full and accurate appraisal would require a complete reassessment of cost inputs and would very likely result in a change of design and unit numbers. The DVS advises that BTR developments are a very different product, offering different options to investors and operators and cannot truly be compared like with like with a traditional residential development, which are very much a single instance income generator and have different risks associated with them. This is demonstrated by them being treated differently by the NPPF and PPG. They advise it should be expected that the unit mix and costs would change significantly were the scheme to be converted to a private sale development. With all of this in mind, and taking on very broad assumptions and a simplistic approach, the DVS did however provide an appraisal of the scheme. It could result in a profit level of 18.23% on GDV which is 0.73% above a target of 17.5% of GDV that the DVS would expect to provide a reasonable return to the investor. This suggests that 10% Affordable Housing on a 60:40 split of Affordable Rent and Shared Ownership in a private sale scheme would be considered viable, with a marginal additional surplus.
- 8.40. The size and type of the affordable units is considered acceptable and can be secured in perpetuity via S106. See below for more detail regarding mix. It should be noted that the location of the affordable units may vary over time.
- 8.41. Housing Density, Layout and Mix:
National and local planning policies seek to secure the delivery of a wide choice of high quality homes which will contribute to the creation of mixed, balanced, inclusive and sustainable communities. Proposals for new residential development are expected to incorporate a range of dwelling types, tenures and sizes that reflect and respond to the city's identified

housing needs (City Plan Part One policies SA4, SA6, CP14, CP19, CP20, Local Plan Policy HO13 and emerging policy DM1 of the City Plan Part Two.).

- 8.42. Policy CP14 states that residential development should be of a density that is appropriate to the identified positive character of the neighbourhood and be determined on a case by case basis. It states development will be permitted at higher densities than those typically found in the locality where it can be adequately demonstrated that the proposal:
1. Would be of a high standard of design and would help to maintain or create a coherent townscape;
 2. Would respect, reinforce or repair the character of the neighbourhood and contribute positively to its sense of place;
 3. Would include a mix of dwelling types, tenures and sizes that reflect identified local needs;
 4. Is easily accessible by sustainable transport or has the potential to be easily accessible;
 5. Is well served by local services and community facilities; and
 6. Provides for outdoor recreation space appropriate to the demand it would generate and contributes towards the 'green network' where an identified gap exists.
- 8.43. CP14 states that to make full, efficient and sustainable use of the land available, new residential development within the Development Areas, such as DA4, the density of new residential development will be expected to achieve a minimum of 100 dwellings per hectare on major development sites, provided that all of the above criteria can be satisfactorily met.
- 8.44. As stated above, there is no objection to a build to rent tenure. This is the first such scheme in the city and it would not lead to an over-concentration of one particular housing tenure in this particular development area. It will widen housing choice and is considered well suited to this highly sustainable location.
- 8.45. The scheme is undoubtedly a very high density development (approx. 905 dwellings per hectare). The proposal is however considered to make effective and efficient use of an underused site, which is located in a central and very sustainable location close to services and good transport links, therefore it is considered particularly appropriate for a high density scheme. The site is a constrained urban block in a central area with limited capacity for on-site landscaping or open areas for example, and in townscape terms it is appropriate not to significantly diverge from the established urban grain here. The City Plan Development Areas were allocated as it was recognised they offer capacity for significant levels of new development and opportunities for

change, welcomed in areas in need of regeneration. The City Plan encourages development to come forward across the city on suitable brownfield site opportunities in accessible locations and promotes the efficient use and development of land/sites across the city including higher densities in appropriate locations. Such development will help to secure the growth of, or maintain, sustainable neighbourhoods and communities and can also help to protect valuable open spaces

- 8.46. With very high density schemes it can be challenging to provide satisfactory layouts and living conditions. In this case the applicant has ensured that all units meet or exceed nationally described internal space standards as set out by the government, and in emerging policy DM1, which is welcomed. A total of 6.5% wheelchair accessible homes would be provided (13 units, comprising 7 x 1-bedroom and 6 x 2-bedroom units) which is considered acceptable given policy HO13 and emerging policy DM1, which seek 5% provision overall. These policies seek 10% within the affordable housing (10% of 21 = 2.1, so 3) and these 3 wheelchair units can be secured via S106 initially. Given the nature and flexibility of the build to rent model, however, the location of the affordable units may change over time therefore it is not possible to ensure a 10% provision within the affordable is secured in perpetuity. The S106 will however seek evidence that these units have been targeted and prioritised for disabled people. There are no significant concerns with regard to the level of daylight/sunlight the units would receive (see later section on amenity for further information).
- 8.47. Policy HO5 requires the provision of private useable amenity space appropriate to the scale and character of the development. Weight is given to the fact this is a central and constrained location however it is disappointing that dedicated private amenity space eg balconies or terraces cannot be provided for every unit, given how such areas can benefit the quality of life of residents. The applicant argues however that the Build to Rent developments are designed to provide less private amenity space in favour of more communal amenity space – to allow for social interaction and shared experience of residents with the range of managed and maintained internal and external community space, providing an approximate 9.4 sq m per unit. The applicant has also set out a balcony strategy which demonstrates there are specific site constraints and design consideration which precludes more balconies being provided by the scheme. In addition significant areas of outdoor communal amenity space is proposed, such as roof terraces. The proposed roof terraces are multi-functional, which is positive and can be secured by condition. The proposed amenity space provided is therefore, on balance, considered acceptable.

- 8.48. In terms of the demand created for outdoor recreation space, sports and childrens play, it is recognised that the nature of this 'urban block' site it may not be suitable or practical to provide a fully equipped play space. In addition weight is given to the fact that a high proportion of smaller, non-family-sized units proposed. It is welcomed that the applicant has agreed to fully meet the financial contribution of £453,980 for enhancement of off-site open space, sport and play provision, in accordance with the requirements of policies CP7, CP16 and CP17 and the Developer Contributions Technical Guidance. It is also welcomed that BTR schemes such as this do provide relatively large areas dedicated to communal space internally, and this scheme includes several multi-purpose rooms and a gym. Such areas can help address the need for community facilities generated by development of this scale.
- 8.49. City Plan Policy CP19 seeks an appropriate mix of housing which is informed by local assessments of housing demand and need. In this regard, it can be seen from the Planning Policy comments there are some reservations regarding the proposed mix, given the large proportion of studio and 1-bed flats proposed versus the fact that 70% of future needs are for 2 and 3 bedroom homes. The proposed mix (73% of the market scheme being studio or 1-bed) is disappointing. Studio and 1-bed flats also offer limited flexibility to changing household circumstances. It is however recognised that this mix proposed is largely as a result of design changes required to make the development acceptable in townscape and highways terms. It is disappointing the opportunity was not taken to improve the mix when the scheme was revised, however, on balance, given the marginal viability of the scheme and the need to provide income, the need for general housing delivery (and para 11 of the NPPF) and the benefits of the development as a whole, the mix is considered acceptable in this particular case. Importantly, the affordable housing mix did not change as a result of the amendments and is considered to represent a mix which does appropriately meets identified needs (6 x 1-bed, 10 x 2-bed and 5 x 3-bed, equating to approx 29% 1-bed, 47% 2-bed and 24% 3-bed). Assessment of affordable housing needs shows that although greatest need (numerically) is for smaller one and two bed properties there is significant pressure on larger family sized homes, and the council's Affordable Housing Brief sets out a balance of unit sizes stated as: 30% 1 beds, 45% 2 beds and 25% 3 beds where possible. The council's Housing Strategy Team support the proposed mix.
- 8.50. Other commercial uses proposed:
Ancillary retail (A1 shops and A3 café/restaurant) uses and active frontages are encouraged in the policy DA4 allocation, given the benefits such a mixed of uses can bring. Active frontages are encouraged in Elder Place in particular to help animate and regenerate that street (SPD10).

- 8.51. The proposed introduction of flexible uses and a wider range of ancillary commercial uses (including A2 financial and professional services, A4 pubs and B1 office) is considered, on balance, to be acceptable. Whilst such uses would not be as 'active' as A1 and A3, they would nevertheless provide some activity and have a degree of presence with a 'shop' window, and would complement the wider shopping area. The flexible uses proposed do not preclude A1/A3 here. Weight is also given to the fact this is a secondary retail location and to policy DA4 where the primary emphasis is the provision of new B1 floorspace. Of consideration also is the changing nature of the shopping high street and town centres and less reliance on A1 retail uses. Any A4 (pub) or A3 (restaurant/café) uses here can be adequately controlled by condition to ensure there is no loss of amenity.
- 8.52. Design, scale and appearance and impact to wider townscape: National and local policies seek to secure good quality design which respects general townscape and the setting of heritage assets. Taller and higher density development than that typically found in a locality is considered appropriate in the right location. Policies DA4, CP12, SPGBH15 and SPD10 identify the New England Street/London Road area as an area for change, with potential for high density, tall (greater than 6 storeys) development.
- 8.53. SPD10 provides more detailed guidance and identifies sites close to the valley floor and London Road as the preferred location for tall buildings and these are expected to fall within the 8-15 storey range of 'tall' building as set out in SPGBH15, and to form a distinct cluster. SPD10 advises that height lines should slope down towards New England Rd and London Rd to the height and scale of buildings in these roads. It identifies the Longley site as having potential for a tall building of about 11 storeys high.
- 8.54. In the context of SPD10, the proposed scale and height of the development (at 19 storeys including roof plant level) would initially appear excessive. Such a height would clearly be significantly taller than surrounding development and would project above the height of existing development on the horizon to the west and above London Road to the east. The proposal is undoubtedly a substantial development, of a significant scale in its local context and therefore requires very careful consideration and justification.
- 8.55. The advice in SPD10 is based on an initial assessment and it has not been subject to a detailed townscape assessment. If a development is to depart from the advice in SPD10 a strong and robust case needs to be made. Each application must be judged on its own merits against the supporting information submitted. In this regard, the applicant has submitted a detailed Heritage Townscape and Visual Impact Assessment (HTVIA). The key viewpoints were agreed with the Heritage Team and it is considered the

document has robustly assessed the visual impact of the proposal in both wider and closer views.

- 8.56. The Heritage Team have assessed the HTVIA and generally consider it to be sound. They comment that this is a very substantial high-density development proposal, of exceptional scale in its local context, and it would have a quite profound impact on the townscape and skyline of central Brighton due to its scale and massing, particularly in views from the surrounding streets but also in some cases in longer views. The proposal would very much be the dominant building in local views, and would be much higher than New England House and the rest of the New England Quarter. In the respect of impact to general townscape therefore, there are some reservations given the substantial impact of the scheme. The Heritage Team do however confirm that the sensitivity of the site is limited given it is just east of the valley floor in an area of very mixed townscape and poor public realm, contains no heritage assets and is c350m outside the nearest conservation area. Despite the scale of the scheme, they confirm that it would have no direct impacts on any heritage assets and, whilst it would visually impact on the settings of a number of designated and non-designated heritage assets, in the majority of cases there would be no notable harm caused. The exceptions to this are that the proposal would cause varying degrees of harm to the settings of: St Bartholomews Church (grade I); the London Road Railway Viaduct (grade II*); and the Arundel Building at Brighton General Hospital (grade II). The harm to the setting of the Arundel Building is the most demonstrable (from the Old Shoreham Road), though in each case the harm is 'less than substantial'. Some concerns were expressed regarding the width of the taller 'tower' element in some views and the Heritage Team advised that this could be improved if it had a more slender and elegant profile.
- 8.57. Given the scale of the development it is considered especially important the way in which it meets the ground and works at street and pedestrian level. There were previous concerns with how the proposal sought to address this (with a colonnade) as the development footprint was still very tight to the boundary of the site and left little 'breathing space' or pavement width and would have felt oppressive and overly dominant. There were also concerns in streetscene terms about how the building line related to that of New England House and the transition to that of Vantage Point. Also, there were some concerns that the footprint proposed may prejudice the redevelopment potential of adjacent sites. In addition there were highways concerns about extending the pavement into surrounding streets in principle to help achieve an appropriate setting for the building given this could prejudice future plans for the strategic road network.

- 8.58. The design and massing of the development has evolved positively since the initial pre-application submission and also during submission as a result of discussions with the Design Panel and officers. The massing of the scheme responds to the topography of the site by stepping up the valley side from east to west, whilst the east and west ‘shoulders’ of the development relate to the height of New England House and the taller ‘tower’ element extends up to six storeys above the shoulders to give its some clear distinction. The shoulder to the west, fronting New England Street is two storeys higher than New England House however this would relate to future roof extensions that are likely to come forward for that building, and in addition corresponds to the height of existing development on the horizon to the west.
- 8.59. The amended proposal now incorporates a 2.5m set back from the west side adjacent to New England Street. This narrows the ‘tower’ element by one bay as a result, so that it would now be square on plan, which is welcomed. It would make the ‘tower’ notably more slender in profile from viewpoints north-west and south-east of the site. The proposal will clearly become a new local landmark and this is considered appropriate in this location at the start of what is in effect the central part of the city. In setting the building line of the ‘tower’ element back on the west side, the previously slight set-back that provided a visual break to the lower part of the building on this face has been lost and the building line would be on a continuous plane here. This is regrettable and a condition is recommended to ensure the elevational treatment and/or finishes achieve a visual break or shadow line here.
- 8.60. The set back introduced helps give the proposal more breathing space at its base and the building is now considered to relate better to NEH and Vantage Point and to the general streetscene. Taller buildings in this location have generally been set back a little, with wider pavements. Whilst the site can be seen as part of an urban block with NEH, there does need to be some transition between that building and Vantage Point, which is set some way back from New England Street and also NEH is set back at its lower levels, lessening its presence. A colonnade also helps achieve a sense of space at the base of the building. On balance, the lack of a set back to the north (originally also requested) is considered acceptable as it should not unduly compromise any future schemes on the Vantage Point/Circus Parade site – the distance between the sites and pavement widths here in Elder Place are considered appropriate (and pavements can be widened potentially). Siting buildings relatively close to their boundaries is part of the wider urban grain here. It is considered that the proposed siting actually on its site boundaries to the north and east does however mean that pavements at the north-east and north-west corners should be extended to help give the building a better setting – and there is no highways objection in principle to this. In addition new street trees and cycle spaces would need to be carefully positioned to

limit unduly narrowing the pavement. Elder Place to the east is a wide road and the proposed building line would match that of New England House here.

- 8.61. With regard to the three viewpoints where harm to the settings of heritage assets were previously identified, the amendment to a more slender 'tower' would either make no, or only negligible, improvement to views. It therefore remains the case that the proposal would cause some harm the settings of the listed buildings in these views. As the harm found is 'less than substantial', under the terms of the NPPF this must be weighed against the public benefits of the development whilst having special regard to the desirability of preserving the listed building's setting as per the statutory duty. In this respect it is noted that the development would be financially contributing to significant wider public realm improvements, which is a welcome benefit and weight is given to the public benefits of regenerating the site and wider area, and provision of much needed housing and employment floorspace. There do remain some reservations regarding the overall scale and siting and the impact to the general townscape, however, the amended proposal is considered a significant improvement and the scheme is on balance considered acceptable. This site is identified in area in need of change and regeneration and in this context it is considered a substantial building would be appropriate.
- 8.62. With regard to overall design and materials, it is noted that the surrounding area is architecturally very mixed with significant examples of poor quality buildings. The Heritage Team advise that the design proposals, in terms of elevational proportions and detailing and how this reads at distance as well as close up, would represent a significant step up in quality in this respect and the indicated materials are considered appropriate in this context, which is welcomed.
- 8.63. Public Realm and Landscaping:
National and local plan policies place great emphasis on securing good design and placemaking. City Plan Policy CP13 requires the quality, legibility and accessibility of the city's public urban realm to be improved in a comprehensive manner through new development schemes, transport schemes and regeneration schemes. Such proposals are required to produce attractive and adaptable streets and public spaces that enrich people's quality of life and provide for the needs of all users by:
1. Positively contributing to the network of public streets and spaces in the city;
 2. Enhancing the local distinctiveness of the city's neighbourhoods;
 3. Conserving or enhancing the setting of the city's built heritage;
 4. Reducing the adverse impact of vehicular traffic and car parking;

5. Utilising high quality, robust and sustainable materials for all elements of the street scene;
 6. Incorporating street trees and biodiversity wherever possible;
 7. Encouraging active living and healthier lifestyles;
 8. Helping to create safe and inclusive public spaces;
 9. Incorporating an appropriate and integral public art element; and
 10. Reducing the clutter of street furniture and signage
- 8.64. The Longley site is located in an area with poor streetscape which has been identified as in need of significant regeneration and public realm enhancement (SPD10). Existing pedestrian and cycling infrastructure and connectivity is poor. Policy DA4 expects development to contribute towards an improved and high quality public realm and improved connectivity in the area. It also states development will be expected to contribute to green infrastructure improvements to increase green space connectivity and enhance biodiversity. The area is clearly in need of greenery, being a rather densely developed, hard urban environment and such provision could significantly benefit visual amenity and biodiversity, and general wellbeing. SPD10 identifies opportunities to 'repair' the deficiencies in the area and the Elder Place Zone suggests there are opportunities to change the character of this street with areas of new public realm and opportunities for longer use stay.
- 8.65. In this context and due to the fact two mature street trees will be removed, the proposals include significant public realm enhancement including new street trees. Indicative plans show proposals that could make Elder Place more pedestrian and cycling friendly and the introduction of commercial uses directly fronting the street will help animate and change the character of this street. Widening of pavements and traffic calming measures are welcomed in principle. The key principles shown in the indicative landscape plans are welcomed and the precise detail can be secured by S106. It will be important to secure a scheme which can adapt over time should further contributions be secured from redevelopment of adjacent sites like Vantage Point and New England House. In addition to works to the pavements immediately around the site, a substantial financial contribution of £746k is offered towards wider public realm enhancement, reflecting the importance of this to the success of the scheme. Such proposals can help kick start much needed regeneration of the area and attract further investment. See also Sustainable Transport section below.
- 8.66. The council's Arboriculturalist raises concerns regarding the loss of the 2 street trees in the public highway required as a result of the siting of the building close to the site boundaries, as these have significant amenity value. Their loss is regrettable however if opportunities to maximise the density of

the site are to be taken they are unable to be retained. The Arborculturalist considers significant mitigation would be required to compensate for this loss in accordance with policies QD15 and QD16 of the Local Plan. Nine new semi-mature street trees are therefore proposed in New England Street (also partly for wind mitigation reasons), and opportunities for further street tree planting in Elder Place are identified in indicative landscape plans and will be secured by S106. On this basis the Arborculturalist raises no further objection. The applicant has agreed to meet the costs of moving any underground services required to facilitate the trees to ensure they are delivered, and this is secured via S106. The proposals are therefore considered to comply with policy.

- 8.67. Given the above, it is considered the development would make a significant and valuable contribution towards much needed enhancement of the public realm, which will aid regeneration of the area. This is a considerable public benefit and is given significant weight.
- 8.68. Sustainable Transport:
City Plan policy CP9 seeks to promote sustainable modes of transport and cycling and walking in particular, to reduce reliance on the private car. Local plan policy TR4 promotes the use of Travel Plans. Policy TR7 seeks to ensure highway safety. Development is expected to meet vehicular and cycle parking standards set out in SPD14.
- 8.69. The site is in a sustainable location close to services and is well located to take advantage of existing public transport links. Pedestrian and cycling links are however poor and the area would benefit from significant public realm enhancement and better connectivity from London Road/Preston Circus and the station, as identified in SPD10.
- 8.70. The area is a designated Air Quality Management Area and therefore there is additional emphasis on promoting sustainable modes and reducing vehicular movements here. The limited onsite car parking (and allocation for disabled users only) is therefore welcomed in this regard. As is the inclusion of a high proportion of electric vehicle charging points in the car park. The slight shortfall in disabled spaces compared to SPD14 standards is considered acceptable. Sustainable modes will be promoted via a strong Travel Plan, which is welcomed, in accordance with policy. This will be secured by S106 and should it prove necessary, further measures can be secured such as provision of car club vehicles and bays. Residents will not have access to parking permits, as per policy. A Car Park Management Plan can be secured by condition. A financial contribution towards improvement of sustainable modes in the locality will be secured by S106. It is considered that all these measures should ensure that there will be strong incentives to use

sustainable modes and that there should be no undue overspill parking pressure in the locality.

- 8.71. The proposed layout and level of cycle parking has been amended and improved since first submitted and on balance is considered acceptable. Final details can be secured by condition. The provision of showers and changing areas and lockers is also welcomed, in accordance with policy. On and off-site visitor cycle parking is secured by condition.
- 8.72. The total net vehicular trip generation for the development would be relatively modest compared to the existing uses, however there would be a significant increase in the number of people arriving by foot (in some cases as part of a rail or bus trip), justifying contributions toward pedestrian route improvements, and in line with SPD10 and CP13 the development is expected to make a contribution towards works over a wider area. The proposed financial contribution of £746k towards enhancement of the public realm and Elder Place is therefore welcomed and considered necessary for the reasons previously outlined. While a 'masterplan' for the area is proposed by the applicant, it is indicative only and is not costed although there is agreement with the general principles of promoting pedestrian and cycling priority. Shared surfaces may be explored however the council will need to ensure it meets its Equality Duty and ensure this does not disadvantage particular sectors of the population. It is expected that other development sites in the area may contribute towards a public realm enhancement scheme also and therefore a phased approach will be required to ensure that acceptable solutions can be delivered under various scenarios, including one in combination with other adjacent sites and one by this development alone.
- 8.73. There is some reservation about the colonnade at the base of the building in terms of accessibility (given it incorporates steps and is within the site's 'private' demise) however the pavement is considered to be wide enough here and further widening is considered acceptable in principle on corner with Elder Place, as an alternative to using the colonnade. Proposed street trees and cycle stands will need careful siting to ensure the footway is not unduly narrowed. A Section 278 can secure the relevant highways works required eg extinguishing of existing accesses and creation of new one, pavement widening/improvement etc.
- 8.74. The Transport Team does raise an objection with regard to loading capacity and safety. A clear case in terms of servicing demand and supply has not been put forward, and trends indicate that demand for home shopping and deliveries is rising. The Transport Team consider the scheme could compromise highway safety given there could be insufficient dedicated loading space, which could lead to haphazard opportunistic loading on street.

- 8.75. Whilst a reduction in floorspace and residential unit numbers would overcome servicing concerns, given the marginal viability of the scheme this is not possible. The council encourages effective and efficient use of sites to maximise their potential. Given the concerns raised, the applicants have proposed a larger extended loading bay in New England Street and whilst this will not meet all the demand it will however go some way towards this. The applicant was been asked to explore options for further provision e.g. on Elder Place however to date suitable locations have not been found. There are concerns about the principle of locating loading bays either side of the new access on Elder Place for reasons of restricted highway visibility. In addition loading bays need to be carefully located to ensure the aims of wider public realm enhancements including in Elder Place are not undermined. A Servicing and Deliveries Management Plan is therefore recommended by condition so that the applicant can further explore options with the council. The Transport Team's reservations that such a Plan will not overcome their concerns is noted however it maybe that further options arise as more detailed plans emerge for public realm enhancement. A balance will need to be struck between enhancement and functionality. In addition, the shared use of New England House car park or the car park within the site may be explored. As a Build to Rent scheme the building will be closely managed and the Delivery and Servicing Management Plan can include measures to encourage frequent delivery vehicles to use the New England Street bay.
- 8.76. It should also be noted that currently there are no loading restrictions in Elder Place and that this is one of city's wider roads so should informal loading happen on the occasions the New England Street bay is occupied it should not lead to undue congestion. Also refuse vehicles currently load here. Such scenarios are not uncommon in the city centre where opportunities for formal on and off-street loading are limited. It is appreciated this situation is not ideal from highway safety point of view but in such central constrained areas it is acknowledged that this might be the case and this approach is considered a reasonable compromise on balance. Whilst the concerns of the Transport Team are noted, the many positives of the scheme overall including redevelopment of this important city centre site in an area in need of regeneration are considered to outweigh the concern, along with adherence to conditions.
- 8.77. A Construction Environmental Management Plan (CEMP) can ensure temporary loading areas and routes to and from the construction site are controlled by the planning process in the interests of the environment and highway safety
- 8.78. Impact on Amenity including microclimate:

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health. Policies SU9, SU10 and SU11 of the Local Plan seek to protect amenity and human health from air pollution, noise, nuisance and polluted land and buildings. SPGBH15 Tall Buildings states that proposals will be expected to be well designed and consider their climatic effects on their surroundings including overshadowing and wind speeds, to ensure the environmental quality of the locality.

8.79. Air Quality:

The site is strategically allocated for significant development therefore there is no objection in principle to a more intensive use of the site. The site is however located within a designated Air Quality Management Area (AQMA) and therefore the introduction of significant new development needs careful consideration. In accordance with policy SU9, planning permission will only be granted for development within an air quality 'hot spot' where a) the effect on the proposed development, its occupiers and users will not be detrimental, b) the proposal will not make the pollution situation worse and c) the development helps to alleviate the existing problem. Policy DA4 seeks to ensure improvements to local air and noise quality through the implementation of the council's Air Quality Action Plan, through improvements to bus, pedestrian and cycle routes to achieve a modal shift and help reduce the impact of traffic and through the implementation of the council's Air Quality Action Plan. It seeks to ensure new development proposals take into account impact on local air quality and that improvements and/ or mitigation are sought wherever possible.

8.80. The applicant has submitted an Air Quality Assessment which concludes that the air quality impacts from the development would be insignificant. The council's Air Quality Officer generally concurs with this conclusion (except with regard to the proposed use of combined heat and power plant. It is considered that the types of uses proposed, office and residential, would have a different impact in terms of type and frequency of vehicles compared to existing, which should represent an improvement. The proposal is largely car-free with only disabled car parking spaces on site and it is considered that this, together with significant promotion of sustainable modes of transport, will address the aims of policy. In addition the proposal will increase the amount of greenery in this the dense urban area, which is a welcome air quality benefit.

8.81. There is some concern regarding the proposed incorporation of CHP in an AQMA in principle. Whilst such sustainable measures are usually welcomed

in accordance with policy CP8, in this particular location this benefit needs to be balanced against the need to reduce emissions and protect health. Therefore a condition is recommended to ensure 'cleaner' alternatives such as photovoltaics together with air or ground source heat pumps are explored or further evidence submitted to demonstrate that the particular CHP specification will not produce undue emissions. Note: There could also be concerns regarding the visual impact of any CHP flues.

- 8.82. Demolition and construction could generate undue dust and therefore a Construction Environmental Management Plan (CEMP) is recommended to control this by condition.
- 8.83. On the above basis, the council Air Quality Officer raises no objection.
- 8.84. Sunlight/Daylight microclimate:
The BRE has independently assessed the applicant's case with regard to daylight/sunlight and considers it generally robust. In terms of impact to the light of existing properties nearby it does highlight a number of issues, which is not unexpected in such a central urban location. The most significant loss of light would be to dwellings at 7-12 Elder Place where the impact is described as 'major adverse' and also nos 8-10 would also have major losses. Other impacts to residential properties would be moderate. Offices and workshops in New England House would also lose substantial amounts of daylight.
- 8.85. Whilst such impacts are a concern they are, on balance, considered acceptable in this particular context. Consideration has been given to the fact the site is centrally located in a densely built up urban area. The site is unusual in that it currently has a relatively low rise building on it and BRE do confirm that a significantly better level of sunlight provision would be difficult to achieve without a drastic redesign ie a much lower building. This is not pursued given the DA4 allocation and need to make the most effective and efficient use of the site. The Elder Place properties are unusual in the locality in that they are small scale residential additions in a predominantly commercial location to the rear of London Road. They currently benefit from quite an open aspect, across Elder Place which is a wider than average road. The numbers of residential properties in question are small and this needs to be balanced against the wider public benefits of the scheme. This is an area of regeneration and change, in the centre of the city, where light conditions may be compromised.
- 8.86. With regard to New England House (NEH) there are concerns given the significant impact the scheme could have, which will be more marked for

those businesses that rely on natural light, eg arts and craft businesses. It would however be difficult to redevelop the Longley site with a building of any significant scale without there being some adverse impact. Of benefit is the fact Longley is due north, so impact in terms of loss of sunlight is more limited, although it is recognised that general northern light is beneficial for creative businesses. Weight is given to BRE guidance, which states that commercial occupiers are considered less sensitive than to residential occupiers. Whilst not a planning consideration, it should also be noted that redevelopment of the Longley site could benefit NEH and its occupiers in the long term given it could facilitate significant City Deal enhancements to that building.

- 8.87. With regard to the outdoor amenity spaces, the proposed courtyard would be only marginally below the BRE guidelines for sunlight, which is considered acceptable. The roof gardens would be sunlit. The BRE consider the overall sunlight provision would be good if every resident has access to at least one roof garden.
- 8.88. The BRE confirm that daylight provision within the new development itself appears reasonable, however, some deep plan lounge/kitchen/diners do not fully meet guidelines, which is a concern. The applicant's report states that 53 of these rooms do not meet the recommendation of 2% for such a room and 19 of these would not meet the lower recommendation of 1.5% for a living room. Most of the poorly lit rooms look into the internal courtyard and therefore are heavily obstructed by their own development as well as by New England House. The BRE states the subsequent amendments to the scheme and changes to layout might improve some of the average daylight factors slightly where rooms have been reduced in size. Also sunlight data for the proposed flats is quite poor with 62 out of 190 living rooms/studios (33%) meeting the BS recommendations of 25% annual probable sunlight hours and 5% in the winter. Another 20 living rooms would meet the winter recommendation but not the annual one.
- 8.89. The above is a concern however it is accepted that in this central location, living conditions may not be ideal. The BRE advise there are other developments in city centres with a similar overall proportion of rooms not meeting the guidelines. The applicant does identify a number of rooms with more than 20% annual probable sunlight hours and whilst this has no basis in published guidance, it does indicate that there would be a proportion of units that only just fail the guideline. The site is constrained and there are limitations to significantly alter the layout and maintain the same number flats. Any further reduction in numbers would affect the already very marginal viability of the scheme. The proposal is considered to make the most

effective and efficient use of the site and on balance is considered acceptable.

- 8.90. In addition to all the considerations above with regard to impact to existing and prospective occupiers, weight is given to current NPPF advice in para 123 which states that authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site.
- 8.91. Wind Microclimate:
It is considered that the impact of the development in terms of wind speeds has been robustly assessed. The BRE have independently assessed the applicant's Wind Assessment (and subsequent update to it) and also the BRE have carried out their own desk based assessment. The BRE do raise some questions regarding some of the applicant's methodology and consider that wind tunnel testing would have been the most robust approach, in line with best practice, as desk-based studies tend to be conservative.
- 8.92. Both desk-based studies identified only one location of concern (the new pedestrian crossing), and advised that areas of the roof terraces near to adjacent tall buildings were not likely to be suitable for the most wind-sensitive activities (long-term sitting and entrance doors). It was judged that apart from these identified areas, that the remainder of the site and surroundings were likely to be suitable for the intended pedestrian activities. The applicant's study states that after mitigation (planting of 9 street trees along New England Street and roof terrace screens), the results of the wind assessment indicate that the site and surrounding area with the development in place with the wind mitigation adopted will result in a wind environment that remains within the recommended criteria for safety and comfort and thereby being suitable for all pedestrians. These mitigation measures can be secured by condition/S106.
- 8.93. Comparing the findings of the BRE desk-study and the applicant's findings, they are for all practical purposes the same. The applicant's approach shows that the wind conditions at the new pedestrian crossing are less windy than the BRE predicted in their desk-study however the BRE are happy to agree with the applicant's findings that the wind conditions at this location will be suitable for its intended purpose. Notwithstanding the BRE concerns regarding parts of the applicant's methodology, the findings that are consistent with BRE expectations about the wind microclimate and they agree with the conclusions reached. The BRE consider there is no reason that planning permission should be refused.
- 8.94. Noise, external lighting, odour and land contamination:

OFFRPT

The site is located in a busy central location with surrounding commercial uses where there could potentially be adverse impact in terms of noise, odour etc. The specialist reports submitted with the application however do not predict any potential significant issues in respect of the above. The council's Environmental Health team generally concur with these conclusions and they confirm that any potential for nuisance or pollution arising from and to the development in terms of noise, lighting, odour or contamination can be satisfactorily dealt with by condition. A CEMP would protect amenity during the construction phase. The proposal would therefore accord with relevant policies.

- 8.95. Sustainability, ecology and flood risk:
City Plan Policy CP8 expects all new development to incorporate sustainable design features to avoid expansion of the city's ecological footprint, help deliver the principles of the One Planet approach, and seeks radical reductions in greenhouse gas emissions, particularly CO2 emissions. Residential new build is expected to energy and water performance standards as set out in the policy and a commercial office is expected to meet BREEAM 'excellent' standard. Policy DA4 expects development to incorporate infrastructure to support low and zero carbon decentralised energy and in particular heat networks subject to viability. DA4 also seeks to extend and strengthen green infrastructure in the area and secure enhancements to open space and biodiversity. Policy CP10 expects development to conserve and enhance biodiversity.
- 8.96. In this context, it is considered particularly important for substantial, high density developments to be as sustainable as possible. SPHBH15 states all tall buildings must be integrated into the public realm, be responsive to environmental conditions and embrace principles of sustainability. SPGBH15 requires submission of a sustainability statement outlining how the proposal will apply best sustainable practices.
- 8.97. In this regard, the application includes a Sustainability Checklist, a Sustainability Strategy and a Sustainable Energy Strategy and commits to incorporating various sustainable measures within the development, in accordance with policy. One Planet Living principles have been applied which help ensure the scheme as a whole is as environmentally and socially sustainable as possible, which is a considerable benefit and is welcomed.
- 8.98. The development seeks to incorporate good thermal performance, solar control and efficient building services. An initial feasibility study of low and zero carbon energy including photovoltaics (PVs), Combined Heat and Power (CHP) and air source heat pumps (ASHP) has been provided. All could prove feasible, and this Strategy indicates that CHP would save 29.1%

(compared to Part L of Building Regulations baseline), CHP plus PV's a 34.9% saving or an alternative strategy of ASHP + PVs a 42.5% saving. These savings include passive design measures. These savings would be substantially greater than the 19% saving required in policy CP8, however this policy applies to developments of all scales, and for such substantial major developments such as this there is an expectation that the optimum sustainable practices are adopted (SPGBH15). These measures are therefore welcomed and a final strategy shall be conditioned, and they are given significant weight. The current proposal includes a photovoltaic array and use of CHP, which is welcomed from a sustainability point of view however there are concerns regarding CHP emissions and impact to air quality. Given the site is located within an AQMA a condition is recommended to ensure the feasibility of ASHP is fully explored alongside submission of a CHP specification (and PVs and passive measures), so the most appropriate provision can be made. There could also be visual concerns regarding flues associated with CHP.

- 8.99. A BREEAM Pre-Assessment has been submitted indicating the scheme is on target to meet 'excellent' standard which is welcomed and accords with policy.
- 8.100. A condition can ensure the development is satisfactorily future-proofed for connection to any district heating networks.
- 8.101. On the basis of all of the above the council's Sustainability officer considers the proposal would comply with policy and welcomes the carbon savings indicated.
- 8.102. Food growing is proposed within the communal landscaped areas, including raised beds, greenhouses and composting facilities, which is welcomed in accordance with policy and Planning Advice Note 6.
- 8.103. The proposal is considered to make sufficient provision for refuse and recycling. The application commits to a Site Waste Management Plan which aims for zero-construction waste to landfill and an operational waste strategy that makes recycling and composting easy for residents.
- 8.104. The existing site has very low biodiversity value (except for the street trees). In accordance with policy biodiversity enhancement is required. In this regard, green living roofs and green living walls are proposed at roof terrace level, which are welcomed. Other landscaping is proposed on and off site, which is also beneficial. A condition is also recommended to ensure incorporation of bird boxes. On this basis the County Ecologist raises no objection.

- 8.105. The proposal seeks to use sustainable drainage practices within the development (SUDs) and would collect rainwater for irrigation, which is welcomed. A standard condition requiring a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption is proposed. In principle, the Lead Local Flood Authority (LLFA) have no objections to this development. A condition is recommended to ensure submission and implementation of a comprehensive maintenance plan for the drainage system in a formal maintenance plan. Southern Water raise no objection in principle subject to submission of satisfactory drainage details.
- 8.106. Other Considerations:
Archaeology:
The County Archaeologist raises no particular heritage sensitivities with developing the site and raises no objection, therefore the proposal considered to accord with policy HE12 of the Local Plan and CP15 of the City Plan Part One.
- 8.107. Crime Prevention:
Sussex Police raise no objection to the proposal provided crime prevention measures are incorporated. This is supported by policy and an appropriate condition is recommended. Redevelopment of the site should help prevent crime as it will help regenerate the area, introduce more active frontages and more general activity outside of usual commercial hours. It would also provide less opportunities for rough sleeping than at present and it will be a closely managed Build to Rent scheme.
- 8.108. Fire escape:
The comments of the Private Sector Housing Team are noted and have been passed to the applicant who has stated they can be addressed. Means of escape issues are covered by Building Regulations, separate to planning.
- 8.109. Conclusions & Planning Balance:
The proposal undoubtedly is a substantial development proposal, of a significant scale in its local context. There do remain some reservations regarding the proposed overall scale and height, however, on balance, for the reasons outlined in this report, the proposal is considered acceptable. The site is an area identified as having capacity for significant development and the proposals make effective use of an underused site. Evidence submitted with the application demonstrates that the height and massing of the proposal would not have an unduly harmful impact in wider views. It would have no direct impacts on any heritage assets and would have limited impact to their setting. It is considered that any harm caused to the setting of

heritage assets is less than substantial, and can in this instance be outweighed by the public benefits.

- 8.110. Whilst a very high density scheme, it has been demonstrated the living conditions for prospective residents will generally be satisfactory and whilst internal light levels would not be ideal they would be characteristic of a densely built up central location. There are some other aspects of the scheme that are not ideal - the proposed market housing mix, limited private amenity space provision, significant loss of light to some neighbouring properties and limited dedicated servicing provision – however for the reasons outlined in the report, they are not considered to justify refusal of the application and do not outweigh the positive aspects of the scheme. The concerns of the Transport Team regarding on-street loading are given weight, however, given the constrained city centre location it is accepted that servicing arrangements may not be ideal and the positive aspects of the scheme are considered to outweigh the concerns in this instance. The limited 10% provision of affordable housing has been fully justified via a viability exercise. Other potential impacts can be mitigated by condition/S106.
- 8.111. The proposal is considered to deliver substantial public benefit and these are given significant weight. Notably the proposal makes effective and efficient use of an underused brownfield site in a central location, and whilst the employment opportunities have not been maximised as per the aims of policy DA4, the scheme would deliver 201 much needed housing units, including affordable housing, and it would exceed the strategic allocation for new modern B1 floorspace and would create a significant number of jobs. The scheme would deliver significant public realm enhancement in area of poor streetscape and pedestrian/cycling connectivity which is in need of regeneration with and it would introduce more much needed greenery to the area, and this is given considerable weight. The proposals would promote sustainable modes of transport. The proposals will act as a catalyst for further much needed regeneration of the locality. The proposals would incorporate One Planet Living sustainable principles and deliver significant carbon emission savings and this is given significant weight. The proposal would meet its infrastructure requirements and associated S106 financial contributions in full. Increased weight has also been given to the significant amount of housing that would be delivered (201 units), as per para 11 of the NPPF which emphasises housing delivery in line with the presumption in favour of sustainable development.
- 8.112. Redevelopment of sites such as Longley are needed if the city is to move forward and continue to grow and successfully deliver the employment floorspace and housing units and greater densities required.

8.113. S106 Agreement

In the event that the draft 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 viability of the scheme and subsequent level of affordable housing has been based on the scheme being Build To Rent and in the absence of any Section 106 Agreement mechanisms which covenant the housing as Build to Rent only, and which secure an element of affordable housing, the development fails to satisfactorily meet the identified housing needs in the city or provide satisfactorily mixed balanced housing scheme, contrary to policies CP7, CP19 and CP20 of the Brighton and Hove City Plan Part One.
2. The proposed development fails to provide appropriate mitigation of the transport impacts of the development or promote sustainable transport modes contrary to policies TR7 of the Brighton & Hove Local Plan and DA4, CP7 and CP9 of the Brighton and Hove City Plan Part One.
3. The development fails to provide appropriate enhancement of the public realm and Elder Place in particular, or compensatory street tree planting to mitigate the loss of two existing street trees with amenity value, contrary to policies QD15, QD16 and QD27 of the Brighton and Hove Local Plan and CP7, CP13 and DA4 of the Brighton and Hove City Plan Part One and SPD10 London Road Central Masterplan.
4. The proposed development does not include an appropriate artistic element commensurate to the scale of the scheme and therefore fails to address the requirements of CP5, CP7 and CP13 of the Brighton and Hove City Plan Part One.
5. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policies DA4 and CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
6. The proposed development fails provide a financial contribution towards the City Council's Local Employment Scheme secured via Section 106 Agreement to support local people to employment within the construction industry contrary to policies DA4 and CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
7. The proposed development fails to provide a financial contribution towards the improvement and expansion of capacity of local schools required to meet the demand for education created by the development,

contrary to policy CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.

8. The proposed development fails to provide a financial contribution towards the enhancement of open space to meet the demand created by the development contrary to policies CP7 and CP16 of the Brighton and Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
9. The proposal fails to provide for measures including street tree planting to satisfactorily mitigate the impacts that would be created by wind as a result of the development, contrary to policies QD27 of the Brighton and Hove Local Plan and CP7 and CP12 of the Brighton and Hove City Plan Part One and SPGBH15 Tall Buildings.

9. EQUALITIES

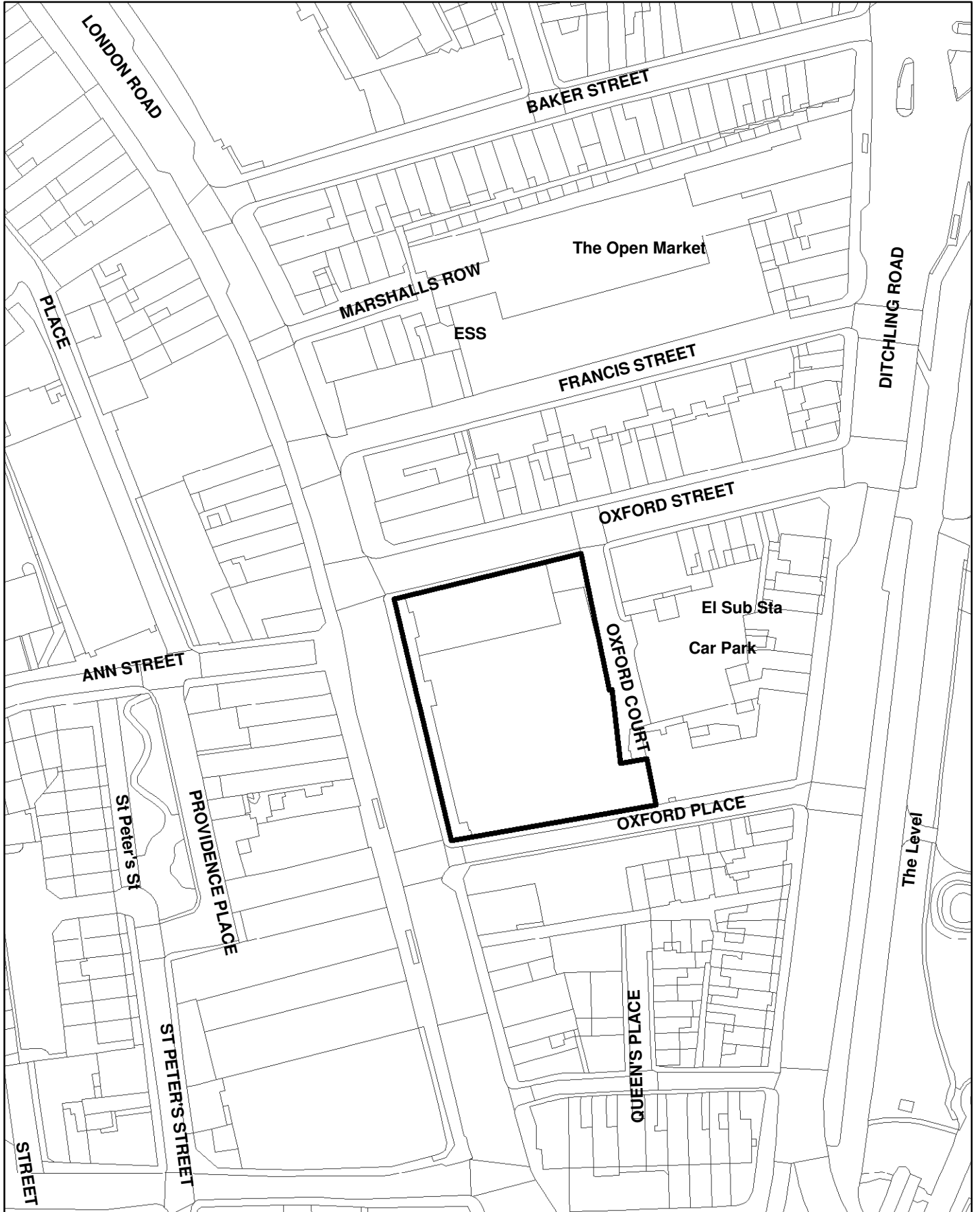
- 9.1. Lift access is provided. Wheelchair accessible housing (6.5%) and disabled car parking is to be incorporated.

ITEM C

**118 - 132 London Road
BH2018/02699
Full Planning**

DATE OF COMMITTEE: 20 March 2019

BH2018/02699 118 - 132 London Road, Brighton



Scale: 1:1,250

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<u>No:</u>	BH2018/02699	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	118 - 132 London Road Brighton BN1 4JH		
<u>Proposal:</u>	Demolition of existing building and the erection of a five storey building with retail (A1 use class), community hub, student accommodation reception, laundry, plant room, bin store and cycle store at ground floor level, 232 student rooms (sui generis use class) at first, second, third and fourth levels, and solar PV array on the roof.		
<u>Officer:</u>	Sarah Collins, tel: 292232	<u>Valid Date:</u>	16.10.2018
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	15.01.2019
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	29.03.2019
<u>Agent:</u>	Mr Simon Bareham Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Curlew Opportunities C/O Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD		

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 Planning Obligation and the Conditions and Informatives as set out hereunder, SAVE THAT should the s106 Planning Obligation not be completed on or before the 26th June 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in the final section of this report:

S106 Heads of Terms

- Open Space and Recreation – £232,845.46 (total of sums below) – to be spent as follows:
 - £7,212 - Amenity Green Space (Valley Gardens and/or Pelham Square)
 - £69,153 - Outdoor sports facilities (Withdean Stadium and/or Preston Park and/or Waterhall)
 - £101,213 - Parks and Gardens (Preston Park and/or St Nicholas Gardens and/or Valley Gardens and/or Queens Park)
 - £45,342 - Natural and Semi-Natural (Woodvale Cemetery and/or Preston Park and/or St Nicholas Gardens and/or Valley Gardens and/or Queens Park)
 - £9,925 - Allotments (Chates Farm Allotments and/or Old Water Works Allotments and/or St Marks Allotments)

- Artistic Component – an artistic component on or within the vicinity of the site to the value of at least £72,000.
- Economic Development – £23,200
- Employment & Training Strategy – to provide opportunities for employment and training for local people
- A permissive path agreement to be secured to allow the public access to the new forecourt/set-back on London Road.
- Separate 5 Year Travel Plans for student and retail (staff only) components.
- S278 Highway Works to be implemented prior to occupation to:
 1. Reconfigure the existing loading/servicing facilities in Oxford Court for the retail and PBSA components of the site to improve access for delivery and servicing vehicles and for the Oxford Court car park;
 2. Improve the footways on Oxford Court and Oxford Street leading from the Oxford Court car park to the junction of Oxford Street and London Road to make them accessible, to include works to the existing footways at the junction of Oxford Court and Oxford Street to mitigate any alteration that may be required as a result of the development to the visibility splay at this junction;
 3. Widen and protect the northern footway of Oxford Place to secure appropriate access to the proposed new cycle store for the student component of the development;
 4. Install a new shelter (to a specification approved by the Council and consistent with such bus shelters in the area) on London Road at or adjacent to the existing bus stop to the front of the development site.

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Location Plan	17235 200	P-00	24 Aug 2018
Existing Elevations	18.023 200	F	12 Oct 2018
Existing Ground Floor Plan	18.023 100	C	3 Oct 2018
Existing First Floor Plan	18.023 101	C	3 Oct 2018
Existing Second Floor Plan	18.023 102	C	3 Oct 2018
Proposed Site Plan	17235 300	P-04	26 Feb 2019
Proposed Upper Floor Plans	17235 1000	002	11 Feb 2019
Proposed Elevations	17235-0302	P-03	11 Feb 2019
Proposed Courtyard Elevations	17235 0303	P-01	10 Jan 2019

Typical Unit Plans	1735-0360	P-00	27 Nov 2018
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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.
- 3.1. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:
- (a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice;
 And if notified in writing by the local planning authority that the desk top study identifies potentially contaminant linkages that require further investigation then,
 - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A1:2013;
 And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,
 - (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.
- 3.2. The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report by a competent person approved under the provisions of condition (1)c that any remediation scheme required and approved under the provisions of condition (1)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:
- (a) built drawings of the implemented scheme;
 - (b) photographs of the remediation works in progress;
 - (c) certificates demonstrating that imported and/or material left in situ is free from contamination.
- Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
 “Prior to demolition or any groundworks”, and then the same condition stating
 “”
4. No development, including demolition or any groundworks, shall take place until a Demolition and Environmental Management Plan (DEMP) has been

submitted to and approved in writing by the Local Planning Authority. The DEMP shall include:

- (i) The phases of the demolition and groundworks including their forecasted completion date(s)
- (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
- (iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
- (iv) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
- (v) Details of hours of demolition and groundworks including all associated vehicular movements
- (vi) Details of the site compound
- (vii) A plan showing traffic routes
- (viii) That the developer shall comply with Stage IIIB of EU directive 97/68/EC for NOx emissions limits from Non-Road Mobile Machinery (NRMM) in accordance with DfT guidance 'Improving Air Quality, Reducing Emissions from NRMM'
- (ix) That if plugged in places cannot be provided, battery energy or ultralow sulphur diesel shall be used for all static generators required during demolition and groundworks
- (x) That red diesel shall not be used for NRMM and static generators working on the site
- (xi) That HGVs used for demolition of the development shall be minimum euro-VI emission standard.

The demolition and groundworks shall be carried out in accordance with the approved DEMP.

Reason: As this matter is fundamental to the protection of amenity, to avoid emission contribution to high levels of nitrogen dioxide recorded in the vicinity of the site, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, 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. No development, other than demolition or any ground works, shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
 - (i) The phases of the Proposed Development including the forecasted completion date(s)
 - (ii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)

- (iii) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
- (iv) Details of hours of construction including all associated vehicular movements
- (v) Details of the construction compound
- (vi) A plan showing construction traffic routes
- (vii) That the developer shall comply with Stage IIIB of EU directive 97/68/EC for NOx emissions limits from Non-Road Mobile Machinery (NRMM) in accordance with DfT guidance 'Improving Air Quality, Reducing Emissions from NRMM'
- (viii) That if plugged in places cannot be provided, battery energy or ultralow sulphur diesel shall be used for all static generators required during construction
- (ix) That red diesel shall not be used for NRMM and static generators working on the site
- (x) That HGVs used for construction of the development shall be minimum euro-VI emission standard.

The construction shall be carried out in accordance with the approved CEMP.

Reason: As this matter is fundamental to the protection of amenity, to avoid emission contribution to high levels of nitrogen dioxide recorded in the vicinity of the site, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, 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.

6. Prior to the commencement of development hereby approved, measures to protect and divert the public sewers and water apparatus shall be submitted and approved in writing by the local planning authority in consultation with Southern Water.

Reason: To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy SU5 of the Brighton & Hove Local Plan.

7. Within 6 months of the commencement of development hereby approved, evidence should be submitted to demonstrate that the energy plant/room(s) have capacity to connect to a future district heat network in the area. Evidence should demonstrate the following:

- (a) Energy centre size and location with facility for expansion for connection to a future district heat network: for example physical space to be allotted for installation of heat exchangers and any other equipment required to allow connection;
- (b) A route onto and through site: space on site for the pipework connecting the point at which primary piping enters the site with the on-site heat exchanger/ plant room/ energy centre. Proposals must demonstrate a plausible route for heat piping and demonstrate how suitable access could be gained to the piping and that the route is protected throughout all planned phases of development.

(c) Metering: installed to record flow volumes and energy delivered on the primary circuit.

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

8. Within 6 months of commencement of the development hereby permitted, a scheme shall be submitted to the Local Planning Authority for approval to provide that the occupiers of the development, other than those with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.

Reason: This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

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

- (a) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- (b) samples of all cladding and fretwork to be used, including details of their treatment to protect against weathering
- (c) samples of all hard surfacing materials
- (d) samples of the proposed window, door and balcony treatments
- (e) samples 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 QD5, QD14, HE3 and HE6 of the Brighton & Hove Local Plan and CP12, CP13 and CP15 of the Brighton & Hove City Plan Part One.

10. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of a drainage strategy detailing the proposed means of foul water disposal and surface water drainage for the site using sustainable drainage methods, including an implementation timetable and maintenance details, has been submitted to and approved in writing by, the Local Planning Authority in consultation with Southern Water. The development shall be carried out in accordance with the approved strategy.

Reason: To ensure adequate foul sewage drainage/treatment is available and to ensure that the principles of sustainable drainage are incorporated, in order to comply with policies SU4 and SU5 of the Brighton & Hove Local Plan and CP11 of the Brighton & Hove City Plan Part One.

11. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the ventilation system for the

first floor student accommodation including high level air intake have been submitted to and approved in writing by, the Local Planning Authority. The ground and first floor windows within the development that front onto London Road shall be hermetically sealed.

Reason: In order to minimise exposure to pollution for future occupiers of the development and to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan.

12. No development above ground floor slab level of any part of the development hereby permitted shall take place until 1:20 scale drawings of the ground floor shop fronts, entrance doors, windows and metal fretwork have been submitted to and approved in writing by, the Local Planning Authority. All glazing at ground floor level shall be fitted with clear glazing and shall not be affixed with advertisements, vinyl or similar, and shall be kept free from fittings and fixtures except for the purposes of displaying goods for sale within the unit.

Reason: To ensure the development maintains an active frontage and to ensure a satisfactory appearance to the development and to comply with policies QD5, SR5 and HE3 of the Brighton & Hove Local Plan and CP12, CP13 and CP15 of the Brighton & Hove City Plan Part One.

13. Notwithstanding the plans hereby approved, no development above ground floor slab level of any part of the development hereby permitted shall take place until a cycle parking scheme has been submitted to and approved in writing by the Local Planning Authority, which shall include details of:

- the student accommodation cycle parking store, including a layout that demonstrates sufficient spacing and aisle widths between racks, power-assisted doors, access arrangements to the cycle store for visitors to the student accommodation and facilities for storing non-standard bikes including those used by disabled users;
- the retail customer cycle stands on London Road to be sited so that they would not cause obstruction to pedestrians using the bus stop and footway, and
- safe, convenient and secure cycle parking for retail staff within the building.

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 TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.

14. Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

Reason: To ensure adequate foul sewage drainage/treatment is available and to comply with policy SU5 of the Brighton & Hove Local Plan.

15. Prior to the commencement of the development hereby approved above slab level, a Delivery & Service Management Plan shall have been submitted to

and approved in writing by the Local Planning Authority. The Plan shall include:

- (a) Details of the types of vehicles;
- (b) Where they will load/unload for the various functions of the building and tracking;
- (c) How deliveries, servicing and refuse collection for the various functions within the building will be coordinated and managed, demonstrating how the number of vehicle trips relating to servicing and delivery will be minimised, and
- (d) the frequency and timing of vehicle movements.

The delivery strategy for the student accommodation shall include details of how personal and facilities deliveries will be combined, the delivery system detailing how items are delivered and distributed, how and which delivery companies will be contacted to ensure deliveries to the student accommodation are minimised, and signage details and location to direct delivery drivers to Oxford Court.

All deliveries, servicing and refuse collection 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 policies SU10, QD27 and TR7 of the Brighton & Hove Local Plan.

16. Prior to the occupation of the student accommodation hereby approved, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority, which shall include restrictions on hours of use, events and the use of amplified music within the external courtyard and details of how this will be monitored. The approved Plan shall be implemented and maintained accordingly thereafter.

Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

17. 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 hard landscaping shall be implemented prior to occupation of the development and the approved soft landscaping shall be implemented in the first planting season after occupation. The scheme shall include the following:

- (a) scoping for the inclusion of a sedum/green roof on the first floor courtyard to enhance the biodiversity of the site and details of the sedum/green roof if it is a feasible option;
- (b) details of all hard and soft surfacing of all external areas including the pavement areas within the site boundary as well as the first floor courtyard to include type, position, design, dimensions and materials and any sustainable drainage system used;
- (c) a schedule detailing sizes and numbers/densities of all proposed trees/plants including 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;
- (d) details of railings or other barrier at the edge of the first floor courtyard, to include 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. The landscaping scheme for the first floor courtyard should provide and maintain adequate privacy screening of the first floor student rooms from the accessible parts of the courtyard, should include species of local provenance where appropriate and should enhance biodiversity.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to protect privacy and to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan and CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

18. Prior to first occupation of the development hereby approved, details of the photovoltaic array depicted on the roof plan 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 and retained thereafter.

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.

19. 19. Prior to first occupation of the development hereby approved, details of at least 6 swift nest bricks to be installed in an appropriate location within the development shall be submitted to and approved in writing by the Local Planning Authority. The swift nest bricks shall then be installed in accordance with the approved details.

Reason: To support the local swift population and to comply with policy CP10 of the Brighton & Hove City Plan Part One.

20. Prior to the occupation of the student accommodation hereby approved, a Student Management Plan, detailing the move in and move out strategy for the start and end of term and how arrivals and departures will be managed outside term time, shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall take into account the operation of Oxford Court car park, servicing and deliveries within Oxford Court, and the move in and move out strategy of the Kings Education establishment on Ditchling Road/Oxford Place.

Reason: In order to take into account the existing traffic movements in Oxford Court and to mitigate the impact of the development on the local highway network and to comply with policies TR7 and SU9 of the Brighton & Hove Local Plan and policies CP9 and CP21 of the Brighton & Hove City Plan Part One.

21. 21. Within 3 months of first occupation of the retail development hereby permitted a BREEAM Post Construction Review Certificate confirming that the retail development built has achieved a minimum BREEAM New Construction rating of 'Excellent' 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.

22. Within 3 months of first occupation of the student accommodation development hereby permitted a BREEAM Post Construction Review Certificate confirming that the student accommodation development built has achieved a minimum BREEAM New Construction rating of 'Excellent' 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.

23. The retail and community uses hereby permitted shall not be open except between the hours of 07:00 and 23:00 on Mondays to Sundays, including Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

24. The retail units hereby approved shall be used for Class A1 (of the Town and Country Planning (Use Classes) Order 1987 (as amended)) only and for no other purpose. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities or local residents and protecting the vitality and viability of the shopping area and to comply with policies QD27 and SR5 of the Brighton & Hove Local Plan.

25. The community unit/hub hereby approved shall be used for that purpose only and for no other purpose. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding local community facilities and to comply with policy HO20 of the Brighton & Hove Local Plan.

26. 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 a level 5dB below the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142:2014. 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 SU10 and QD27 of the Brighton & Hove Local Plan.

27. Unless otherwise agreed in writing with the Local Planning Authority, the development shall meet its heating and power demands with a small Combined Heat and Power Plant with maximum output of 50kw and NOx emission rate of <40 mg/kWh.
Reason: In order to minimise NOx contribution to the local AQMA (Air Quality Management Area) and to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan.
28. All boiler flues shall have vertical termination above roof. There shall be no horizontal emission to London Road.
Reason: In order avoid additional emission to the roadside environment within the AQMA (Air Quality Management Area) and to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan.
29. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.
Reason: To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies QD14, HE3 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.
30. During term time, the student accommodation shall only be occupied by students of existing universities or other existing education establishments within the Brighton & Hove area and by students who are 18 years of age or older.
Reason: In order to help meet the demand for purpose built student accommodation and to meet the housing needs of the city's students, and to comply with policy CP21 of the Brighton & Hove City Plan Part One.
31. Outside term time, the student accommodation shall only be occupied by students, staff and visitors who are attending events or courses that are run by universities or other existing education establishments within the Brighton & Hove area, and who are aged 18 years or older. The arrivals and departures shall be managed in accordance with the Student Management Plan to be submitted .
Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies TR7, SU9, SU10 and QD27 of the Brighton & Hove Local Plan and policy CP21 of the Brighton & Hove City Plan Part One.
32. At least 5% of the student accommodation units 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.

Reason: To ensure satisfactory provision of accommodation for students with disabilities and to comply with policy HO13 of the Brighton & Hove Local Plan.

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. A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link: <https://beta.southernwater.co.uk/infrastructurecharges>.
3. A formal application for connection to the water supply is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.
4. The applicant is advised that condition 4 on land contamination has been imposed because the site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. To satisfy the condition a desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of part 1(b) and part 1(c) of condition 4.
5. It is strongly recommended that in submitting details in accordance with this condition the applicant has reference to Contaminated Land Report 11, Model Procedures for the Management of Land Contamination. This is available on both the DEFRA website (www.defra.gov.uk) and the Environment Agency website (www.environment-agency.gov.uk).
6. The applicant is advised that the scheme required to be submitted by Condition 7 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers of the restrictions upon the issuing of resident parking permits.
7. The applicant is advised that notwithstanding the approved plans, the ATM's controls should be raised and separated from each other, have a positive action and have raised numbers, letters or Braille characters on each control and be no higher than 1060 mm from ground level.

8. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites (www.breeam.org).

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The site currently comprises two retail units (Boots and Coop) and entrance to snooker hall at ground level and a now vacant snooker hall (Class D2 assembly and leisure) on the first and second floors. The site area is approximately 0.34 hectares and forms part of the Prime Retail Frontage of the London Road Town Centre. The site also lies within Development Area 4 (DA4 - New England Quarter and London Road Area) of the City Plan Part One.
- 2.2. The existing building is faced in yellow and red brick (with some feature bricks on the London Road frontage) with largely blank elevations, with the exception of the London Road ground floor frontage and a number of large windows on the Oxford Place upper floors. The building is part 2, part 3 storeys and the building overhangs the pavement on London Road, creating an 'arcade' with supporting columns at ground level. The existing building is architecturally uninspiring and lacks animation. The existing retail units are currently serviced from Oxford Court at the rear, where there is a small car park that is owned and operated by the Council. There are currently 5 no. car parking spaces and 8 no. cycle spaces at the rear of the site, adjacent to the entrance to the Oxford Court car park. This parking area is the only part of the site that falls outside the Prime Retail Frontage.
- 2.3. The site is well served by public transport, fronting onto London Road bus routes with a bus stop outside the Coop retail unit. It is also within 350 metres walking distance of Brighton Railway Station.
- 2.4. The site lies approximately 20 metres to the west of the Valley Gardens Conservation Area and approximately 60 metres to the east of the Grade I Listed St Bartholomew's Church.
- 2.5. On the corner of Ditchling Road and Oxford Place adjacent to the site is the recently completed 'Buxtons' redevelopment, occupied by Kings Education, comprising teaching facilities and accommodation, and which is a 4 storey building. The majority of the other buildings surrounding the site are 3 storeys in height, and generally comprise a mix of commercial and residential uses. St Peter's NHS medical centre fronts onto Oxford Street to the east of the site and there are a number of on street disabled parking bays along this part of Oxford Street.
- 2.6. The proposed development would demolish the existing building and replace it with a 5 storey building comprising two A1 retail units on the ground floor and 232 student rooms above (150no. cluster rooms, 59no. studios, and 23no. premium studios). The typical bedroom layout plan shows that cluster

rooms would typically be 15 sqm and contain a bed, wardrobe, workspace and en-suite bathroom, studios would typically be 18sqm and contain a bed, wardrobe, workspace, en-suite bathroom and cooking facilities, and premium studios would typically be 23.3sqm and contain a bedroom, wardrobe, and kitchen/lounge/dining area with sofa and table. These unit sizes compare favourably with other purpose built student accommodation recently approved in Brighton & Hove:

119 Lewes Road: 16.9sqm to 24sqm for studios

Preston Barracks blocks 6 to 8: minimum of 13sqm (cluster), 15sqm (studios)

- 2.7. The communal amenity space available to those occupying the studios (standard and premium) would amount to 535sqm (including study zones), which equates to 6.5sqm per studio. This compares favourably with other recent schemes approved in Brighton & Hove:

119 Lewes Road: 1.61sqm per studio room

Gyratory scheme: 1.93sqm per studio room

Preston Barracks blocks 6 to 8: 3.42sqm per studio room

54 Hollingdean Road: 3sqm per room

- 2.8. The existing car parking spaces and cycle spaces at the rear of the site would be removed and the building would extend over this area. 10 visitor cycle stands (Sheffield type) are proposed on the London Road pavement (3 stands near the Coop entrance, 4 stands near the other retail unit entrance, and 3 stands near the PBSA entrance). The development would be 'car free'.

Floor Plans:

The accommodation would be laid out as follows:

- 2.9. Ground Floor: Coop store (Class A1 retail) 464sqm sales area, ATM on London Road frontage, and ancillary store and plant room serviced from Oxford Court; retail unit of 989.5sqm sales area; community room (70sqm) accessed from Oxford Place; and ancillary student accommodation facilities comprising of reception area, launderette, stair and lift core, cycle store (176 spaces of which 132 double stacked and 44 sheffield stand), bin store serviced from Oxford Court, plant rooms (160sqm), substation and electrical switch room, fire escape stair leading to the external courtyard, and secondary student entrance and staircase accessed from Oxford Place.
- 2.10. First Floor: Student gym, multimedia lounge, main lounge, visual training area, external courtyard (providing approx. 150sqm communal amenity space surrounded by planting and accessed directly from all 3 staircores), 3 store rooms, 36 cluster rooms, 7 communal kitchen/dining/lounge cluster flats serving the 36 cluster beds, and 11 studios.
- 2.11. Second and Third Floors: Each have 80 cluster rooms, 9 communal kitchen/dining/lounge cluster flats serving the 80 cluster beds, 40 studios, 8 premium studios and 2 study rooms.
- 2.12. Fourth Floor: 34 cluster rooms, 5 communal kitchen/dining/lounge cluster flats serving the 34 cluster beds, 8 studios, 15 premium studios and 3 study rooms.

- 2.13. Roof: Extensive solar panel array covering most of the roof, lift overruns, ATM, lottery and radio satellite dishes, and flues. Elevation plans show that this equipment would rise to a maximum of 1.2 metre above parapet level, although the solar panels are not shown on the elevations.

Elevations:

- 2.14. The London Road frontage would be faced in brick (beige colour indicated) and the ground floor predominantly glazed with floor to fascia shop windows separated by a series of brick 'columns' that continue up to the third floor. The central 3 floors would have vertically and horizontally aligned windows with larger windows in the centre and at the north and south corners. The windows and doors would have deep reveals and would be framed in PPC aluminium, indicated in dark grey with accent PPC metal reveals. Accents of blue and green are provided around the windows and the CGIs show that two pairs of windows at 1st and 3rd floor would project beyond the main elevation. The top floor would be set back slightly from the main elevation and faced in metal cladding.
- 2.15. The Oxford Street elevation would have 4 sections of floor to fascia glazing and at the eastern end there would be 3 sections of solid wall, due to the internal storage area. These solid walls would be decorated with PPC metal fretwork in a chevron pattern, indicated in a range of neutral and blue colours. The back of the Oxford Place wing which is visible from Oxford Street would also be decorated with blue PPC metal fretwork in a chevron pattern on the upper floors.
- 2.16. The Oxford Court elevation would continue the brick facing lower floors and set back top floor in metal cladding. The ground floor would comprise of the same brick and metal doors and shutters are indicated. At the northern end, close to Oxford Street, two sections of chevron brick pattern in projecting brickwork are proposed. At the southern end, blue PPC metal fretwork similar to that on the Oxford Street ground floor is proposed for the upper floors.
- 2.17. The Oxford Place elevation would continue the brick facing lower floors and set back top floor in metal cladding. At ground level, the reception room, launderette, and the community room would have glazed curtain walling with chevron fascia panels in metal fretwork and areas of solid wall would incorporate either metal fretwork panels or chevron patterned brickwork. It is not clear whether the cycle store would have glazing or solid walls; the elevation plans indicate the walls would be clad in blue vertical panels.
- 2.18. The internal courtyard elevations, which would only be visible from Oxford Court and within the building itself, would be finished in white painted render.
- 2.19. In addition to the plans and elevations, CGIs (Computer Generated Images) or VVMs (Visually Verified Montages) were submitted to indicate what the proposed development would look like from certain views, in comparison with photographs of the same views. A description of how the verified views were carried out has also been submitted. The views are created from

photographs taken at a height of 1600mm above ground level, which is considered to represent human eye level.

2.20. The following additional supporting application documents were provided:

- Planning Statement
- Letter from Kings Education, confirming their interest in occupying the student accommodation
- Statement of Community Interest
- Design & Access Statement
- Transport Statement and Addendum
- Transport Technical Note Jan 2019
- Transport Technical Note Feb 2019
- Air Quality Assessment
- Drainage and Flood Risk Report
- Energy Statement
- Heritage Statement
- Verified Views Methodology
- Noise Report
- Daylight Analysis

3. RELEVANT HISTORY

120 - 132 London Road (Coop):

3.1. **BH2014/00760** - Internal and external alterations to facilitate the subdivision of existing retail unit including replacement entrance doors, installation of new entrance doors and associated works. Approved 23.07.14

119 - 131 London Road (Coop):

3.2. **BH2012/02144** - Replacement of existing windows and curtain walling systems to south elevation. Approved 21.09.12

118 - 119 London Road (Boots):

3.3. **BH2010/02698** - Display of 1no. fascia panel with internally illuminated logo to Northern elevation 1 no. fascia panel with internally illuminated logo to Western elevation and 1no. internally illuminated high level fascia panel and 1no. internally illuminated projecting sign to Western elevation. Split Decision 28.10.10 (Refusing the internally illuminated projecting sign to Western elevation due to highway safety issue with nearby traffic lights).

120 - 132 London Road (Coop):

3.4. **BH2010/00807** - Display of 2no externally illuminated fascia signs, 1no internally illuminated hanging sign and 1no non-illuminated wall mounted sign. Approved 15.06.10

120 - 132 London Road (Coop):

3.5. **BH2009/00137** - Installation of external shutters to shop front. Approved 18.06.09

4. PRE-APPLICATION ADVICE

- 4.1. Proposals for redevelopment of this site were submitted in two separate pre-applications in 2016 and 2018. The advice provided was, in summary, as follows:

2016:

- 4.2. Proposal: Redevelopment of the site to provide an A1 retail and an A3 cafe use on the ground floor and 4 floors of student accommodation above.
- 4.3. The existing building does not contribute positively to the character and appearance of London Road and the principle of demolition and redevelopment of the site for mixed use is acceptable at the site.
- 4.4. In terms of the proposed A3 use, criteria a) to d) of retained Local Plan policy SR5 would need to be complied with. With regard to criteria a) we would seek the retention of at least 50% A1 retail in the Primary Shopping Frontage. With regard to criteria b) we would restrict the A3 unit to create no more than a 15 metre break in the A1 retail frontage. In terms of criteria c) supporting information in respect of the nature of the A3 use proposed should be submitted with an application to explain how the A3 use would encourage combined trips and attract pedestrian activity to the centre. For criteria d) information relating to odour control equipment and location, noise assessment relating to transmission of noise to student housing above and neighbouring noise sensitive uses, opening hours, and nature of the use should be submitted with the application.
- 4.5. In terms of the ancillary student accommodation uses on the ground floor, in order to better activate Oxford Street and Oxford Place uses such as the bin store and plant rooms should be relocated to front onto Oxford Court at the rear. City Clean confirmed their preference would be to service the student accommodation refuse from Oxford Court.
- 4.6. In terms of the student accommodation use of the upper floors, the loss of the D2 snooker hall use needs to be justified against Local Plan policy HO20 retention of community uses and emerging policy CP17 (Sports Provision) would apply. The student accommodation use would be assessed against the criteria in policy CP21. In particular, criteria A6 of CP21 requires a formal agreement with one of the two universities or other existing educational establishment in the city so that the development meets an existing need.
- 4.7. In terms of the proposed design and layout, it was advised that the proposal to set back the upper floors in line with the retail frontage is welcomed, however there is potential to increase the pavement width on Oxford Street to encourage pedestrian movement along Oxford Street. The corner of London Road and Oxford Street is important in terms of its prominence in the streetscape, particularly when viewed from Ann Street, and in terms of the Council's aspirations to encourage East-West pedestrian links through Oxford Street. This corner is therefore identified as providing potential for a local landmark. In addition, the applicant was advised to involve other Council departments, including Highways and Planning Projects, and to involve the Design Review Panel.

- 4.8. The Heritage Officer advised that given the nearby heritage assets (St Bart's Church and Valley Gardens conservation area) the height of the building should be limited to 4 storeys, subject to the submission of a number of key verified views.

2018:

- 4.9. Proposal: Redevelopment of the site for re-provision of the retail units (Class A1) and ancillary student accommodation uses at ground floor level, and 5 floors of student accommodation above (285 bedspaces).
- 4.10. Provision of replacement retail uses was welcomed, but suggested that the London Road frontage be retained for the retail uses and the student accommodation ancillary uses and main entrance be relocated to Oxford Place, or Oxford Court if could demonstrate pedestrian safety. Requested a more active frontage onto Oxford Place. Also requested predominantly glazed frontages onto London Road and Oxford Street for the retail units. It was advised that this section of London Road has been identified as a pedestrian/vehicle conflict zone and is a busy bus corridor, with poor facilities for pedestrians and cyclists and is within the Air Quality Management Area (AQMA). As such, it was recommended that Transport and Air Quality Officers are included in any subsequent pre-app consultation.
- 4.11. The proposed set back of the upper floors to align with the retail frontage was welcomed in terms of providing a more generous and attractive public realm, a more simplified built form, and its likely benefits in the dispersion of polluted air and in the air quality and noise for the residents on the upper floors. It was also advised that there would be substantial benefits in setting the building line back from Oxford Street, to improve the link between Ann Square and The Level.
- 4.12. Heritage Officer again advised that the development should be restricted to 4 storeys, unless it can be clearly demonstrated in the submissions that a taller building could be accommodated without causing harm to nearby heritage assets, in particular the Grade I Listed St. Bartholomew's Church. The design was considered to be top heavy and the central cut out section of roof was considered to have an awkward appearance and would not reduce the impact on views of local heritage assets.

Members Response (2018):

- 4.13. Councillors supported the redevelopment of the site and the opportunity to replace the existing building with one that contributes more positively to the local townscape.
- 4.14. However, Councillors advised that the loss of retail floorspace within the Prime Frontage would need to be fully justified. Active, glazed frontages should be provided along London Road, Oxford Street and Oxford Place. The loss of the snooker hall community facility would also need to be fully justified.
- 4.15. The proposal for student accommodation would also need to accord with the criteria of policy CP21, and it was noted that the site has been identified for 20 housing units in the SHLAA. However, that the proposal would represent a more efficient use of the site which is a positive.
- 4.16. Councillors supported the design approach with strong, repetitive facades and welcomed the removal of the arcade and the set back of the frontage.

However, this could create a need for a bus shelter given that the overhang of the building would be lost. Concern was raised over the height (6 storeys) and the impact of this on the nearby St Bart's Church. Verified views would be important in assessing this.

Design Panel Response (2018):

Summary:

- 4.17. This scheme has the potential to become a good honest addition to the Brighton townscape, and we welcome the simplicity and rigour of the proposed façades. Impacts on views to the Grade I listed St Bartholomew's Church are a significant concern however, and we feel a revised approach is required to the upper floors, taking the conservation officer's advice for a maximum of four storeys as a starting point for any negotiation. Opportunities to better address the surrounding public realm are positive, we welcome the approach to broadening the pavements on London Road, and recommend opportunities to narrow the carriageway on Oxford Street should be explored.
- 4.18. Some refinement is required to the internal layout of the building, and the potential for greater interaction between the entrance lobby, communal facilities and the courtyard should be explored. A more integrated approach to a mechanical ventilation strategy and inclusion of photovoltaic panels is also required.

5. REPRESENTATIONS

- 5.1. **Four (4)** letters have been received, objecting to the proposed development for the following reasons:
- Noise and anti-social behaviour including car vandalism currently occurs in the area which could increase with additional students – camera system suggested to monitor this;
 - Traffic generation and lack of parking in the area – could worsen illegal parking;
 - Inappropriate height and overdevelopment of site;
 - Overshadowing and restriction of view;
 - Too close to the boundary;
 - Too high a concentration of student accommodation in one area – should be spread out and better integrated;
 - Doctors surgeries and other amenities in this area are over-stretched and this development would add pressure to these services;
 - Existing problems with litter, fly-tipping and rats in the area could worsen as a result of the development;
 - Concern over potential worsening of existing poor air quality in the area;
- 5.2. **One (1)** letter has been received, commenting on the proposed development for the following reasons:
- Good design - pleased that the height has been reduced from previous proposals and welcomes the regeneration of this part of London Road.

- 5.3. The **RSPB** has sent in a letter, commenting on the decline of the local swift population, and seeking the inclusion of 6 to 8no. swift nest bricks within the development.
- 5.4. The **Regency Society**, has commented in support of the application, for the following reasons:
- Support the demolition of the existing building;
 - Design has benefitted from pre-application consultation;
 - Support the retention of retail uses on the ground floor;
 - Support the use of the upper floors for student accommodation;
 - This type of development should help reduce the detrimental impact of HMO student lettings in residential areas.
- 5.5. **The Brighton Society** objects to the application, for the following reasons:
- 5.5.1. Impact on the Valley Gardens Conservation Area and the Grade I Listed St Bart's Church due to the height: The building of 5 storeys is at least 2 storeys too high in relation to views of St Bart's Church from The Level to the east, and in views of The Level from the west, and in the London Road townscape;
- 5.5.2. Impact on the London Road townscape due to the design: The design of the building does not respect the adjacent buildings which have narrower vertical elements - the façade is too long and has insufficient variation within it.
- 5.6. **Conservation Advisory Group (CAG)** objects to the application, as follows:
- 5.6.1. The building at five storeys is at least a storey too high in relation to the views from the Level to Grade I St Bartholomews church and views from the Valley Gardens CA. From those and many other views this proposal will conceal the lower parts of the walls of the church. This will detract from the sheer height of this Grade I structure which is one of its most important visual characteristics.
- 5.6.2. This proposal seems to be considered too high to blend in with the existing street scape of London Road. The scale and setting of London Road at this point makes an important contribution to the visual status of the vertical thrust of the church.
- 5.6.3. Although the design of the present Coop building can easily be bettered, the proposal misses the opportunity of being an item of Star Quality in design. The continuous façade is out of scale and design with the existing style of the street, and some thought should be given to break up the building styles along the frontage and on the return into Oxford Street with something which mirrors the different designs of the existing buildings in these streets.
- 5.7. **Property & Estates Team**, BHCC commented on the application:

- 5.7.1. The Property & Estates Officer provided a response in relation to the Oxford Court car park to the rear of the site, which is currently in the ownership of the Council.
- 5.7.2. The Officer raised concern over the potential intensification of the use of Oxford Court for servicing and deliveries for the proposed development, in terms of how this could interfere with or undermine the operation of the car park. In addition, the Officer advised that the Policy, Resources & Growth Committee resolved (on 11th October 2018) to authorise the sale of the Oxford Court Car Park and to secure the delivery of a new primary healthcare centre. This relates to an intention to expand the existing St Peters Medical Centre on Oxford Street immediately to the east of the development site (no planning application has yet been submitted to the Council for this).
- 5.7.3. The Officer advised that if it can be demonstrated that servicing and delivery vehicles relating to the development site would not need to encroach into the car park land in order to access, turn or park, then there would be no objection to the development. The Officer further advised that it would not be acceptable to provide additional accessible parking spaces within the car park as part of the development requirements.

6. CONSULTATIONS

6.1. Air Quality: Comment

- 6.1.1. Much of the site (adjacent with London Road A23) is within the extant Air Quality Management Area (AQMA) first declared in 2004, last updated in 2013. The declaration is for exceedance of hourly and annual average standard for nitrogen dioxide (protection of human health). Monitoring strongly suggests some of the highest long term pollution levels (compared to elsewhere in Sussex) between London Road-Cheapside and Oxford Street.
- 6.1.2. The site's location is within BHCC's main AQMA. The planned student accommodation and the potential for the proposals to increase emissions warrants a detailed Air Quality Report submitted with the planning application. An addendum has predicted the development's contribution to NO₂ monitoring locations in the vicinity of London Road, Cheapside and Oxford Street.
- 6.1.3. The detailed air quality assessment considers the combined impact of a small (50kw) Combined Heat and Power plant with local traffic emissions along the A23 and other road links in the vicinity. Predictions have been made for; upper stories (more influenced by the emissions from the CHP) at first floor

accommodation and at nitrogen dioxide monitors in the streets nearby; London Road, Oxford Street and Cheapside. In all cases the contribution to long and short term air quality is predicted to be negligible. Accommodation will be in a location where pollution levels currently exceed Air Quality Assessment Levels for nitrogen dioxide.

- 6.1.4. The methodology, findings and proposed mitigation measures set out within the report are satisfactory and can be secured by condition should consent of the application be granted. Mechanical ventilation to ground and first floor is recommended as part of the building design. The air intake shall be at height and position that does not exceed the Air Quality Assessment Level for nitrogen dioxide. Long term filtration of NO_x is not recommended. I would request that further mitigation measures are provided, as set out below within the conditions recommended.
- 6.1.5. The building is stepped back from London Road (A23) and the development will effectively widen the street which is a benefit for dispersion and dilution of road traffic emissions where air quality standards exceed limits. The wider concourse will provide more room for pedestrians.
- 6.1.6. The air quality assessment is based on minimal trips to the site as the development has very limited parking provision. However the database is not likely to take full account of taxi and internet deliveries.
- 6.1.7. The student term time and summer accommodation will be managed so that arrivals and departures are allocated times, rather than all trips made simultaneously. This helps to avoid congestion and mitigate emissions.
- 6.1.8. Conditions recommended:
- Ground and first floor windows to be hermetically sealed and Details to be submitted for ventilation of first floor and include high level air intake.
 - CHP plant to not exceed output of 50kw or NO_x emission rate of <40 mg/ kWh.
 - All boiler flues shall have vertical termination above roof.
 - HGVs used for demolition and construction of the development shall be minimum euro-VI emission standard.
- 6.1.9. CEMP requirements:
- The developer shall comply with Stage IIIB of EU directive 97/68/EC for NO_x emissions limits from Non-Road Mobile Machinery NRMM in accordance with DfT guidance, Improving Air Quality Reducing Emissions from NRMM.

- If plugged in places cannot be provided, battery energy or ultralow sulphur diesel shall be used for all static generators required during construction
- Red diesel shall not be used for NRMM and static generators working on the site in the urban AQMA in accordance with the government's proposals set out in the 2019 national air quality strategy.

6.2. **City Regeneration: No objection**

6.2.1. City Regeneration supports this application with suggested conditions. With deference to comments by Planning Policy.

6.2.2. City Regeneration understands the site is still in use as two Class A retail units on the ground floor whereas the upper floor was used as a snooker club which went into administration in 2017.

6.2.3. City Regeneration notes that under policy HO20 in the Local Plan, it states, 'Where an exception (a-d) applies, a priority will be attached to residential and mixed use schemes which may provide 'live work' and, or starter business units to meet identified local needs.' City Regeneration regrets the loss of Class D2 on the upper floors and considers evidence of marketing the premises for community/leisure use needs to be submitted with this application, to demonstrate redundancy of use.

6.2.4. City Regeneration welcomes Boots and the Co-op wishing to remain trading from this site and therefore the retail units already have vendors suited. The retail units will be easily accessed from London Road. It is anticipated that 27 full-time and 20 part-time staff would be employed on-site. This equates to two more full time staff than are currently employed at this location.

Developer Contributions

6.2.5. Should this application be approved, due to the proposed student accommodation (new non-residential floorspace), it would be subject to developer contributions as specified in the Planning Authority's Technical Guidance for Developer Contributions. The breakdown of the developer contributions is as follows:

Category	No of Units	Contribution for unit	Total
Student units	232	£100	£23,200

6.2.6. In addition to the developer contributions, should this application be approved, there will be a requirement for an Employment & Training Strategy to be submitted at least one month prior to site commencement and will be subject of a S106 Agreement.

6.2.7. The strategy should demonstrate how the developer or their contractors will provide opportunities for employment and training for local people.

- 6.2.8. Guidance on the production of the strategy can be gained from the council's Local Employment Scheme Co-ordinator and early contact is recommended to avoid any delays in commencement.
- 6.2.9. It is also suggested that reference is made to CITB (Construction Industry Training Board) guidance regarding KPIs for developments of this kind. The KPIs are based on value, and again the Local Employment Scheme Coordinator is available to provide guidance.
- 6.2.10. Recommendation: Support with conditions:
 - The submission of developer contributions of £23,200 prior to commencement.
 - The submission of an Employment & Training Strategy no later than 1 month prior to formal site commencement.

6.3. County Archaeologist: No objection

- 6.3.1. 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.

6.4. Environmental Health: No objection

- 6.4.1. Recommendation: Approve with conditions:
 - Noise Management Plan for the external courtyard: requiring details of hours of use, restrictions on events and the use of amplified music, and monitoring.
 - Restriction on noise levels from plant and machinery at the development.
 - External lighting details.
 - Construction Environment Management Plan (CEMP)
 - Contaminated Land

6.5. Heritage: Comment

Statement of Significance

- 6.5.1. The existing building on the site is a large footprint retail block dating from the 1970s. It is of no architectural or historic interest. It replaced small-scale 19th century commercial and residential development. The site lies just to the west of the Valley Gardens conservation area, which is a linear area comprising the series of public open spaces that run from Old Steine in the south to The Level in the north but which also includes the historic private communal gardens of Park Crescent . These open spaces have great historic value in the way that they reflect the topography of

Brighton and how it was developed from the late 18th century onwards. They reflect the route of the Wellesbourne, a winter-bourne stream that ran from the Downs to the sea but which was culverted in the later 19th century. The pattern of development saw grand terraces and some individual buildings constructed to front onto the open spaces. Despite some late 19th and 20th century redevelopment this pattern of development has continued. The application site in its current form makes a negligible or minor adverse contribution to the setting of the conservation area.

- 6.5.2. The Level, to the east of the site, is one of the major component public gardens within the conservation area and is locally listed. It was first formally laid out as public space in 1822 and it generally retains its 19th century layout, including the perimeter avenue of Elm trees planted in 1877. It has design and landscaping interest and much social and historic interest.
- 6.5.3. The one major structure within the central gardens, to the southeast of the application site, is the grade II* listed St Peter's Church, which was built 1824-28 to the designs of Sir Charles Barry and extended with new chancel, vestry and south east chapel in 1898-1906 by George Somers Clarke the younger and JT Micklethwaite. It is in a broadly Perpendicular Gothic style in Portland Stone with extensions in Sussex sandstone. The church is both a local landmark and city-wide one, with its pinnacle tower being a highly notable feature in a number of views.
- 6.5.4. To the south of the site, also within Valley Gardens, are three terraced groups of residential listed buildings, all grade II: Nos. 1, 2 and 3 and 4-9 St Peter's Place of c1825; nos. 3 and 5-13 Ditchling Road of c1815; and nos. 4-9 Queen's Place, also of c1815. The taller St Peter's Place terrace is bookended by grander buildings and is notable for its south-facing frontage, which is particularly prominent in the conservation area and forms part of the setting of the church.
- 6.5.5. To the west of the site, behind London Road, is the grade I listed St Bartholomew's Church. Built in 1872-4 to the designs of the local architect Edmund Scott for the Rev. Arthur Wagner. It is in red brick and Gothic in style but is most notable for the exceptional height of its nave, the highest in Britain, crowned by a wagon roof with tie-beams and kingposts, and without aisles. The arched entrance is to the front (south) elevation, which carries the main architectural interest, including stone banding and gloriously large Rose window to the gable. The east and west side elevations are sheer, plain brick unrelieved apart from high level lancet windows that are only really apparent in longer views. The church is a city landmark and once dwarfed the narrow streets of two and three storey housing that it served. Even now it still dominates its surroundings but the surrounding area has been greatly

redeveloped in the 20th century and into the current century. Its setting is therefore quite extensive. The significance of this church derives partly from its sheer scale and the height of the nave.

- 6.5.6. There are two locally listed buildings nearby in Oxford Street: number 26 is a small cobble-fronted house dating from the early 19th century; the Church of Christ is a small non-conformist chapel dating from 1890 but in late Georgian style. Both have a mixed urban setting. Further north in London Road is the locally listed former Co-operative department store at 84-103 London Road, of 1931. Only the front façade has been retained, which is in stripped classical style with modernist glazing. It forms a focal point in London Road due to its scale, siting and imposing frontage.
- 6.5.7. On the ridge line to the east of the site is the distinctive outline of the grade II listed Arundel at the Brighton General Hospital site on Elm Grove, the former workhouse and infirmary building dating from 1867. This is a local landmark at the top of the hill, with its long massing and distinctive tower. This planned scale and prominence is part of the building's architectural and historic interest and therefore part of its significance.

The Proposal and Potential Impacts

- 6.5.8. The replacement of the existing unattractive, low-slung building is welcomed and the site has the potential to accommodate greater height. The design of the building frontage as shown is considered to be of appropriately good quality and has evolved positively since the initial pre-application submission. The scale of the building fronting onto London Road is considered to be appropriate to the scale and importance of this major commercial thoroughfare and would not impact on the grandeur of the locally listed frontage to the former Co-operative store. There is some concern about the abrupt change in scale along Oxford Street and some stepping down in height along this elevation would be preferable. Nevertheless, Oxford Street is comparatively wide and is very mixed in terms of roofline and architectural treatment and materials. It is not considered that there would be any harm to the settings of the two locally listed buildings in Oxford Street. The largely blank frontages to Oxford Street and Oxford Place are a more significant matter of concern, particularly Oxford Street which is proposed within SPD10 as a strengthened pedestrian link between The Level and Ann Street (and Brighton Station beyond).
- 6.5.9. From Ann Street the proposed development would present a more attractive and lively closure of the vista towards London Road; it would also modestly improve the setting of St Bartholomew's Church in this view. However, at the same time the development would obscure the view towards the distinctive outline of the listed Arundel Building on the ridge line above the tree canopy of The Level and would do so for the full length of Ann Street as the

viewer moves down the hill, although in summer the two trees in the front gardens of the houses do obscure the hospital. This large building was the main element of the workhouse complex, which deliberately occupies a site on high ground at the ridge of the eastern valley side. It is a city-wide landmark that is visible on the ridgeline from a number of locations in the city, silhouetted against the sky. This planned scale and prominence is part of the building's architectural and historic interest and therefore part of its significance. This impact would therefore cause some harm to the setting of the listed building. The harm would be towards the lower end of 'less than substantial' under the terms of the NPPF, though must still be given great weight when weighing it against the public benefits of the scheme.

- 6.5.10. The proposed development would have some impact on views towards St Bartholomew's Church from The Level (in winter) and from Ditchling Road looking along Oxford Street. But these impacts would not adversely affect the visual primacy of the church or the way in which it is experienced in the townscape. There would be negligible impact on the setting of The Level itself as a locally listed heritage asset. The development would also have some impact in kinetic views towards St Peter's Church from London Road (such as View 1 in the Design and Access Statement) but it would not impact on the outline of the pinnacle tower, which would continue to close off these views moving southwards.
- 6.5.11. There would be some impact on views of the grand listed terrace at St Peter's Place, from west of St Peter's Church and from Waterloo Place, but the development would not rise above the roofline or impact significantly on the silhouette of the terrace or otherwise dilute its townscape prominence. There would overall be no harmful impact on the setting of these listed buildings. There would be negligible impact on views of the listed buildings in Ditchling Road. There would be some impact on the setting of the listed terrace at Queen's Place, as the new development would rise up notably higher above the Brunswick Row roofs in views northwards. But this impact would not be harmful given the existing context of this artisan terrace and the ad hoc nature of the existing view northwards.
- 6.5.12. The proposed development would impact on various views from, into and across the Valley Gardens conservation area (some referred to above in the context of other heritage assets) but these visual impacts would be modest and not harmful given the mixed urban context. The proposed uses and nature of the development would have no impact on the way in which the conservation area would be experienced. Therefore overall the setting of the conservation area would be preserved.

- 6.5.13. *Updated Comments:* The amendments to the proposed south and north elevations at ground floor level – including the introduction of community space on the Oxford Place frontage - would provide significantly greater visual interest and vitality to these two streets and it is considered that the previous concerns in this respect have now been satisfactorily addressed, subject to greater detail by condition.
- 6.5.14. The lack of any amendment to the height and roofline in Oxford Street, to step down the height from west to east, is disappointing. However this is not considered to be an issue of great concern in the overall context of the development.
- 6.5.15. The comments of the applicant’s heritage consultant in respect of the impact on the setting of the listed BGH Arundel Building are noted, but would not lead to any revision of the previous Heritage comments. The harm to the setting of the Arundel Building can, though, be weighed against the heritage and townscape benefits set out in the previous comments.
- 6.5.16. Any approval should be subject to approval of materials and to a condition requiring submission of 1:20 scale details of the ground floor shop fronts, entrance doors and metal fretwork.

6.6. **Planning Policy: Comment**

Policy DA4

- 6.6.1. The site is located within the New England Quarter London Road Development Area, as set out in Policy DA4 of the City Plan Part One. The strategy for this development area includes the revitalisation of the London Road shopping area, with the local priorities to achieve the strategy including managing, enhancing and consolidating the existing retail provision within the defined prime frontage of London Road Town Centre, and working with landowners and traders to secure the redevelopment/ refurbishment of key retail sites along London Road. The proposed re-provision of modern retail units would assist in achieving these strategic aims.

Purpose Built Student Accommodation (PBSA)

- 6.6.2. Part (i) of City Plan Policy CP21 relates to new PBSA developments and states that the provision of PBSA is encouraged subject to seven criteria being met.
- 6.6.3. Criteria i/A/6 of Policy CP21 states that proposals for new PBSA “should demonstrate that they have entered into a formal agreement with the support of one of the city’s two Universities or other existing educational establishments within Brighton & Hove.” A letter of support has been received from the nearby King’s College however this is not a formal agreement as required by the

policy. The letter states that the college is seeking to expand and has an urgent need for more student accommodation.

- 6.6.4. It should be noted that a PBSA development catering for a new source of demand for accommodation would fail to deliver the strategic benefit to the city of a reduction in pressure on existing housing stock caused by fewer students potentially residing in HMOs. The greatest source of unmet need for PBSA stems from University of Brighton students, and the applicant would be advised to liaise with the university with regard to the potential for housing students in the new development.
- 6.6.5. The site has good public transport and road links to the university campuses, and no concerns are therefore raised with criterion (3).
- 6.6.6. With regard to criterion (7), the site is identified as a potential housing site in the 2017 SHLAA. However, the site is a proposed allocation for PBSA under Policy H3 of the draft City Plan Part Two. Whilst this policy has very limited weight at present, it indicates that the Council considers the site to be suitable, in principle, for PBSA development and justifies an exception to this clause of CP21.
- 6.6.7. Compliance with the other criteria of Policy CP21 is for determination by the case officer.
- 6.6.8. It is welcomed that the proposed development includes a majority of cluster flats, as these are considered to be appropriate and more affordable to the majority of students. This is supported by CPP2 Policy DM8 – although very limited weight can be given to this policy at present, it indicates the direction of travel for the Council's policy requirements for PBSA.
- 6.6.9. Loss of Community Facility
The snooker club use currently on the upper floors of the existing building is considered to be a community facility and is therefore protected by Local Plan Policy HO20.
- 6.6.10. The applicant states in the Planning Statement that the site allocation in City Plan Part Two negates the requirements of Policy HO20. However, CPP2 is an early stage of preparation and only very limited weight can be given to its policies, whilst Policy HO20 remains part of the development plan for the city.
- 6.6.11. It is noted that the snooker club has been closed for over a year since entering receivership and that other snooker clubs exist in the city and are relatively easily accessible from London Road. It is therefore considered demonstrated that the site is not needed for the existing community use. Policy HO20 further requires that it be demonstrated that the site is not needed for other types of

community use. This should be addressed by the applicant. Consideration should be given to the incorporation of alternative community uses in the proposed development.

- 6.6.12. *Update Jan 19:* Revised plans indicate a 70m² community space has been incorporated into the proposed development. This is welcomed, however no indication has been given as to the future use of the space, and the applicant is advised to liaise with the local community to ensure it can be used in a way that best meets local needs.

Retail

- 6.6.13. The site is located within the London Road Town Centre identified in City Plan Policy CP4 and saved Local Plan Policy SR5 which seeks to protect retail frontages in defined centres. A section of retail frontage will be replaced with the office/reception area for the PBSA scheme. It is noted that the entrance to the former snooker club currently occupies a smaller portion of the retail frontage so there is already an interruption in the frontage, however the proposed scheme would increase the length of this.

- 6.6.14. Policy SR5 does not allow for the change of use of existing Class A1 use apart from to Class A2 and A3 uses when certain criteria are met, and for some Class D1 community uses (e.g. doctors, dentists) provided that a window display is maintained and it can be demonstrated that the proposed use would draw pedestrian activity into the Centre. This element of the proposed scheme therefore does not comply with this policy.

- 6.6.15. The applicant provides some justification for the exception to this policy by stating, in summary, that modern shopfronts and removal of the canopy on the rest of the site are adequate mitigation.

- 6.6.16. It is acknowledged that a street level entrance/reception is necessary for the safe operation of the PBSA development and that it would still represent a form of active frontage onto London Road, however it is regrettable that this is not located away from the primary retail frontage of London Road.

- 6.6.17. *Update January 2019:* The plans have been amended to extend the retail frontage further along London Road. The break in retail frontage now appears to be similar to the existing break caused by the entrance to the snooker club. This amendment is welcomed.

Outdoor Recreational Space (HO6)

- 6.6.18. No on-site outdoor recreation space is proposed for the occupiers of the development. The open space ready reckoner should be used to determine an appropriate contribution towards off site provision.

London Road Central Masterplan (SPD10)

- 6.6.19. The site is located within the London Road Central Masterplan area. The proposed development is considered to broadly conform to the objectives of the masterplan, in particular by providing improvements to the public realm and urban design and investment to the area's retail provision and the replacement of existing poor quality buildings with new high quality mixed use buildings

Waste Management

- 6.6.20. Policy WMP3d of the Waste and Minerals Plan requires development proposals to minimise and manage waste produced during construction demolition and excavation.
- 6.6.21. Paragraph 49 of the National Planning Practice Guidance provides guidance on what could be covered in the SWMP in order to meet the requirements of the policy.
- 6.6.22. Policy WMP3e of the WMP requires proposals for new development to identify the location and provision of facilities intended to allow for the efficient management of waste, e.g. location of bin stores and recycling facilities. The location of recycling facilities is indicated on the submitted plans and no concerns are raised with regard to this policy.
- 6.6.23. Recommendation: *Update January 2019:* The amended plans have satisfactorily addressed the previous policy concerns relating to the break in retail frontage and loss of the community use.

6.7. **Policy Projects (Public Art): Comment**

- 6.7.1. Adopted City Plan Policy CP7 seeks development to contribute to necessary social, environmental and physical infrastructure including public art and public realm; and CP13 seeks to improve the quality and legibility of the city's public realm by incorporating an appropriate and integral public art element.
- 6.7.2. The level of contribution required for this development is arrived at after the internal gross area of the development (in this instance approximately 9,276 sqm) is multiplied by a baseline value per square metre of construction arrived at from past records of Artistic Component contributions for this type of development in this area. This includes average construction values taking into account relative infrastructure costs. It is suggested that the Artistic Component element for this application is to the value of £72,000.
- 6.7.3. Recommendation: Approve with inclusion of the following Section 106 agreement schedule:

Artistic Component

- 6.7.4. The Developer covenants with the Council to commission and install on or within the vicinity of the Property an Artistic Component to the value of £72,000 including installation costs prior to first occupation of the development in accordance with the terms set out in paragraphs 2 to 7 (inclusive) of this Schedule.
- 6.7.5. All proposals for the Artistic Component must first be approved in writing by the Director before being formally commissioned.
- 6.7.6. The commissioning process proposed for the Artistic Component must be approved in writing by the Director prior to the artist being formally commissioned and prior to Commencement of Development.
- 6.7.7. The Artistic Component should be integrated as agreed by the Developer as part of the building/development design or located elsewhere in the immediate vicinity at the discretion of the Council.
- 6.7.8. The Artistic Component must bear a relationship to its surroundings and any particular characteristics of the locality.
- 6.7.9. If the Artistic Component will be accessible to the public then a robust design will be necessary.
- 6.7.10. The Artistic Component must be installed to the satisfaction of the Council.

6.8. **Sustainability: Comment**

- 6.8.1. The proposals indicate that the development will meet BREEAM Excellent, with the following target scores:
 - Management: 12/18
 - Health & Wellbeing: 14/18
 - Energy: 15/23 (although much for Ene01 the detail was absent)
 - Transport: 9/9
 - Water: 5/8
 - Materials: 8/14
 - Land Use & Ecology: 8/10
 - Waste: 4/8
 - Pollution: 11/13
 - Innovation: 1
- 6.8.2. At present, the development is proposing an air source heat pump (size not confirmed) and a 112kWp solar panel array. Both of these LZC technologies are welcomed.
- 6.8.3. The primary heating solution is for communal gas-fired boilers, to be housed in two plant rooms totalling a substantial (300sqm). Given the location is within DA4, the development is required to consider heat networks, subject to viability. The proposed secondary distribution system is appropriate to a future district heat network connection, although it is recommended that plant room space, appropriate metering and a pipe run are safeguarded in for a future connection.

- 6.8.4. The Energy Statement notes that CHP is a viable and attractive proposition for a development of this type. This would have a significant carbon benefit to the development and likely reduce the running costs of the building considerably. It is highly recommended that this is supported, along with an analysis of the impact and opportunities to mitigate against any increase in local emissions. The CHP should be sized according to CIBSE guidance and become part of the CHP Quality Assurance Programme (CHPQA).
- 6.8.5. No information is provided with regards to the development's water strategy, nor how it will address the wider aims and objectives of policy CP8.
- 6.8.6. Recommend conditions to secure BREEAM Excellent and for details of connection of the plant rooms to a future district heat network in the area.

6.9. **Sustainable Drainage:** Support

- 6.9.1. We are satisfied the applicant has considered the use of SuDs and that the development is not able to feasibly incorporate them, but would like to make the applicant aware of a flooding incident indicated at the proposed site which is recorded in our GIS data and believed to have been from the sewer. Recommend approval.

6.10. **Sustainable Transport:** Comments

Summary of Comments

- 6.10.1. Particular concern raised over:
 - The lack of consideration of delivery and servicing needs for the student element and the absence of appropriate related facilities. This has the potential to affect highway safety and access on already sensitive roads.
 - The lack of any Personal Injury Accident analysis.
- 6.10.2. Also concerned about:
 - the lack of accessible parking for the retail component of the site, and
 - potentially insufficient aisle widths within the cycle store.
- 6.10.3. The Transport Officer considers that the development will not result in an increase in person trips, and therefore no sustainable transport contribution is required. However, off-site highway improvements are recommended:
 - provide additional accessible parking spaces in the Oxford Court car park (see above);
 - reconfigure the existing loading/servicing facilities in the Oxford Court car park for the retail components of the site;

- improve the footways on Oxford Court and Oxford Street from the car park to the London Road frontage of the development to make them accessible, to include works at the junction of Oxford Court and Oxford Street to mitigate the change to the visibility splay at this junction;
 - widen and protect the northern footway of Oxford Place to secure appropriate access to the proposed new cycle store for the student component of the development;
 - provide alternative shelter for people waiting for buses on London Road (by way of dedicated shelters) since they will no longer be able to do so under the existing colonnade.
- 6.10.4. We recommend that a permissive path agreement is secured to allow the public access to the new forecourt/set-back on London Road.
- 6.10.5. We recommend that Travel Plans are secured for the different components of the site. A move-in/out strategy is also recommended.
- 6.10.6. The applicant is proposing that the student component of the site is car free. We recommend that this is secured via a section 106 agreement.
- 6.10.7. Because of the scale of the development and the sensitivity of the surrounding streets, we recommend that both a DEMP (Demolition) and CEMP (Construction) are secured.
- 6.10.8. Owing to some remaining issues with the proposed cycle parking, we are recommending that details of a cycle parking scheme are secured through a condition in the “Notwithstanding the plans hereby permitted...” format to allow further changes to be made.
- 6.10.9. In response to the Transport Officer comments, the applicant provided a Technical Note (dated 26/2/19) which includes a Personal Injury Accident analysis and proposals for consolidating personal student accommodation deliveries.
- 6.10.10. The Transport Officer responded (04/03/19) that the inclusion of the personal injury accident information is supported and agreed that this does not indicate any issues within the immediate vicinity of the site. However, in terms of personal deliveries to the student accommodation, the additional information highlights the problem with the increase in ‘gig-economy’ type deliveries which are uncontrollable. There appears to be no best-practice way to attempt to consolidate deliveries for supermarket food deliveries, hot food orders or grocery boxes which are all undertaken as an individual delivery. Further, there is no strategy outlined which states how this method of stated consolidation is achieved or enforced. Student personal deliveries are also likely to be much greater than a pool hall (deliveries to which would be easy to consolidate), with many utilising services such as ‘Amazon Prime’. The Transport Officer requires evidence-based solutions prior to

providing support for the application. The previous recommendation stands.

- 6.10.11. The applicant provided further information on 06/03/19, advising that deliveries relating to the student accommodation would amount to only 2 or 3 per day if their proposed delivery strategy were implemented, and that the width of the highway in Oxford Court (between 7.4m and 10.4m) would be likely to enable cars and light goods vehicles (LGVs) to turn within Oxford Court without encroaching onto the Oxford Court car park.
- 6.10.12. The Transport Officer responded (06/03/19) that subject to the provision of tracking drawings demonstrating that cars and LGVs would be able to enter and exit Oxford Court without encroaching on the adjacent car park, a suitable highway works scheme and a comprehensive Delivery and Servicing Management Plan, the development could be acceptable.

EXTERNAL

6.11. Southern Water: Comment

- 6.11.1. The exact position of the combined sewer and water main must be determined on site by the applicant before the layout of the proposed development is finalised. It might be possible to divert the combined sewer, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.
- 6.11.2. Recommend the following condition if the development is granted: "The developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to protect and divert the public sewers and water apparatus, prior to the commencement of the development."
- 6.11.3. Southern Water has undertaken a desk study of the impact that the additional surface water sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water. Southern Water hence requests the following condition to be applied: "Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development"
- 6.11.4. It is important that surface water discharge to sewer occurs only where this is necessary and where adequate capacity exists to

serve the development. When it is proposed to connect to a public sewer the prior approval of Southern Water is required.

6.11.5. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. We request that should this application receive planning approval, the following condition is attached to the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

6.11.6. Following initial investigations, Southern Water can provide a water supply to the site. Southern Water requires a formal application for connection and on-site mains to be made by the applicant or developer.

7. MATERIAL CONSIDERATIONS

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

7.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies 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).

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 One

SS1	Presumption in Favour of Sustainable Development
DA4	New England Quarter and London Road Area
CP2	Sustainable economic development
CP4	Retail provision
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport

CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP16	Open space
CP17	Sports provision
CP18	Healthy city
CP19	Housing mix
CP20	Affordable housing
CP21	Student housing and Housing in Multiple Occupation

Brighton and Hove Local Plan (retained policies March 2016):

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD15	Landscape design
QD27	Protection of amenity
HO20	Retention of community facilities
SR5	Town and district shopping centres
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD10	London Road Central Masterplan
SPD14	Parking Standards

Supplementary Planning Guidance:

SPGBH9	Open Space Requirements
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9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to:
- The impact of the development on the Prime Retail Frontage and the pedestrian environment;
 - The design and impact of the development on local heritage assets and the street scene;
 - The loss of the snooker hall use and policy HO20;
 - The proposed student accommodation and compliance with CP21;
 - The amenity of the future occupiers and neighbouring properties;
 - The impact of the development on the highway and the adjacent car park, and
 - The impact of the development on local air quality

The impact on the Prime Retail Frontage and the pedestrian environment

- 9.2. The site lies within a Development Area (policy DA4 – New England Quarter and London Road) of the City Plan Part 1 and within the Prime Retail Frontage of London Road Town Centre. One of the aims of policy DA4 is to secure the redevelopment/refurbishment of key retail sites along London Road. Paragraph 3.50 states that the priority for the shopping area is to enhance and consolidate the existing retail provision within London Road shopping centre and improve the physical environment. Paragraph 3.51 identifies a need to improve the pedestrian environment, local air and noise quality, and enhance urban biodiversity to the benefit of walking and cycling links in the area.
- 9.3. The Policy Officer considers that the proposed re-provision of modern retail units would assist in achieving these strategic aims. However, the initial proposals would reduce the length of retail frontage, which raised objection from Officers in respect of policy SR5. In response, the plans were amended to increase the length of retail frontage by reducing the student accommodation façade on London Road. The break in retail frontage now appears to be similar to the existing break caused by the entrance to the snooker club. This amendment is welcomed by Officers.
- 9.4. The applicant was also requested to amend the plans to increase the area of glazing at ground floor level in the frontages along Oxford Street and Oxford Place, as they form part of the Prime Retail Frontage. Although there is very limited glazing on these frontages currently, the redevelopment of the site is an opportunity to significantly improve it. The plans were accordingly amended with increased areas of glazing on both Oxford St and Oxford Place, and areas of blank brick wall at ground and upper floors on these frontages and onto Oxford Court at the rear, are proposed to be decorated with either PPA metal fretwork in a chevron pattern with blue and neutral colours, or with patterned brickwork. It is considered that this detailing would add interest to the street scene and the increased amount of glazing would now meet the aims and objectives of policy DA4 and Local Plan policy SR5 in this respect.
- 9.5. The proposals would result in a net reduction in retail floorspace, from 1820sqm (GIA) to 1082 (GIA) (excluding the retail storage areas). This is due to the ancillary PBSA uses and the community use proposed on the ground floor. However, there would be no loss of retail frontage on London Road, the main high street, and Oxford St and Oxford Place would benefit from an increased amount of glazing and more activity, particularly on Oxford Place where a bike store, launderette, 2 secondary entrances to the PBSA and a community use are proposed where there is currently a blank brick wall. As such, in this instance it has been demonstrated that the net loss of retail floorspace would not result in a reduction of vitality and viability, would create more active frontage than the existing building, and the criteria of policy SR5 have been met.
- 9.6. It is disappointing that despite encouraging the applicant at pre-app stage to increase the pavement width on Oxford Street in order to help meet the

objectives of policy DA4 and SPD10 to improve pedestrian links between The Level open space and St Ann Square, the proposals do not do this and instead maintain the building line. However, the proposed development would go a significant way to meeting the policy objectives of improving the pedestrian environment, as well as improving poor local air quality, through the proposed removal of the arcade (overhang) on London Road and the increased glazing and activity in Oxford Street and Oxford Place.

- 9.7. The development would also replace a poor quality building with a new high quality mixed use building, which would also help to meet the policy objectives of improving the urban realm. The provision of public art (or artistic component) within the vicinity of the site to a value of at least £72,000 has been agreed with the applicant (as set out in the s106 heads of terms), which would contribute towards urban realm improvements in and around the site. Overall, it is considered that the proposed development would help to regenerate this part of London Road and would comply with policy DA4 of the City Plan (Part One), London Road Central Masterplan SPD10 and SR5.

The design and impact of the development on local heritage assets and the street scene

- 9.8. Officers welcome the replacement of the existing unattractive, low-slung building with the better articulated and stronger design of the proposed building. The design of the building is considered to have evolved positively since the pre-application submissions.
- 9.9. Some neighbours, the Brighton Society and the Conservation Advisory Group have objected to the application on grounds of the 5 storey height of the proposed development and the potential impact on amenity and heritage assets. During pre-application discussions Members were concerned that 6 storeys would be too high and the Design Panel advised that 4 storeys would be the 'starting point' subject to the submission of key verified views, which was also the opinion of the Heritage Officer.
- 9.10. The Heritage Officer considers the scale of the proposed development fronting onto London Road is appropriate to the scale and importance of this major commercial thoroughfare and would not impact on the grandeur of the locally listed frontage to the former Co-operative store. There is some concern about the abrupt change in scale along Oxford Street from the predominantly two storey buildings to the five storey building proposed. However, Oxford Street is comparatively wide and is very mixed in terms of roofline and architectural treatment and materials, and as such the Heritage Officer does not consider that there would be any harm to the settings of the two locally listed buildings in Oxford Street. The Heritage Officer welcomes the amendments to the proposed south and north elevations at ground floor level – including the introduction of community space on the Oxford Place frontage. 1:20 scale details/drawings of the ground floor shop fronts, entrance doors, and metal fretwork are required by condition, in addition to the submission of external materials samples.

- 9.11. From Ann Street the proposed development would present a more attractive and lively closure of the vista towards London Road; it would also modestly improve the setting of St Bartholomew's Church in this view. However, at the same time the development would obscure the view towards the distinctive outline of the listed BGH Arundel Building on the ridge line above the tree canopy of The Level and would do so for the full length of Ann Street as the viewer moves down the hill, although in summer the two trees in the front gardens of the houses do obscure the hospital. This impact would therefore cause some harm to the setting of the listed building. The harm would be towards the lower end of 'less than substantial' under the terms of the NPPF, though must still be given great weight when weighing it against the heritage and townscape benefits of the scheme.
- 9.12. The proposed development would have some impact on views towards St Bartholomew's Church from The Level (in winter) and from Ditchling Road looking west along Oxford Street. But these impacts would not adversely affect the visual primacy of the church or the way in which it is experienced in the townscape. There would be negligible impact on the setting of The Level itself as a locally listed heritage asset. The development would also have some impact in kinetic views towards St Peter's Church from London Road (such as View 1 in the Design and Access Statement) but it would not impact on the outline of the pinnacle tower, which would continue to close off these views moving southwards.
- 9.13. There would be some impact on views of the grand listed terrace at St Peter's Place, from west of St Peter's Church and from Waterloo Place, but the development would not rise above the roofline or impact significantly on the silhouette of the terrace or otherwise dilute its townscape prominence. There would overall be no harmful impact on the setting of these listed buildings. There would be negligible impact on views of the listed buildings in Ditchling Road. There would be some impact on the setting of the listed terrace at Queen's Place, as the new development would rise up notably higher above the Brunswick Row roofs in views northwards. But this impact would not be harmful given the existing context of this artisan terrace and the ad hoc nature of the existing view northwards.
- 9.14. The proposed development would impact on various views from, into and across the Valley Gardens conservation area (some referred to above in the context of other heritage assets) but these visual impacts would be modest and not harmful given the mixed urban context. The proposed uses and nature of the development would have no impact on the way in which the conservation area would be experienced. Therefore overall the setting of the conservation area would be preserved.
- 9.15. Although the development would obscure some views of the grade II listed BGH Arundel Building, which the Heritage Officer considers would cause 'less than substantial harm' to the setting of this listed building, and there would be some negative impact on Oxford Street due to the abrupt change in height from the existing buildings, overall, Officers consider that the proposed redevelopment would improve and strengthen the street scene, and improve

the views from St Ann Square and the grade I listed St Bart's Church, subject to details of the materials and shop front design, to be submitted by condition. As such, it is considered that the proposed development is in compliance with CPP1 policies DA4, CP12, CP13 and CP15, and retained Local Plan policies QD5, HE3 and HE6, as well as the Masterplan townscape objectives of SPD10.

Loss of the snooker hall use and policy HO20

- 9.16. Although the snooker club vacated the upper floors of the existing building over a year ago, the authorised use of the premises is D2 Use Class and is a community facility. As such, alternative community uses should be explored before a change of use is considered, as set out in retained Local Plan Policy HO20.
- 9.17. The applicant states in the Planning Statement that the site allocation in the Draft City Plan Part Two for Purpose Built Student Accommodation (PBSA) (min. 150 bedspaces) negates the requirements of Policy HO20. However the Policy Officer advises that CPP2 is at an early stage of preparation and only very limited weight can be given to its policies, whilst Policy HO20 remains part of the development plan for the city.
- 9.18. As a result, revised plans were submitted to indicate a 70sqm community space within the ground floor along Oxford Place. Although the applicant has not yet found an occupier, they have provided evidence that local Ward Councillors and the Local Action Team have been contacted to explore options for this. Initial feedback is that there could be demand for ad hoc community activities such as small clubs and parties.
- 9.19. Officers consider that the inclusion of this community space overcomes the previous policy objection to the loss of the community use, and justifies an exception to policy HO20.

The student accommodation and compliance with CP21

- 9.20. Part (i) of City Plan Policy CP21 relates to new PBSA developments and states that the provision of PBSA is encouraged subject to seven criteria being met.
- 9.21. Criteria 1: Protect residential amenity in the surrounding area. Given the site's location within a busy shopping frontage, there is a high level of background noise from traffic and passers-by that existing neighbours will already experience. The PBSA is proposed to be 'car free'. There is limited space on the pavements surrounding the site for students to loiter and cause a noise nuisance. The main amenity space is within the enclosed courtyard within the site, which will be subject to a Noise Management Plan, recommended by the Environmental Health Officer, to restrict: hours of use, events and the use of amplified music within the external courtyard and details of how this will be monitored. On this basis it is considered that the proposed development complies with criteria 1.

- 9.22. Criteria 2: This stipulates that high density developments will be encouraged but only in locations where they are compatible with the existing townscape. The proposed development is less than 6 storeys in height and therefore would not be classed as a 'Tall Building' in policy terms. The proposed building of 5 storeys is considered to be broadly compatible with the London Road townscape, which ranges in height from predominantly 3 storeys to up to 5 storeys (including the former Coop building to the north) and the nearby taller Listed St Bart's and St Peter's Churches 'pop up' in views along London Road.
- 9.23. The proposed building (5 storeys) would step up by one storey from the new Buxtons development (4 storeys) to the east along Oxford Place, and would be approximately 5 metres taller than the existing building. The buildings on the south side of Oxford Place range in height from 1 to 3 storeys. Although the proposed development would be taller than the other buildings along this street, it would be only one storey taller than the adjacent building and would therefore fit into the townscape along Oxford Place.
- 9.24. Along Oxford Street where there are 2, 3 and 4 storey buildings, again the development would be taller than the local townscape. The step up in height from the adjacent property to the east, St Peters Medical Centre (2 storeys) would be significant, albeit the entrance to Oxford Court would provide some separation between these buildings. However, when viewing the development from the eastern end of Oxford Street, the large St.Bart's Church terminates the view, which would help to reduce the impact of the step-up in height.
- 9.25. The scale of the proposed PBSA development would therefore be compatible with the existing townscape.
- 9.26. Criteria 3: The site meets the requirements of this criteria, as it is located along a sustainable transport corridor, well served by buses into and out of the City centre, and to the university campuses.
- 9.27. Criteria 4: This states that proposals should not lead to an unacceptable increase in on-street parking in the surrounding area. The development is proposed to be 'car free', and the Transport Assessment advises that the PBSA would have a tenancy agreement that would restrict the ownership and use of private cars. The Transport Officer recommends that the car-free nature of the development should be secured through a section 106 agreement. However, it is considered that this is unnecessary given that the proposed plans do not indicate any car parking spaces within the development site. Instead it is recommended that a condition be applied preventing the occupants from applying for a parking permit. In terms of enforcement once the PBSA is operational, the applicant proposes that illegal parking would be controlled through the PBSA management team liaising with the police who can check registration numbers with the DVLA and take the appropriate action.

- 9.28. The Draft Student Management Plan in Appendix 4 of the Transport Assessment describes how the arrival and departure of students at the start and end of term will be managed. It refers to students being given a designated time slot and drop-offs and pick-ups are proposed to take place in Oxford Court Car Park at the rear of the site. This approach is welcomed however it is considered that a more detailed Student Management Plan should be secured by condition which takes into account the move in and move out strategy for the adjacent Kings Education site (on the corner of Oxford Place and Ditchling Road) and the current use and operation of Oxford Court and the Oxford Court car park.
- 9.29. The Transport Officer also raises concern over the potential impact on the highway from deliveries to the PBSA which the applicant has sought to address through a Technical Note (dated 26/2/19) and email correspondence. The Transport Officer considers that the objection to the development could be overcome through satisfactory tracking drawings and a detailed Delivery and Servicing Management Plan, which is to be secured by condition. It is anticipated that tracking drawings and further comments from the Transport Officer will be provided on the Late List prior to the Committee meeting.
- 9.30. Criteria 5: Proposals should be designed to be safe and secure for their occupants whilst respecting the character and permeability of the surrounding area. The proposed development would not reduce the permeability or undermine the character of the surrounding area. The main entrance to the student accommodation is located on the London Road frontage, which leads directly into the reception area which would provide a safe and secure access into the PBSA. The bike store and laundry room are accessed from Oxford Place with no recessed entrances. Details of secure access to the bike store are to be secured by condition.
- 9.31. Criteria 6: Proposals should demonstrate that they have entered into a formal agreement with the support of one of the city's two Universities or other existing educational establishments within Brighton & Hove. A letter of support has been received from the nearby King's Education, Brighton campus on the corner of Oxford Place and Ditchling Road, stating their interest in occupying the PBSA. However, in order to ensure compliance with this policy, it is recommended that a clause is included within the s106 legal agreement, that the PBSA is only occupied by students of existing universities or other existing education establishments within Brighton & Hove (and by students who are 18 years of age or older, given that no on-site catering or support services are indicated in the submissions).
- 9.32. Criteria 7: PBSA will not be supported on sites allocated for housing or with either an extant planning permission for residential development or sites identified as potential housing sites. Although the site was identified to have potential for 20 housing units in previous SHLAAs, the site is not included in the latest SHLAA 2018 update, published in February 2019. In addition, the site is a proposed allocation for PBSA under emerging Policy H3 of the draft City Plan Part Two. The Policy Officer considers that although this policy has

very limited weight at present, it indicates that the Council considers the site to be suitable, in principle, for PBSA development, and therefore justifies an exception to this criteria.

- 9.33. Therefore, subject to the suggested conditions and s106 requirements, it is considered that the proposed PBSA would satisfy the relevant criteria of policy CP21.

The amenity of the future occupiers and neighbouring properties.

Student Amenity

- 9.34. The room sizes are considered to be acceptable and provide the facilities required for the room types. In addition, each cluster room has access to a nearby communal kitchen/dining/lounge area/'cluster flat' (serving up to maximum of 8 cluster rooms). Studio rooms benefit from nearby communal study rooms. The students would also benefit from an on-site gym, lounge, multimedia lounge and visual training area, as well as an external courtyard. The communal facilities are considered to provide a good combination of quiet study and social spaces. The layout also incorporates store rooms which will assist the maintenance and operation of the building.
- 9.35. The Council's open space calculator provided in the SPGBH9 policy pages, calculates that 232 student rooms creates a demand for approx. 11,600 sqm outdoor recreation space as well as indoor sports facilities. Given that the development would provide a substantial indoor gym and a 150sqm external courtyard, the total contribution was reduced. The applicant has agreed to contribute the £232,845.46 requested towards improving nearby recreation facilities, as detailed in the s106 Heads of Terms at the beginning of this report. The proposed development therefore meets the aims and objectives of CPP1 policies CP7, CP16 and CP17.
- 9.36. Officers raised concern during the application in respect of the likely amount of daylight that would be received within the student rooms. In response, a daylight analysis was provided using the BRE average daylight factor (ADF) method, and assessing the rooms likely to receive the least amount of daylight/sunlight, those being the north-facing and courtyard rooms on the first and second floors (61 rooms in total). For dwellings, the BRE standard is minimum 1% for bedrooms, 1.5% for living rooms, and 2% for kitchens. There are no guidelines for student rooms, but it is considered that they should achieve a minimum ADF of 1.5%, given that the rooms are used for studying and not just sleeping. Ideally, studio rooms should achieve 2%, given that students would be expected to spend longer in these rooms which have also have a seating area and kitchen facilities.
- 9.37. Approximately 84% of all the student rooms are likely to achieve ADF levels of at least 2% (assuming that all the rooms not tested achieve at least 2% ADF). Approximately 94% of all the student rooms are likely to achieve ADF levels of at least 1.5% (assuming that all the rooms not tested achieve at least 1.5% ADF). The results confirmed that all 61 rooms assessed would be likely to achieve daylight levels on or in excess of 1.1% ADF (100% of all

student rooms, assuming that all the rooms not tested achieve at least 1.1% ADF).

- 9.38. The 15 rooms that showed ADF levels below 1.5% are located at first floor level, fronting onto the courtyard. Of these, 10 are studios. Although these rooms do not achieve the Council's target standards, the rooms benefit from an attractive outlook onto a planted courtyard and have access to a wide range of communal lounges, study rooms and other facilities closeby that would be likely to receive good levels of daylight, based on their orientation, position and large windows.
- 9.39. The internal daylight/sunlight levels likely to be achieved at the PBSA development are therefore considered to be acceptable in terms of the amenity of the future occupiers.
- 9.40. The student rooms are laid out around a central courtyard, therefore many of the rooms will directly face each other. However, the courtyard measures approx. 13m x 32m which is considered to provide sufficient privacy for student accommodation. There are potential privacy issues caused by the communal courtyard and the closeby first floor courtyard rooms. However, a landscaping buffer is proposed between the courtyard and the student rooms and details of this can be assessed through the landscaping condition.

Neighbour Amenity

- 9.41. There are a number of residential properties surrounding the site, generally in the form of flats above ground floor commercial uses. These were assessed in terms of the potential loss of light, outlook and privacy caused by the proposed development.
- 9.42. The width of London Road is such that the properties on the west side of London Road are approx. 20 metres from the proposed building frontage and would therefore not suffer from loss of light or privacy from the proposed development. The Ditchling Road properties that back onto the site (with Oxford Court car park in between) are approx. 35 metres away, and again would not suffer from loss of light, outlook or privacy due to the distance.
- 9.43. The properties on the north side of Oxford Street would be positioned a minimum of approx. 12.5 metres from the development. Although there would be many more windows at the development facing these properties, Oxford Street is a busy two way public road that provides a frequent bus service, including double decker buses. Therefore it is not considered that there would be a significant loss of privacy to the existing neighbours on the north side of Oxford Street. These residents currently look onto a largely blank brick wall, therefore the proposed development would add interest to the outlook from these properties. In terms of loss of light, the development would comply with a 45 degree line taken from first floor windows of the properties on Oxford Street opposite the site. As such, it is considered that these properties would not suffer from significant loss of privacy, outlook, or daylight/sunlight.

- 9.44. Properties on the south side of Oxford Place would be only 7 metres min. distance from the development. The existing building is three storeys high on this frontage and the proposed development would be approximately 5 metres taller. A 2 or 2.5 storey building would comply with a 45 degree line taken from the centre of first floor windows of the flats opposite. However, both the existing building and the proposed development intrude on the 45 degree line (approx. 55 and 65 degrees respectively). There would therefore be some additional impact on the outlook and daylight to these properties, however the development would be to the north, therefore it is unlikely to result in loss of sunlight to these properties. There would be potential for some loss of privacy to these properties however given that there are 22 existing large windows facing these properties at first and second floor level, it is considered that the loss of privacy is likely to be insignificant.
- 9.45. The Environmental Health Officer recommends the submission of a Noise Management Plan by condition to restrict the use of the external courtyard. This would restrict the hours of use of the courtyard and details of how the courtyard would be supervised. It is considered that the implementation of a satisfactory Noise Management Plan should be sufficient to protect the students and nearby neighbours from noise disturbance.
- 9.46. During the course of the application the plans were amended to address Officer concerns over some of the rooms that were adjoining staircores and the noise disturbance that this could cause. These rooms are now proposed for storage use and this is now acceptable.
- 9.47. As such, it is considered that the proposed development would provide satisfactory amenity levels for the student occupiers and the neighbours, and would comply with saved policies SU10 and QD27 of the Local Plan.

The impact of the development on the highway and the adjacent car park

- 9.48. A summary of the Transport issues is provided in the Consultations section of this report.
- 9.49. The main outstanding issue raised by the Transport Officer is the delivery and servicing arrangements and the potential impact on the local highway network and on the operation of the Oxford Court car park.
- 9.50. The Technical Note confirms that the building will be serviced primarily from Oxford Court, including refuse collections and maintenance vehicles, which is how the existing building is serviced. It also states that details of servicing and deliveries can be secured by condition. Given that the Transport Officer raised specific concerns about the potential impact of deliveries to the student accommodation, the Technical Note advises that they would adopt a Delivery Strategy whereby the on-site facilities management team liaise with key delivery companies to ensure that each company delivers only once a day to a designated location, rather than separate deliveries for each student. The Note and subsequent email correspondence advises that this is a well-used approach and is used by the University of Brighton's Varley Park

student housing development (770 students). The logistics companies collate the deliveries from the various suppliers (eBay, Amazon, ASOS, Wiggle etc) at their dispatch depots and dispatch the deliveries to Varley Park in one vehicle. This is the most efficient and cost effective method for logistics companies delivering to large organisations that have a concierge and post room and can therefore distribute the deliveries on behalf of the delivery companies. This strategy keeps deliveries at Varley Park to 5 to 8 vehicles a day, including Royal Mail deliveries. Given that there would be fewer students at this development (232), this would equate to an estimated 1 to 3 deliveries a day at this site.

- 9.51. The Technical Note and subsequent email correspondence further advises that this approach enables specific delivery instructions to be agreed between the Facilities Manager of the student accommodation and the delivery companies, which, in this case, would include the requirement that all deliveries are made via Oxford Court. The delivery instructions can include delivery times and type and size of delivery vehicle.
- 9.52. The Technical Note acknowledges that not all delivery companies will be aware of the PBSA delivery strategy and therefore some deliveries could be made on Oxford Place, close to the PBSA reception. However, the Note advises that given that the existing entrance to the snooker hall is in the same location as the proposed PBSA reception, it is likely that deliveries were made on Oxford Place when the snooker hall was in operation. There is a 'no stopping' restriction for the first 15 metres of Oxford Place, then double yellow lines, whereby vehicles are allowed to load or unload for a short period of time. The Note advises that were this to take place, it would not result in a severe impact on the safe operation of the highway, given the low traffic flows in Oxford Place, the low frequency of deliveries due the delivery strategy requiring deliveries to be combined and made to Oxford Court, and the speed of the deliveries given the double yellow line loading/unloading restrictions that are in place.
- 9.53. The Transport Officer in response advises that, subject to:
- the provision of tracking drawings that demonstrate that vehicles relating to the development can service and provide deliveries to the development within the boundary of the Oxford Court highway;
 - a suitable highway works scheme, and
 - a comprehensive Delivery Strategy,
- 9.54. The proposed development could be acceptable.
- 9.55. The Technical Note also addresses the Transport Officer's objection to the absence of a Personal Injury Accident analysis. The Transport Officer has responded that the inclusion of the personal injury accident information is supported and that it is agreed that this does not indicate any issues within the immediate vicinity of the site.
- 9.56. The Transport Officer also raised concerns about the lack of accessible parking for the retail component of the site. However, it should be taken into

account that there is no existing accessible parking for the retail component, and that a net reduction of retail floorspace is proposed. In addition, it should be taken into account that the Council has (at the Policy and Resources Committee of 11th October 2018) agreed to the sale of the Oxford Court car park, and therefore the Transport Officer's recommendation to provide accessible car parking within this car park may not be implementable. Further, that the Property & Development Officer (representing the Council as owner of the car park) has commented that they would object to the requirement for the development to provide additional parking spaces within the car park.

- 9.57. Although the cycle parking proposals are broadly acceptable to the Transport Officer, some minor changes may be required to: the PBSA cycle store to ensure sufficient aisle widths between racks, the provision of parking facilities for non-standard cycles, power-assisted doors; the London Road Sheffield stands to seek a more appropriate location for them to avoid obstructing the bus stop and footway, and demonstrate safe and secure cycle parking provision within the building for the retail staff. It is considered that this can be secured through a condition.

Air Quality

- 9.58. The site lies within an Air Quality Management Area (AQMA) where air quality is poor, therefore air quality needed to be properly addressed in this application. Following feedback from the pre-application process, the existing overhang onto London Road has been removed, setting back the frontage from London Road. The Air Quality Officer welcomes this as it would allow better dispersion of air pollutants from London Road and could potentially improve local air quality. The air quality assessment submitted with the application assesses the likely impact of the development's traffic generation and CHP plant on the AQMA. It predicts that the development's contribution to long and short term air quality will be negligible. The Air Quality Officer concurs with this conclusion, provided that a number of conditions are attached to a consent, securing appropriate mitigation measures:

- Ground and first floor windows to be hermetically sealed and details to be submitted for ventilation of first floor and include high level air intake.
- CHP plant to not exceed output of 50kw or NO_x emission rate of <40 mg/ kWh.
- All boiler flues shall have vertical termination above roof.

- 9.59. CEMP requirements:

- HGVs used for demolition and construction of the development shall be minimum euro-VI emission standard.
- The developer shall comply with Stage IIIB of EU directive 97/68/EC for NO_x emissions limits from Non-Road Mobile Machinery NRMM in accordance with DfT guidance, Improving Air Quality Reducing Emissions from NRMM.
- If plugged in places cannot be provided, battery energy or ultralow sulphur diesel shall be used for all static generators required during construction

- Red diesel shall not be used for NRMM and static generators working on the site in the urban AQMA in accordance with the government's proposals set out in the 2019 national air quality strategy.

Other Considerations:

Student Age Limit

- 9.60. Although the potential occupiers, Kings Education students, range in age from 14 to 19, there are no on-site catering services or indication of how the students would be cared for at this development. As such, it is considered that the PBSA would not be suitable for under 18s, who are classified as children in England. The Kings Education website indicates that the younger students are generally housed with local families, and some under 18s can be accommodated at the site on Ditchling Road/Oxford Place, where there is on-site catering and staff supervision. Therefore restricting the age of occupiers to 18 years or older is not likely to prevent Kings Education students from occupying the PBSA. Furthermore, the applicant has agreed to the addition of a clause in the s106, preventing under 18s from occupying this PBSA, which is set out in the s106 Heads of Terms.

Sustainability

- 9.61. Policy DA4 requires development to incorporate infrastructure to support low and zero carbon decentralised energy. The Local Plan and City Plan Part One (CPP1) seek the use of renewables, and CPP1 policy CP8 Sustainable Buildings should be considered in any redevelopment proposal.
- 9.62. The sustainability officer is supportive of the proposed development, in summary:
- The proposals indicate that the development will meet BREEAM Excellent, which would comply with the policy CP8 requirement for major non-residential development. This can be secured by condition.
- 9.63. At present, the development is proposing an air source heat pump (size not confirmed) and a 112kWp solar panel array. Both of these LZC technologies are welcomed.
- 9.64. The primary heating solution is for communal gas-fired boilers, to be housed in two plant rooms totalling a substantial (300sqm). Details of connection of the plant rooms to a future district heat network in the area should be secured by condition.

Biodiversity

- 9.65. There is little or no vegetation at the site currently, however the proposed development represents an opportunity to increase biodiversity and provide ecological enhancement. The RSPB provided comments on the application, advising of the decline of the local swift population, and seeking the inclusion of 6 to 8no. swift nest bricks within the development. This was drawn to the attention of the applicant, who has agreed to the inclusion of swift nest bricks within the development via a condition on a consent.

- 9.66. The applicant has also agreed to scope the inclusion of a sedum grass roof on the first floor, should this be feasible at this site.

Access

- 9.67. The site benefits from being in close proximity to a wide range of public transport services and fronts onto a main bus corridor with direct links to the city centre. Due to the proposed loss of the building overhang which performs a role as a bus shelter, the applicant has agreed to provide a new bus shelter on London Road through a s278 agreement (see Heads of Terms at start of this report). Secure, covered cycle storage is provided for the PBSA with access from Oxford Place. Additional visitor Sheffield cycle stands are proposed on the London Road pavement.
- 9.68. The main entrances to the development relate to the surrounding context and are clearly identified in the building design. The PBSA reception desk is in full view of the entrance doors and is adjacent to the main lift core, which provides ease of access to the first floor and staff can provide assistance as required. Access to the main entrance and reception via London Road is step free. Entrance thresholds to all stair cores are also designed as level access.
- 9.69. Lift access provides level access to all floors of the building and all lifts will comply with Part M with suitable dimensions and facilities to accommodate all disabilities. There are step free routes at each level. Internal escape routes are designed so they are suitable for independent escape, and a fire fighting lift is provided for the safe evacuation of disabled persons. A full Fire Strategy and plan will be prepared by a specialist consultant, and the following will be considered;
- An escape procedure that includes the best practice in respect of evacuating disabled people.
 - Management strategy to include training of staff to assist in the safe evacuation of disabled people.
 - Safe areas of refuge to be provided at all levels accessible by wheelchair users, with communication facilities to enable contact with the fire controlling authority to BS9991.
- 9.70. Social areas and commercial units will be designed to be fully compliant with Approved Document Part M. The first floor PBSA social space comprising open plan lounge, Multimedia Lounge, Gym and Visual Training area is intended to be accessible to all.
- 9.71. The approach to the site is generally flat, with gradients that for the most part are shallower than the 1:20 classification for ramps. The main PBSA reception is intended to be Part M compliant and includes manifestation to glazed screens and doors; entrance doors with minimum clear opening of 1 metre; out of hours' intercom to be at wheelchair height; external and internal lighting will offer transition will similar lighting levels designed; internal finishes to avoid highly reflective surfaces and provide appropriate slip resistance.

10. CONCLUSION

- 10.1. The redevelopment of the site is supported in principle as it would help to regenerate this part of the London Road shopping centre through removal of a building that visually has a negative impact on the townscape and it represents an opportunity to make a more efficient use of the site and provide a building that contributes positively to the street scene. The proposed building would enliven the shopping frontages on Oxford Street and Oxford Place by introducing significantly more glazing and additional entrances and active uses. The development would therefore be likely to enhance the vitality and viability of the Prime Retail Frontage and would provide economic benefits in accordance with Local Plan policy SR5 and CPP1 policies.
- 10.2. The proposed removal of the London Road overhang would improve the pedestrian environment and help dissipate air pollution which is a problem in this area. This is therefore welcomed although it is disappointing that the building is not also set back from Oxford Street to widen the narrow pavement on this important link between London Road and The Level open space. However, the applicant has agreed to make this pavement 'accessible' through the s278 agreement. The applicant has also agreed to widen the pavement in Oxford Place through the s278 agreement to provide suitable access to the cycle store, and to provide a new bus shelter on London Road to compensate for the loss of the overhang which currently acts as a bus shelter. The applicant has also agreed to provide public art within the vicinity of the site to a value of £72,000 through the s106 agreement. Overall it is considered that the proposed development would help to meet the urban realm objectives of policy DA4 and the London Road Central Masterplan SPD10.
- 10.3. The proposed building is a much more coherent design than the existing building and would strengthen the street scene, and in particular it would improve the end vista of the view west from Ann Street and the Grade 1 Listed St Bartholomew's Church. The Heritage Officer raises concern over the impact on the view of the listed BGH Arundel Building, which would be obscured from view in Ann Street. There would also be some impact on views of St Bart's Church from the Conservation Area and Oxford Street, and the Heritage Officer is disappointed that the building does not step down in height westwards along Oxford Street to avoid an abrupt change in height from the surrounding buildings.
- 10.4. Overall, the proposed building is considered to be a positive addition to the street scene and the Heritage Officer considers that the harm identified to nearby heritage assets would be less than substantial.
- 10.5. The loss of the D2 snooker hall community use has been mitigated to an extent by the inclusion of a dedicated community room on the ground floor Oxford Place frontage. Whilst an end user has not yet been secured, the Local Action Team and local councillors have been consulted which has

revealed that there may be demand for ad hoc community uses such as events and parties.

- 10.6. The proposed Purpose Built Student Accommodation (PBSA) has been tested against the seven criteria within policy CP21 of CPP1, and it is concluded that, subject to the inclusion of the recommended conditions and s106 obligations, the development would satisfy these criteria. The student accommodation would help to reduce pressure on the existing housing stock and the development site is considered to be a suitable location for PBSA.
- 10.7. The amenity of the PBSA is considered to be acceptable, with the vast majority of student rooms meeting the BRE daylight (ADF) standards for living rooms and kitchens (1.5% and 2% respectively), and all the rooms meeting the BRE daylight (ADF) standards for bedrooms (1%). There is also a generous amount of social space and study space within the building, as well as an external courtyard. The additional demand/impact on local open space and recreation that would be generated by the PBSA would be mitigated by the applicant's agreement to contribute £232,845.46 towards improvements to local recreation facilities. Students would be protected from noise disturbance and loss of privacy from other students using the external courtyard, through a Noise Management Plan for the PBSA and through a landscaping condition requiring plant screening to the nearest student rooms.
- 10.8. The amenity of neighbouring properties is considered to be sufficiently protected from potential noise disturbance due to the distance of the external courtyard from the nearest neighbours and by the Noise Management Plan to be secured by condition. Due to the distance of the surrounding properties from the site, and taking into account the impact of the existing building and the busy urban environment, they are unlikely to suffer from significant loss of outlook, daylight or privacy as a result of the proposed development.
- 10.9. The transport officer's initial objections to the lack of personal injury accident analysis and to the potential highway impact of deliveries to the PBSA, have been largely addressed through additional application submissions, including a proposed Delivery Strategy that would include consolidating personal deliveries to the student accommodation and agreeing delivery instructions such as type and size of vehicle and drop off location. The transport officer agrees that subject to the provision of acceptable tracking drawings of deliveries and servicing in Oxford Court, the concerns previously raised have been addressed or can be addressed through the recommended s106 requirements and conditions. A further update from the transport officer is anticipated to be provided either through the Late List or verbally reported at Committee.
- 10.10. The air quality officer supports the proposed development, subject to a number of conditions and s106 obligations.
- 10.11. The sustainability officer supports the proposed development in that it is targeting BREEAM Excellent, which is to be secured by condition, and

recommends details of potential connection to a future district heat network is provided by condition.

- 10.12. The proposed development is intended to comply with Part M access standards and level access is proposed to the retail units and to the PBSA reception and throughout the building. A condition is recommended to require the doors to the cycle store to be power-assisted and for non-standard cycle stands including those for disabled users to be provided.
- 10.13. Taking into account all the matters raised during the application and the development plan policies and objectives, it is considered that the application should be supported.

11. EQUALITIES

- 11.1. Access issues are considered in the report.
- 11.2. **In the event that the S106 agreement has not been signed by all parties,** the application shall be refused for the following reasons:
1. The proposed development fails to provide appropriate mitigation of the transport impacts of the development contrary to policies TR7 of the Brighton & Hove Local Plan and CP7 and CP9 of the Brighton and Hove City Plan Part One.
 2. The proposed development fails to provide adequate travel plan measures to encourage use of sustainable transport modes and therefore fails to address the requirements of Policies CP7 and CP9 of the Brighton and Hove City Plan Part One.
 3. The proposed development does not include an appropriate artistic element commensurate to the scale of the scheme and therefore fails to address the requirements of CP5, CP7 and CP13 of the Brighton and Hove City Plan Part One.
 4. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
 5. The proposed development fails provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry contrary to policy CP7 of the Brighton and Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.

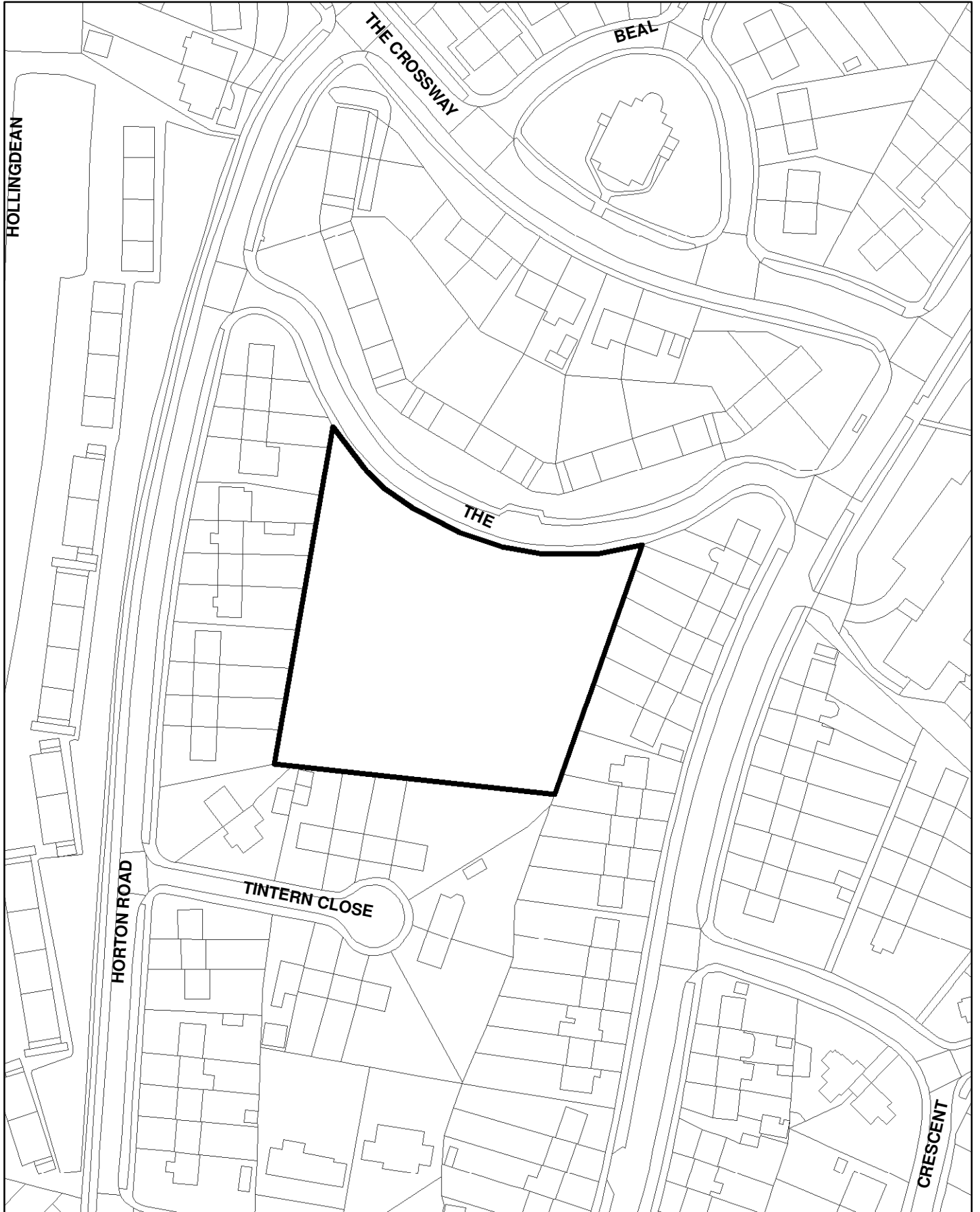
6. The proposed development fails to provide a financial contribution towards the improvement and expansion of open space contrary to policies CP7 and CP16 of the Brighton and Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.

ITEM D

**Grove Park, The Linkway
BH2018/02051
Full Planning**

DATE OF COMMITTEE: 20 March 2019

BH2018/02051 Grove Park (Site Of William Moon Lodge)



Scale: 1:1,250

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<u>No:</u>	BH2018/02051	<u>Ward:</u>	Hollingdean And Stanmer Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Grove Park (Site Of William Moon Lodge) The Linkway Brighton BN1 7EJ		
<u>Proposal:</u>	Erection of three storey (plus basement) residential care home providing 88 bedrooms and 24 parking spaces and associated works.		
<u>Officer:</u>	Laura Hamlyn, tel: 292205	<u>Valid Date:</u>	17.07.2018
<u>Con Area:</u>		<u>Expiry Date:</u>	16.10.2018
<u>Listed Building Grade:</u>		<u>EOT:</u>	10.07.2019
<u>Agent:</u>	Mr Simon Bareham Brighton BN1 5PD	Lewis & Co Planning	2 Port Hall Road
<u>Applicant:</u>	Hazeldene Project Management Hall Road Brighton BN1 5PD	C/O Lewis And Co Planning	2 Port Hall Road

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:

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Location Plan	17-193/skLP		22 June 2018
Block Plan	17-193/skBP	A	25 February 2019
Proposed Drawing	17-193-01	H	11 February 2019
Proposed Drawing	17-193-02	E	11 February 2019
Proposed Drawing	17-193-03	F	11 February 2019
Proposed Drawing	17-193-04	B	22 June 2018
Proposed Drawing	17-193-05	L	13 November 2018
Proposed Drawing	17-193-06	D	22 June 2018
Proposed Drawing	17-193-07	D	22 June 2018
Proposed Drawing	17-193-08	C	28 August 2018
Proposed Drawing	17-193-sk03		8 November 2018
Report/Statement	4421.3 UPDATEV1.0		8 November 2018
Report/Statement	NJCL 251-1		13 November 2018
Detail	NJCL 251-1 A		13 November 2018
Detail	NJCL 251-1 B		13 November 2018
Detail	NJCL 251-1 C		13 November 2018

Report/Statement	TN/SGR/WML/26011 8-2_V1		17 September 2018
Report/Statement	REPTILE		22 June 2018
Report/Statement	badger		22 June 2018

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. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

4. The hard surface hereby approved 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.

5. The development hereby approved shall be carried out in strict accordance ecological mitigation, compensation and enhancement measures as set out in the Ecological Scoping Survey report (The Ecological Consultancy, Jan 2016), the Reptile Survey and Badger Survey reports (The Ecological Consultancy, June 2018) received on 22 June 2018 and the updated Badger Survey report (The Ecological Consultancy, Nov 2018) received on 08 Nov 2018.
Reason: To safeguard protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One.

6. No hedgerow, tree or shrub shall be removed from the site between 1st March and 31st August inclusive without the prior submission of a report to the Local Planning Authority which sets out the results of a survey undertaken by a qualified ecologist, to assess the nesting bird activity on the site and describes a method of working to protect any nesting bird interest. The report must be agreed in writing by the Local Planning Authority prior to the removal of any hedgerow, tree or shrub and shall then be carried out in strict accordance with the approved details.
Reason: To ensure that wild birds building or using their nests are protected, in accordance with QD18 of the Brighton & Hove Local Plan.

7. No tree shown as retained on the approved drawings shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the local planning authority. 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, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development in compliance with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

8. Prior to occupation of the development hereby permitted, a scheme for landscaping for the whole site 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 type, position, design, dimensions and materials and any sustainable drainage system used;
- b) a schedule detailing sizes and numbers/densities of all proposed trees/plants including 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, and including any proposed gates into the highway;

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

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

9. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until the protection measures identified in the submitted arboricultural assessment and method statement dated 13 Nov 2018 reference NJCL 251-1 are in place and retained throughout the construction process. The fences shall be erected in accordance with British Standard BS5837 (2012) Trees in relation to design, demolition and construction - Recommendations and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

10. Prior to the occupation of the development hereby approved details of the proposed Access Facilitation Pruning (see BS5837:2012) shall be submitted to and approved in writing by the Local Planning Authority. The approved tree pruning works shall be carried out in accordance with BS3998:2010. Due to the importance of elm trees to the City of Brighton and Hove (Brighton and Hove City Plan - Policy QD16 3.70) and home to the National Elm Collection, and to help elm disease management in the City, elm trees must be pruned between the dates 1st October to 31st May.

Reason: To avoid any irreversible damage to retained trees pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with QD16 of the Brighton & Hove Local Plan and SPD06.

11. The development hereby permitted shall not be commenced until a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

12. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as 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 policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

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

- a) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)

- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) details of all hard surfacing materials
- d) details of the proposed window, door and balcony treatments
- e) 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 QD5 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

14. 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 a level 5dB below the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142:2014. 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 SU10 and QD27 of the Brighton & Hove Local Plan.

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

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

16. No development above ground floor slab level of any part of the development hereby permitted shall take place until a drainage strategy detailing the proposed means of foul water disposal and an implementation timetable, has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.

Reason: To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy SU5 of the Brighton & Hove Local Plan.

17. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, 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.

18. Prior to first occupation of the development hereby permitted, full details of the Car Park Layout shall have been submitted and approved in writing by the Local Planning Authority. This shall include details of dedicated and level pedestrian routes from The Linkway. The parking areas shall not be used otherwise than for the parking of vehicles of residents, staff and visitors associated with the development.
Reason: To ensure that adequate provision for pedestrians of all abilities is provided and to comply with Brighton & Hove City Plan Part One policies CP9 and CP12.
19. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.
20. Within three months of the date of first occupation, a Travel Plan for the development shall have been submitted to and approved in writing by the Local Planning Authority. This shall include details of Travel Pack issued to all new staff. The Travel Plan shall thereafter be fully implemented in accordance with the approved details.
Reason: To ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
21. Prior to first occupation of the development hereby approved the staff changing facilities and showers, as shown on the approved plans, shall be fully implemented and made available for use and public transport information shall be displayed within the building, and shall thereafter be retained for use at all times.
Reason: To seek to reduce traffic generation and encourage sustainable modes of transport in accordance with policy TR4 of the Brighton and Hove Local Plan.
22. Prior to first occupation of the development hereby permitted a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments, including any proposed gates into the highway, shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.
Reason: In the interest of highway safety and to enhance the appearance of the development in the interest of the visual and residential amenities of the area

and to comply with policies TR7, QD15 and QD27 of the Brighton & Hove Local Plan and policies CP9, CP12 and CP18 of the City Plan Part One.

23. Prior to first occupation of the development hereby permitted a scheme for the fitting of odour control equipment to the building shall have been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policy QD27 of the Brighton & Hove Local Plan.
24. Prior to first occupation of the development hereby permitted a scheme for the sound insulation of the odour control equipment referred to in condition 22 shall have been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
25. Unless otherwise agreed in writing by the Local Planning Authority, the non-residential development hereby approved shall not be occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the development built has achieved a minimum BREEAM rating of 'Excellent' has been 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.

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 to contact the East Sussex County Archaeologist to establish the scope for the Written Scheme of Archaeological Investigation.
3. The applicant is advised of the presence of Low/Medium/Intermediate Pressure gas mains in the proximity to the site. There should be no mechanical excavations taking place above or within 0.5m of the low pressure system, 0.5m of the medium pressure system and 3m of the intermediate pressure system. Where required the position of the main should be confirmed using hand dug trial holes.
4. The applicant is advised that the following details should be submitted as part of a detailed design and associated management and maintenance plan of surface water drainage for the site;

- Details of the developments existing drainage and surface water run-off rates,
 - Details of the existing flood risk to the site, i.e. surface water, sewer, groundwater and coastal,
 - Proposed mitigation measures to reduce any identified flood risk,
 - Details of the proposed drainage. The applicant must provide this data in accordance with the non-statutory technical standards for the design, maintenance and operation of sustainable drainage systems and Brighton & Hove City Council Strategic Flood Risk Assessment (Section 6.2.2),
 - Demonstration that any proposed drainage system can cope with up to the 1 in 100 year plus climate change event (=30%). Any calculations must look at both winter and summer storms.
 - If soakaways are proposed as drainage for the site, appropriate tests in accordance with BRE Digest 365 Soakaway design must be completed and any results should be shown in the Flood and Drainage Assessment.
5. The applicant should contact the Highway Authority Access Team for advice and information at their earliest convenience to avoid delay (transport.projects@brighton-hove.gov.uk or telephone 01273 292233). The Travel Plan shall include such measures and commitments as are considered necessary to mitigate the expected travel impacts of the development and should include as a minimum the following initiatives and commitments:
- (i) Promote and enable increased use walking, cycling, public transport use, car sharing, and car clubs as alternatives to sole car use;
 - (ii) A commitment to reduce carbon emissions associated with business and commuter travel;
 - (iii) Increase awareness of and improve road safety and personal security;
 - (iv) Undertake dialogue and consultation with adjacent/neighbouring tenants/businesses;
 - (v) Identify targets focussed on reductions in the level of business and commuter car use;
 - (vi) Identify a monitoring framework, which shall include a commitment to undertake an annual staff travel survey utilising iTrace Travel Plan monitoring software, for at least five years, or until such time as the targets identified in section (v) above are met, to enable the Travel Plan to be reviewed and updated as appropriate;
 - (vii) Following the annual staff survey, an annual review will be submitted to the Local Planning Authority to update on progress towards meeting targets;
 - (viii) Identify a nominated member of staff to act as Travel Plan Co-ordinator, and to become the individual contact for the Local Planning Authority relating to the Travel Plan.
6. The applicant is advised that formal applications for connection to the public sewerage system and to the water supply are required in order to service this development. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel. 0330 303 0119), or www.southernwater.co.uk. The New Connections Services Charging Arrangements documents have now been published and are available via the following link <https://beta.southernwater.co.uk/infrastructure-charges>.

7. Southern Water advises that detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding.
8. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website (www.communities.gov.uk).
9. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites (www.breeam.org).
10. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 01 March and 31 August inclusive. Trees and scrub are present on the application site and are assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
11. The applicant is advised of the possible presence of bats on the development site. All species of bat are protected by law. It is a criminal offence to kill bats, to intentionally or recklessly disturb bats, damage or destroy a bat roosting place and intentionally or recklessly obstruct access to a bat roost. If bats are seen during construction, work should stop immediately and Natural England should be contacted on 0300 060 0300.
12. The applicants are advised that badgers may be present on site. Badgers and their setts are protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure or take badgers or to interfere with a badger sett. Should a sett be found on site during construction, work should stop immediately and Natural England should be contacted on 0300 060 0300.
13. The applicant is advised that any external lighting should take account of best practice guidelines with respect to minimising impacts on nocturnal species.
14. Due to the desirability of cut elm branches and timber to adult elm bark beetles the Council seeks that all pruned elm material is correctly disposed of. In addition, all elm logs/timber is removed from the Brighton and Hove area or are taken to the Water Hall elm disposal site to be disposed of free of charge. Please call the Arboricultural team on 01273 292929 in advance to arrange this.
15. Under any circumstances do not sell or give away cut elm timber as firewood to residents with the Brighton and Hove area as this situation has been responsible for many outbreaks of Dutch elm disease in the city. A pile of logs

such as this will be an ideal breeding site for beetles which are responsible for spreading Elm Disease.

16. The applicant is advised to consider and implement the advice contained in PAN06: Food Growing and Development in the proposed landscaping scheme.

2. RECOMMENDATION

- 2.1. 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 S.106 Planning Obligation and the Conditions and Informatives as set out hereunder **SAVE THAT** should the S.106 Planning Obligation not be completed on or before the 10th July 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section xxx of this report.

- 2.2. S.106 Heads of Terms:

- Sustainable Transport contribution of £31,350
- Public Art contribution of £17,000
- Construction Training and Employment Strategy including a commitment to using 20% local employment during the demolition and construction phases of the development

3. SITE LOCATION & APPLICATION DESCRIPTION

- 3.1. This application relates to a site located on the southern side of The Linkway. The site is currently vacant having been formerly used by the Sussex Lantern Trust comprising a large detached single storey building (D1 community use). The former building on the site has been demolished and the site cleared.
- 3.2. In a wider context this site lies in a predominantly residential area. The properties on the northern side of The Linkway, directly opposite the site comprise 3 storey terraced flats, properties to the east, west and south comprise 2 storey terraced dwellings.
- 3.3. The application proposes to erect a three storey plus basement residential care home providing 88 bedrooms and 24 parking spaces and associated works. The proposal would be laid out in a T-shaped arrangement with a footprint of 1140sqm. The main ridge height as measured from the lowest natural ground level on site would be approx. 14m.

4. RELEVANT HISTORY

- 4.1. **BH2015/03144-** Erection of two storey (plus basement) residential care home providing 75 bedrooms and 18 parking spaces and associated works. Approved 06/03/2017.

- 4.2. **BH2011/03745-** Non Material Amendment to BH2007/02692 to change material as previously approved. Change East & West boundary treatments to 1.8m high close board timber fence. Changes to internal courtyard elevations. Approved 04/04/2012.
- 4.3. **BH2010/02015-** Application to extend time limit for implementation of previous approval BH2007/02692 for the demolition of existing building and redevelopment of the site to provide new two storey nursing home with 100 bedrooms, together with ancillary day care centre. Provision of 16 car parking spaces to include 5 disabled spaces and one ambulance bay. Approved 21/08/2012.
- 4.4. **BH2007/02692/FP-** Demolition of existing building and redevelopment of the site to provide new nursing home (2 storeys) for the frail and elderly (100 bedrooms), together with ancillary day care centre. Provision of 16 car parking spaces to include 5 disabled spaces and one ambulance bay.
The application was approved 17 October 2007 subject to conditions and a Section 106 Obligation to secure public art works to the value of £20,000, a contribution of £40,000 towards the Sustainable Transport Strategy and the ancillary day-care community facility indicated on the approved plans (drawing no. 2296/01 Rev F) to be provided at the time of first occupation of the nursing home. The ancillary community facility approved to be retained solely for such use (use class D1) and not used for an alternative use. Approved 17/10/2007.

5. REPRESENTATIONS

Five (5) representations have been received, objecting to the proposed development on the following grounds:

- design, old fashioned Victorian workhouse
- overshadowing, overlooking of properties to Davey Drive and Horton Road
- increased noise and disturbance
- additional traffic
- flawed business model
- safe guarding concerns
- too little indoor communal space or outside garden space for residents
- lack of ensuite shower facilities
- insufficient lifts
- trees removed previously
- tree crowns wider than shown, potential loss of trees
- wildlife ecology concerns
- lack of bird nesting measures

6. CONSULTATIONS

6.1. **Arboriculture:** Seek further information.

09 Oct 2018: The trees at this site are protected by a tree preservation order No. 3 of 2008 and provide a very important screen to the adjacent properties.

Whilst the majority of the building footprint is outside of the RPA's of protected trees, at this time the arboricultural team object to the application on tree protection grounds due to the inadequate tree protection proposed and the likelihood of tree root damage caused by building activities.

Update 29 Nov 2018: No objection.

A revised arboricultural assessment has been submitted with the application, detailing strict arboricultural supervision, especially during the installation of the cellular confinement system and north boundary wall. If these recommendations are adhered to the arboricultural team will not object to the proposal subject to the recommended conditions.

6.2. **Archaeology:** No objection.

No objection subject to the recommended conditions.

6.3. **Adult Social Care:** Support.

The proposal would support areas of demand in the city for nursing care, short term beds, and dementia care or functional mental health beds.

6.4. **Ecology:** No objection.

07 Aug 2018: No objection subject to the recommended condition.

Update 05 Dec 2018: The retention of the badger sett is welcome.

Update 06 Feb 2019: The trees identified for removal are not those identified as having bat roost potential. As such there is not requirement for bat surveys.

6.5. **Environmental Health:** No objection.

20 Aug 2018: No objection subject to the recommended condition on contaminated land discovery.

Update 18 Oct 2018: As a precautionary measure, it is recommended that a condition be applied to control noise associated with plant and machinery incorporated within the development.

6.6. **Planning Policy:** No objection.

The site is subject to two previous extant planning permissions for care homes so the principle of development and suitability of this location are already established. The development is acceptable in principle, subject to design, amenity and parking considerations.

6.7. **Public Art:** No objection.

It is suggested that the Artistic Component element for this application is to the value of £17,000. To make sure that the requirements of policies CP5, CP7 and CP13 are met at implementation stage, it is recommended that an Artistic Component schedule be included in the S.106 agreement.

6.8. **Sustainable Transport:** Objection.

30 Aug 2018: The Highway Authority is unable to recommend approval on car parking grounds and requests further information prior to determination. It has

no objections to the development in principle, including the proposed increase in bedrooms compared to the most recent extant consent (BH2015/03144). However, the level of car parking provision proposed is almost double that of the maximum permitted by SPD14 and substantially more than the 18 spaces allowed under the extant consent.

Update 24 Sep 2018: No objection.

The Highway Authority has no objection to this application subject to inclusion of the necessary conditions and a S106 sustainable transport contribution.

The applicant has submitted a revised plan reducing the level of proposed car parking and the Highway Authority no longer has an objection on these grounds.

The Highway Authority also acknowledges the additional information submitted in respect of cycle parking and pedestrian access. This helps to address the issues raised previously; however, some details are unclear and it is therefore recommended that the car park layout and cycle parking conditions provided in the original comments be attached. The disabled parking condition would no longer be required.

6.9. **Flood Risk Management:** No comment.

6.10. **Scotia Gas Networks:** Comment.

A plan showing pipes owned by SGN is included for information.

6.11. **Sussex Police:** No objection.

Detailed design suggestions on matters including alarms, locks, internal access arrangements, lighting and CCTV are provided in the comment.

6.12. **UK Power Networks:** Comment.

A plan showing electrical lines and/or electrical plant is included for information.

6.13. **Southern Water:** No objection.

No objection subject to the recommended conditions and informatives.

7. MATERIAL CONSIDERATIONS

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

7.1. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies 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)

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 One

SS1	Presumption in Favour of Sustainable Development
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP14	Housing density
CP18	Healthy city
CP19	Housing mix
SA6	Sustainable Neighbourhoods

Brighton & Hove Local Plan (retained policies March 2016):

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU3	Water resources and their quality
SU5	Surface water and foul sewerage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD27	Protection of amenity
HO11	Residential care and nursing homes
HO13	Accessible housing and lifetime homes
HE12	Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD11	Nature Conservation & Development
SPD14	Parking Standards

9. CONSIDERATIONS & ASSESSMENT

The main considerations in the determination of this application relate to the suitability of the site to accommodate the proposed care home and the impact of the development upon the character and amenity of the area. Regard will also be had to the traffic and travel implications of the development, neighbouring amenity and to sustainability.

9.1. Background:

The site previously contained a single storey building which was used as a day centre by the Sussex Lantern Trust, providing services for visually impaired people. The Trust moved into premises in Hassocks (the Trust's clientele reside across the whole of Sussex, so a more central location was required). The site's use as a day centre would have fallen within Class D1 of the Town and Country Planning (Use Classes) Order 1987.

9.2. The erection of a care home on the site has been accepted through the grant of earlier planning consents (BH2007/02692, extended under BH2010/02015, and BH2015/03144).

9.3. Applications BH2007/02692 and BH2010/02015 granted permission for a care home with 100 bed spaces, application BH2015/03144 granted permission for 75 bed spaces. The current application proposes 88 bed spaces. The ground floor would be for people who are ready to be discharged from hospital, but cannot do so because they are not yet ready to return home. The provision of such rooms is intended to alleviate "bed blocking". The first floor would initially be occupied by residents of another care home which has an "awkward layout of rooms and corridors over five floors". The second floor would be used for dementia and mental health care.

9.4. The footprint of the proposal has been amended from a courtyard arrangement to a T-shaped foot print, and has been continually reduced from approx. 2060sqm, to 1680sqm, and currently 1140sqm. Proposals with a courtyard were both two storeys high, whereas the current proposal is three storeys high.

9.5. The number of parking spaces under application BH2007/02692 and BH2010/02015 was 16 (of which 5 disabled bays and 1 ambulance bay), then under BH2015/03144 this was changed to 18 (of which 4 disabled bays and in addition 1 ambulance bay). The current application proposes 24 (of which 4 disabled bays, and no dedicated ambulance bay). Amended drawings were received during the course of the application, to reduce the number of parking spaces from 39 to 24.

9.6. The proposed scheme is of a reduced footprint, scale and provision relative to the scheme approved under BH2007/02692 and BH2010/02015, and of increased scale and provision relative to the scheme approved under BH2015/03144.

9.7. Planning Policy:

In policy terms the loss of the day centre facility has been accepted through the grant of the earlier planning consents (BH2007/02692, extended under BH2010/02015, and BH2015/03144). Furthermore the former day care centre for the visually impaired has been demolished and established case law found that where a use relies on a building to operate it does not survive demolition of the building. As such there is no established lawful use on the site at present.

9.8. The planning permission for redevelopment of the site into a 100 bed care home has been commenced through the demolition of the building that was previously located on the site. Consequently this has started a new chapter in the site's planning history. The site currently has no planning use until the new development is completed and the care home use begins. The proposed care home use is a Class C2 use.

9.9. Policy HO11 in the adopted 2005 Local Plan supports the provision of new residential care and nursing home provided criteria a) to d) within the policy are met;

a) *requires that the development will not adversely affect the locality or neighbouring properties by way of noise or disturbance; or by way of size, bulk or overlooking,*

This is assessed below under 'Impact on Amenity'.

b) *requires that adequate amenity space is provided. This is stated as a minimum depth of 10m and not less than 25sqm per resident although a lower standard may apply where residents are less mobile.*

9.10. The total external amenity space would be approx. 750sqm (or 8.5sqm per resident). The previous approval BH2015/03144 provided approx. 320sqm in the courtyard, and a further 300sqm to the south part of the site (or 8.3sqm per resident). Application BH2007/02692 (extended under BH2010/02015) gave permission for a scheme which provided approx. 320sqm in the courtyard, and 370sqm to the south part of the site (or 6.9sqm per resident). The case for a lower standard of provision has already been accepted through prior consents. A landscaping scheme will be required by condition, and this will be assessed on whether it optimises the use of amenity space both for residents and biodiversity measures.

c) *requires accessibility to people with disabilities;*

This is assessed below under 'Equalities'.

d) *requires adequate parking in accordance with the council's standards.*

This is assessed below under 'Sustainable Transport'.

9.11. Adult Social Care support the application as there is a need for nursing care, short term beds and dementia care in the city.

9.12. The agent has provided additional supporting information, that the proposed care home would have an inhouse GP.

9.13. Design and Appearance:

Policy CP12 of the City Plan Part One requires all new development to meet criteria such as raise the standard of architecture and design in the City, establish a strong sense of place, achieve excellence in sustainable building design and construction and ensure that design of the external spaces is an integral element of the overall design approach of schemes. Retained policy QD5 of the Brighton & Hove Local Plan requires development to provide an interesting and attractive street frontage.

9.14. The surrounding area comprises terraced housing and flatted dwellings, generally finished with facing brickwork, render, and traditional pitched roofs. The buildings to the north of The Linkway are at a higher level than the application site and are three storeys in height. The two storey terrace to the rear (off Tinturn Close) is set at a lower level. To the east (Davey Drive) and to the west (Horton Road) there are also two storey terraces of housing.

9.15. The application proposes the erection of a three storey (plus basement) building on a T-shaped footprint. Due to the topography of the site the ground floor of the building would be set below the street level of The Linkway. The footprint of the building allows all bedrooms to have a reasonable outlook onto areas of open space and access to natural light.

9.16. The height of the proposal has been increased relative to the previous schemes, which were both two storey proposals, however the footprint has been reduced. Given the three storey properties opposite on The Linkway, it is considered that the bulk and massing of the building would sit appropriately within its context in accordance with policy CP12.

9.17. The form and materials palette would be traditional in character, with a pitched roof, red brick, clay hanging tile and slate roof. Interest is added to the elevations with two storey bay windows with a gable roof over, box bay windows at second floor level and an inset gable feature over the main entrance. The traditional design approach is considered acceptable in this location, in accordance with retained policy QD5 of the Brighton and Hove Local Plan. It is recommended that materials samples be secured by condition.

9.18. Impact on Amenity:

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

9.19. The site is bounded by residential properties of two storeys in height to the east on Davey Drive, to the south on Tinturn Close, and to the west on Horton Road, and by three storey residential properties to the north on The Linkway. There would be a gap of at least 22m between the proposed building and the existing neighbouring properties. As a result of the proposed additional storey to the care home, there would be an increased impact on the closest neighbours. This is mitigated by the change to the footprint of the building, whereby the closest portions of the east, south and west elevations would be approx 14.6m

wide, with the remaining portions of the elevations set further away from the boundaries. The closest aspects of the proposal would therefore only take up part of the field of view as observed from neighbouring properties, whereas the previous proposals would have taken up a much larger proportion of the field of view. Furthermore there are a number of mature trees on these boundaries of the site which would provide a high level of screening of the new building during summer months, in addition to a close boarded fence. It is noted that these trees are protected by a Tree Preservation Order. Given the distances between the existing and proposed buildings, it is considered that there would not be an unacceptable impact upon neighbouring occupiers by way of overshadowing, loss of light, or overbearing impact, so as to justify refusal of this application.

9.20. Under application BH2015/03144 for a two storey care home, it was recognised that some overlooking of the neighbouring buildings and gardens might occur. This was justified on the grounds that there was already a significant level of overlooking between properties in this densely populated area as result of the fact that properties surrounding this site are of two and three storeys. Some overlooking between properties in a residential area is to be anticipated and considering the nature of the proposed use it was not felt that any increase in overlooking or loss of privacy that may occur would result in an unacceptable level of harm to existing neighbouring properties. The current proposal would introduce overlooking from a greater height relative to the previous schemes. The previous justification still holds true however, in that the nature of the proposed use remains the same. It is considered that the proposed relationship between the proposed and existing buildings would not result in an unacceptable loss of privacy to a degree sufficient to warrant refusal of this application.

9.21. Kitchen and laundry facilities are proposed in the end of the south wing of the building. The previous approval BH2015/03144 required odour control equipment and soundproofing thereof by condition. In addition, it is recommended that a condition be applied to regulate noise associated with any other plant and machinery incorporated within the development.

9.22. Standard of Accommodation:

The ensuite bedrooms benefit from adequate outlook, light and ventilation, and at approx. 14sqm appear to be an adequate size to provide good circulation space.

9.23. Amended drawings were provided during the course of the application, making minor revisions to the internal layout in response to a discussion of the level of provision of internal communal space for the number of residents and staff. In addition the agent provided a statement by email dated 12 Feb 2019. In this statement, it was confirmed that:

- most patients entered into nursing homes are non-ambulant and/or bedbound
- modern care home management avoids pushing people into communal rooms against their will
- communal engagement revolves around meal times

- communal rooms typically used when a whole family visits a patient/resident
- no more than 2 staff would be on a break on any floor at a time

9.24. It is considered that the improvements made to the internal communal space help mitigate the deficiency to the external amenity space.

9.25. It is considered that the proposal represents a good standard of accommodation to residents, and a good working environment for staff. The design choices made have been adequately justified.

9.26. It is noted that the standard of accommodation is also controlled through the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

9.27. Sustainable Transport:

Amended drawings and additional supporting information were received during the course of the application, to reduce the car parking on site and to justify the amount of provision, to amending the type of cycle parking, and to include staff changing and showering facilities.

9.28. Policy CP9 stipulates that all new development should provide for the travel demand that it creates with a particular emphasis upon promoting sustainable modes of transport.

9.29. Cycle Parking

A covered cycle store is proposed on the south east part of the site, as well as cycle hoops on the south west part of the site near the kitchen, and between the disabled parking bays at the front of the site. There are some outstanding issues with regard to the design, and therefore it is recommended that further details be secured by condition. Amended drawings were received during the course of this application to include staff shower and changing facilities in the basement. It is recommended that the implementation of these facilities be secured by condition.

9.30. Vehicle Parking

The proposal includes 24 car parking spaces. SPD14 guidance sets out that a care home (C2) in this location should have a maximum car parking provision of 18 spaces. The additional 6 spaces are justified on the basis of over-lapping shift patterns of staff and the potential for higher level of visitor demand to the 27 bed spaces designated as "discharge to access". It is also acknowledged that there are no on-street parking controls surrounding the site and parking demand associated with the care home will need to be accommodated on-site.

9.31. Disabled Parking

The proposal includes the provision of four disabled parking bays, which is accepted in principle.

9.32. Servicing and Deliveries

The applicant is not proposing any alteration to the off-street servicing and delivery arrangements to and from the site. This is deemed acceptable.

9.33. *Vehicular Access*

The proposal would not result in any change to the vehicle access and egress arrangements off and onto the public highway. This is deemed acceptable.

9.34. *Trip Generation*

Despite the greater level of car parking provision, it is considered that the proposed care home would not generate a significant level of additional vehicle trips of a level that would amount to a severe impact.

9.35. *Travel Plan*

Public transport information should be displayed within the building, and that an information park regarding sustainable transport modes be prepared for employees. It is therefore recommended that a full Travel Plan be secured by condition.

9.36. Sustainability:

Policy CP8 indicates that the proposed development should meet BREEAM 'Excellent'. Additional supporting information was received during the course of the application, confirming that the additional 'potential' credits would be pursued to achieve an 'Excellent' rating (see letter from Delta Green received 20 Sep 2018). It is recommended that a Post Construction Review Certificate be secured by condition.

9.37. Arboriculture:

The trees at this site are protected by a tree preservation order and provide an important screen to the adjacent properties. The majority of the building footprint is outside the root protection areas of protected trees, building activities and the installation of the car parking hard surfaces could lead to tree root damage. It is considered that subject to the recommended conditions the existing trees can be adequately protected.

9.38. It is noted that there is a gap in the trees to the east boundary of the site. As part of the landscaping scheme it would be expected that additional tree planting be proposed to eventually fill in this gap. The case for a lower standard of provision of external amenity space has already been accepted through prior consents. The subsequent landscaping scheme will also be assessed on whether it optimises the use of amenity space for residents and biodiversity measures.

9.39. Ecology:

An Ecological Scoping Survey, and reports on badger and reptile mitigation have been submitted, which the County Ecologist has confirmed have been carried out in accordance with best practice and are sufficient to inform appropriate mitigation, compensation and enhancement.

9.40. The site supports a low population of slow worms which can be accommodated on site. The proposed mitigation strategy outlined in the submitted Reptile Survey is considered appropriate and acceptable.

- 9.41. The risk of great crested newts being present on the site and affected by the proposed development is considered to be negligible and as such no specific mitigation as part of the proposal is required for this species.
- 9.42. With regards to bats the trees located around the boundaries of the site have low potential to support roosts. Any external lighting should take account of best practice guidelines with respect to minimising impacts on nocturnal species. An informative is to this effect is recommended.
- 9.43. An active badger sett is present on site. During the course of the application the car parking layout was amended to reduce the number of parking spaces. This means that the badger sett can be retained on site.
- 9.44. The site is considered to have the potential to support breeding birds. To avoid disturbance to nesting birds, any removal of scrub/trees that could provide nesting habitat should be carried out side the breeding season (generally March to August) otherwise a nesting bird check should be carried out prior to any clearance work, an issue which can be controlled by condition.
- 9.45. The site has the potential to support hedgehogs. As set out in the submitted ecology reports site boundaries and fences should be made permeable to wildlife.
- 9.46. The submitted ecology reports set out ways in which the ecology of the site could be enhanced as part of the proposal.
- 9.47. Overall provided the mitigation, compensation and enhancement measures as set out in the submitted ecology report and reptile report are carried out overall it is consider that the proposal is unlikely to have a significant impact on ecology.
- 9.48. Waste Management:**
New developments are required to identify the location and provision of facilities intended to allow for the efficient management of waste, e.g. location of bin stores and recycling facilities. These are indicated in the plans submitted and such provision can be ensured via a condition.
- 9.49. Flooding:**
Application BH2015/03144 was granted subject to conditions requiring a detailed design and associated management and maintenance plan of surface water drainage for the site. It is recommended that the same condition be applied again.
- 9.50. Archaeology:**
The site does not fall within an Archaeological Notification Area, however the County Archaeologist has commented that the site is a prime location for prehistoric settlement, being on the south facing spur of the South Downs. Finds of Iron Age and roman coins in the vicinity hint at this past activity and raise the potential for archaeological remains to exist on this site. A condition

requiring a programme of archaeological works therefore forms part of the recommendation.

9.51. Public Art:

The original planning consent for a 100 bed care home and subsequent renewal both secured a sum of £20,000 for Public Art under the S106 agreement. The consent for a 75 bed care home was granted without seeking a contribution for Public Art. With the increased scale of the current proposal, it is recommended that a sum of £17,000 be secured. This sum is sufficient to enable the delivery of a meaningful artistic component scheme on the property.

10. CONCLUSION

10.1. In light of the previous approvals on the site for a 100 and a 75 bed care home, the current proposal for an 88 bed care home can in principle be accepted. The proposed development would provide much needed residential care accommodation. It is considered to be of an acceptable design and would not harm the character and appearance of the surrounding area. The proposed development would provide an adequate standard of accommodation for future occupants and would not result in significant harm to neighbouring amenity or highway safety.

11. EQUALITIES

11.1. The proposal would be fully accessible to the disabled. Lift access is proposed to the upper floors. Disabled parking spaces are proposed.

12. DEVELOPER CONTRIBUTIONS

12.1. S.106 Agreement:

The contributions would be allocated and spent as follows:

- Sustainable Transport contribution of £31,350
 - Pedestrian improvements including dropped kerbs and tactile paving on, but not limited to, Horton Road, Davey Drive, The Crossway, Hollingbury Place, The Linkway and Staples Road; and/or
 - Bus stop improvements focused on the St Joseph's School north east bound stop.
- Public Art contribution of £17,000
 - integrated as part of the development, bearing a relationship to its surroundings and any characteristics of the locality, robust design (if accessible to the public)
 - Construction Training and Employment Strategy including a commitment to using 20% local employment during the demolition and construction phases of the development

12.2. In the event that the draft S.106 agreement has not been signed by all parties, the application shall be refused for the following reasons:

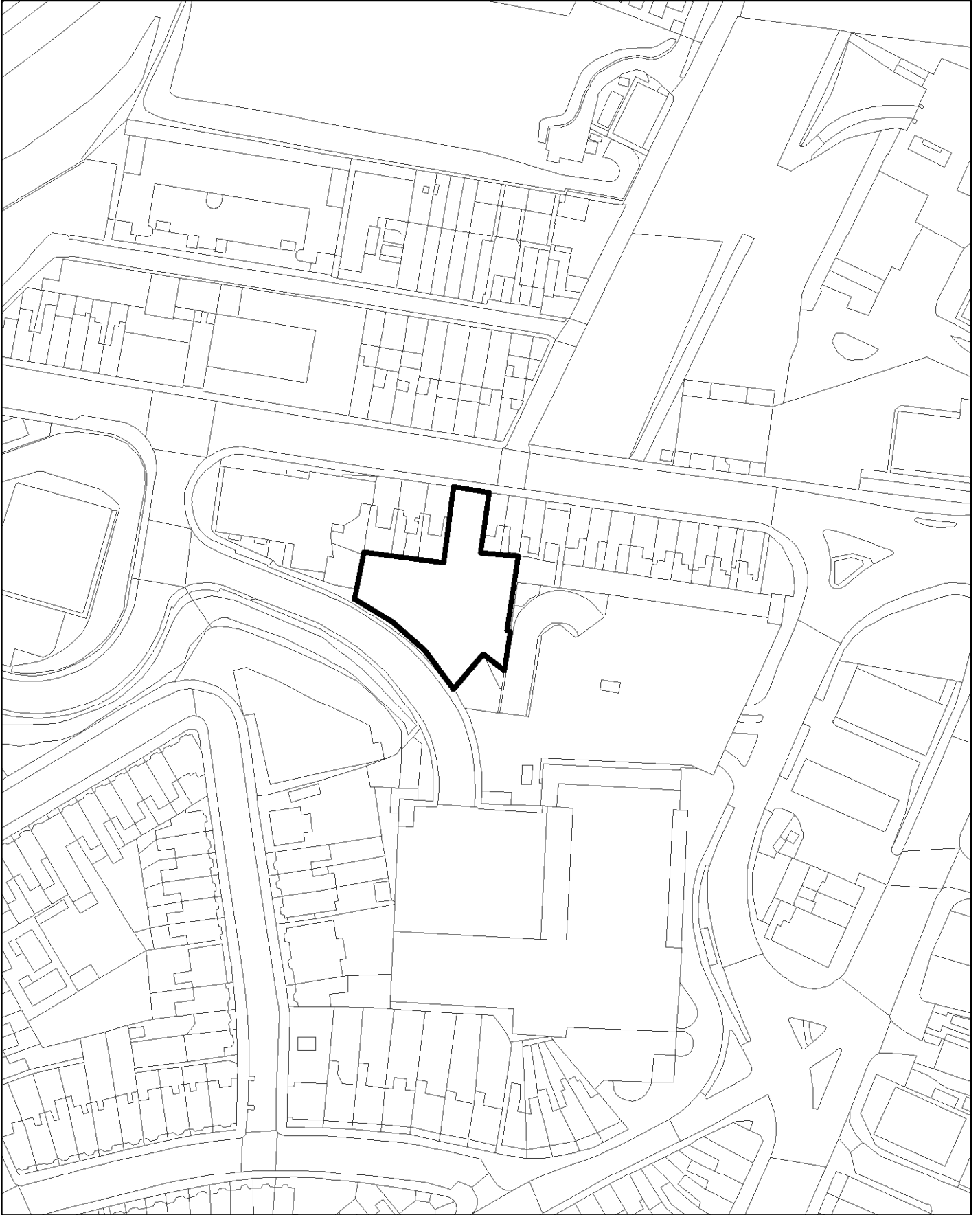
1. The proposed development fails to provide necessary transport infrastructure improvements in the vicinity of the site, contrary to policies CP7 and CP9 of the Brighton and Hove City Plan Part One.
2. The proposed development fails to provide Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development, contrary to policy CP7 of the Brighton and Hove City Plan Part One.
3. The proposed development does not include an appropriate artistic element commensurate to the scale of the scheme and therefore fails to address the requirements of CP5, CP7 and CP13 of the Brighton and Hove City Plan Part One.

ITEM E

**45 & 47 Hollingdean Road
BH2017/01873
Full Planning**

DATE OF COMMITTEE: 20 March 2019

BH2017/01873 - 45 & 47 Hollingdean Road



Scale: 1:1,250

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<u>No:</u>	BH2017/01873	<u>Ward:</u>	Hollingdean And Stanmer Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	45 & 47 Hollingdean Road Brighton BN2 4AA		
<u>Proposal:</u>	Demolition of existing buildings and erection of a part 2,3,4 and 5 storey building including basement to form 88 student rooms (Sui Generis), communal student facilities, plant room, cycle storage, 1no disabled parking spaces, recycling and refuse facilities, vehicular access and associated works.		
<u>Officer:</u>	Luke Austin, tel: 294495	<u>Valid Date:</u>	09.06.2017
<u>Con Area:</u>		<u>Expiry Date:</u>	08.09.2017
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Simply Planning Limited 15 Buckingham Gate London SW1E 6LB		
<u>Applicant:</u>	CKC Properties Limited C/o Simply Planning Limited 15 Buckingham Gate London SW1E 6LB		

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 **REFUSE** planning permission for the following reasons:

1. The proposed design of the student accommodation block and gatehouse, by reason of its height, position, form and excessive scaling would fail to successfully address the constrained nature of the site and as a result would appear overly dominant in relation to adjacent two storey residential properties fronting onto Hollingdean Road, contrary to policy CP12 of the Brighton & Hove City Plan Part One.
2. The proposed student block, at five stories high with a significant number of windows within the upper levels set close to shared boundaries with two storey neighbouring dwellings, would result in an unacceptable overbearing and overlooking impact, contrary to policies QD27 of the Brighton & Hove Local Plan and CP21 of the Brighton & Hove City Plan Part One.
3. The proposed student block would cover the majority of the site leaving little external space and would be constructed within close proximity to the adjacent retaining wall to the south of the site. As a result a number of the studios and communal accommodation at ground and first level would suffer from restricted outlook, and the majority of the site would be overshadowed which would adversely impact on the standard of accommodation of future occupiers, contrary to policy QD27 of the Brighton & Hove Local Plan.

- The proposed development includes one on-site disabled parking space and has not been supported by a survey and analysis of local parking pressures and the parking demand that the development would be likely to generate. The proposed development has therefore failed to demonstrate that the development would result in an acceptable impact on the local highway network, contrary City Plan Part One CP9, Local Plan Policy TR7 and QD27.

Informatives:

- 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.
- This decision is based on the drawings received listed below:

Plan Type	Reference	Version	Date Received
Proposed Drawing	1646-P-015	O	23 January 2019
Proposed Drawing	1646-P-016	K	23 January 2019
Proposed Drawing	1646-P-017	K	23 January 2019
Proposed Drawing	1646-P-018	L	23 January 2019
Proposed Drawing	1646-P-019	L	23 January 2019
Proposed Drawing	1646-P-020	G	23 January 2019
Proposed Drawing	1646-P-021	J	23 January 2019
Proposed Drawing	1646-P-022	J	23 January 2019
Proposed Drawing	1646-P-023	J	23 January 2019
Proposed Drawing	1646-P-024	I	23 January 2019
Proposed Drawing	1646-P-025	I	23 January 2019
Proposed Drawing	1646-P-026	I	23 January 2019
Proposed Drawing	1646-P-027	J	23 January 2019
Proposed Drawing	1646-P-028	J	23 January 2019
Proposed Drawing	1646-P-029	G	23 January 2019
Proposed Drawing	1646-P-030	J	23 January 2019
Proposed Drawing	100-221 (P)003C E05		23 January 2019
Proposed Drawing	100-221 (P)002D L04		23 January 2019
Proposed Drawing	100-221 (P)001D L00		23 January 2019
Report/Statement	AIR QUALITY ASSESSMENT	v2.2	1 June 2017
Report/Statement	FLOOD RISK ASSESSMENT	582-FRA-01	1 June 2017
Report/Statement	ACOUSTIC REPORT	1.2	1 June 2017
Report/Statement	GEOENVIRONMENTAL ASSESSEMENT	581-R-02	1 June 2017
Report/Statement	PRELIMINARY RISK ASSESSMENT	581-R-01	1 June 2017

- If recommended for approval, a development of this scale and type would require a legal agreement in order to secure the following contributions / commitments:

- A Construction Training and Employment Strategy
- A financial contribution towards the City Council's Local Employment Scheme contribution
- A Sustainable Transport contribution
- A Travel Plan
- A contribution to Artistic Component.
- Submission of a Student Management Plan.
- Contribution towards the improvement and expansion of open space and recreation within the vicinity of the site

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site relates to a triangular shaped site located to the south of Hollingdean Road. The site currently contains a two storey hipped roof building to the east of the site known as no. 45 Hollingdean Road and a two storey end of terrace building to the north of the site which forms no. 47 Hollingdean Road. Both of the buildings are currently vacant and were previously used for the sale / repair of motorcycles and parts. No. 47 has an extant permission (BH2016/00814) for the conversion to a dwelling.
- 2.2. To the rear of the site is a single storey commercial workshop with an open service yard / forecourt which is currently used for the repair and sales of vehicles. This section of the site included a number of parked vehicles for sale at the time of the site visit. Hollingdean Road to the east and west is a typical Victorian terrace of two storey buildings comprising a mixture of dwellings and houses in multiple occupation.
- 2.3. To the south of the site is a large 9 metre high retaining wall to the access road for the servicing and delivery yard of the London Road Sainsbury's supermarket. The application site is visible from the top uncovered deck of the supermarket car park. Opposite the site on Hollingdean Road is a two storey terrace of Victorian dwellings and access to Popes Folly, a road which rises steeply northwards leading to Saunders Park and a residential neighbourhood. To the west is a modern 5 storey flatted development that was granted planning permission on in 2010. Further to the west is a block of Purpose Built Student Accommodation (PBSA) currently under construction. This application site is within close proximity to other PBSA developments which have recently been completed on Lewes Road.
- 2.4. The application seeks permission for the demolition of the existing buildings on site and the erection of a purpose built student accommodation block. The block would be stepped in height, with a maximum of five storeys and would contain 88 student rooms including 72 studios and 16 cluster rooms with shared facilities.

3. RELEVANT HISTORY

3.1. 45 & 47 Hollingdean Road

BH2015/00905 - Demolition of existing building at 45 Hollingdean Road and construction of 3no storey building to provide 9no. student rooms (Sui Generis). Partial demolition and alterations to 47 Hollingdean Road and change of use to a 2 bedroom dwelling house. Refused 25.05.2016 for the following reasons:

1. *It has not been demonstrated that a formal agreement with one of the city's two Universities or other existing establishments within Brighton and Hove has been entered into and the intended establishment does not have any teaching facilities within the City. The proposed development would therefore be contrary to policy CP21 of the Brighton & Hove City Plan Part One.*
2. *The proposed development would be located adjacent to an established motor vehicle mechanics business and it is likely that new residents would be affected by noise and odour issues. The proposal would be contrary to policy QD27 of the Brighton and Hove Local Plan and the National Planning Policy Framework since the application fails to demonstrate satisfactorily how future residents would be adequately protected from noise and odours emanating from existing businesses and which should have restrictions put in place due to changes in nearby uses.*
3. *The proposed student residential block would have no on site management and would result in an unacceptable standard of accommodation for the occupants due to a poor quality of outlook, daylighting, outdoor amenity space and would be likely to suffer from noise, disturbance and potential odours from the adjacent neighbouring business use thus contrary to policy QD27 of the Brighton and Hove Local Plan.*
4. *The proposed development would result in pedestrian movements which could result in conflicts and safety concerns for the proposed residents due to the numbers and type of vehicle movements associated with the existing business sharing the access and service yard thus contrary to retained policy TR7 of the Brighton and Hove Local Plan and policy CP21 of the Brighton & Hove City Plan Part One.*
5. *The proposed scale, design and profile of the development would represent an overdevelopment of the site and would not be in keeping with the character, appearance and urban grain of the neighbouring residential dwellings by introducing a large out of scale building juxtaposed to the rear of small scale terraced housing. The development would further diminish the limited outlook of adjoining residential occupiers and would be contrary to policy CP12 of the Brighton & Hove City Plan Part One.*

3.2. 47 Hollingdean Road

BH2016/00814 - Conversion of existing property (Sui Generis) to form 1no residential dwelling (C3) with associated external alterations including single storey rear extension, removal of shop front and installation of new bay window and door and associated works. Approved 13.06.2016.

72.1840 - Change of use to sale of motor scooters, spares and accessories.
Approved 03.07.72.

4. REPRESENTATIONS

4.1. **Three (3)** letters were been received from the initial consultation, objecting to the proposed development for the following reasons:

- Inappropriate look
- Oversized
- Not in keeping
- Overpriced student accommodation does not cater for student need
- Blocks views of The South Downs from neighbouring properties
- Cramped design
- Squashed to squeeze maximum number of units on site
- Area already has high number of student accommodation
- Poor outlook for residents
- No additional internet infrastructure to support a further 88 student units in this area

4.2. Following a second consultation, a further **two (2)** letters have been received objecting to the proposed development for the following reasons:

- Impact on the Roundhill Conservation Area
- Additional traffic generation
- The application lacks sustainability detail
- The development lacks consideration to local properties
- Significant mass and bulk
- Little architectural relief to southern elevation
- Single aspect rooms with no mechanical ventilation
- Noise impact on neighbours
- Roof plant will add additional height
- Lack of long view visualisations
- Lack of detail relating to green roofs
- Significant impacts on local infrastructure

5. CONSULTATIONS

Internal

5.1. **Ecology:** Comment

The proposed development is unlikely to have any significant impacts on biodiversity and can be supported subject to any demolition of buildings being carried out outside of the bird breeding season / appropriate checks to being carried out prior to demolition / clearance. The applicant is advised that the sedum roof is revised to chalk grassland in order to meet biosphere targets.

5.2. **Environmental Health:** No objection

No objection subject to conditions securing minimum noise performance glazing, a scheme of ventilation / acoustic protection to the flats, a scheme of remedial works, a remediation verification report and a discovery condition.

5.3. **Air Quality:** No objection

No objection subject to conditions securing a Construction Environment Management Plan, electric charging facilities for car and cycle parking spaces and temperature control and hot water to be powered electronically.

5.4. **Heritage:** No objection

Due to the topography of the area, the ground level of the site and the massing of the proposed development, with the 5 storey element set to the south east, it is not considered that the development would have any impact on the key views. In terms of a broader consideration of setting, the use and density of the development would also not harm the setting of the conservation area.

5.5. **Economic Development:** Comment

This site, although a location for viable businesses (Sui Generis) in the past, is at a point where it would be available for redevelopment and due to its location would provide students with accommodation with easy access to the university campuses that straddle the Lewes Road and beyond.

No adverse comments to make from an economic development perspective as students occupying this accommodation and other student facilities on the area, will help boost the local economy with potential to generate additional jobs in existing businesses or enable new businesses to be launched.

No objection subject to securement of an Employment & Training Strategy via a legal agreement £8,800.

5.6. **Planning Policy:** Objection

No objection to the principle of Purpose Built Student Accommodation (PBSA) on the site, however City Plan Policy CP21 requires new purpose built student accommodation to have a formal agreement with one of the city's two universities or other existing educational establishment within Brighton & Hove. No information has been provided to demonstrate compliance with this part of the policy.

5.7. **Sustainable Transport:** Initial Comment - Objection

The applicant has not provided an analysis and survey of on-street parking that takes into account this development and other recent committed development in the locality.

The Highway Authority is therefore unable to support the application as the applicant has failed to assess the impact potential overspill car parking from this development would have on the local highway network

In addition the Highway Authority would want to see prior to development

- a swept path analysis of parking to ensure residents and visitors can enter and exit the site in a forward gear; and
- amendments to the vehicular gated entrance (if not appropriate as a condition)

If these issues are addressed, the Highway Authority would not object to the proposal subject to the inclusion of the necessary conditions securing a scheme of cycle parking, a new crossover, a student move in/move out plan and S106 agreement securing a contribution of £36,450, a Travel Plan and a CEMP.

Second Comment:

Parking survey

The applicant has requested that a parking survey conducted as part of an application for a nearby development (52 Hollingdean Road) is used for this application. It is noted that the survey was conducted 4 years ago and would not fully represent the impact of recent proposed/committed development and the recently implemented controlled parking zones in Hanover and Elm Grove; therefore a new survey is still required and to include:

A forecast of the likely car ownership to be associated with the proposed development using Census data

- An on-street parking survey in line with the Lambeth Parking Survey Methodology
- Consideration of the impact of proposed and committed development impacts
- Consideration given to the soon to be implemented controlled parking zones in Hanover and Elm Grove

S106 contribution

Following discussion with the Parking Team the suggestion by the applicant to contribute towards a CPZ scheme consultation in this area would not be deemed appropriate in the instance.

Other matters

The submitted details of the swept path analysis and amended vehicular gates (on drawing no 1646-P-014 C) are deemed acceptable.

Third Comment:

Following consideration of the information provided by the applicant, the LHA's concerns regarding overspill parking and the lack of analysis and surveys of on-street parking availability etc. remain, and therefore the original comments still stand.

Furthermore, since the comments were made, surrounding controlled parking zones have expanded/been introduced, meaning that the available uncontrolled parking spaces for residents in this area are likely to have decreased.

5.8. Sustainable Drainage: No objection

No objection subject to conditions securing a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods as per the recommendations within the Flood Risk Assessment.

5.9. Private Sector Housing: Comment

The access to the bedrooms in the cluster 'townhouses' is through the kitchens (a higher risk area in terms of means of escape in case of fire) and there is no alternative escape route from the inner bedrooms. Furthermore there are no details on cooking facilities within the studios.

5.10. County Archaeology: No objection

Do not believe that any significant below ground archaeological remains are likely to be affected by these proposals. No further recommendations to make in this instance.

External

5.11. Scotia Gas Networks: Comment

The developer should note that privately owned gas pipes or ones owned by other GTs may be present in this area and information regarding those pipes needs to be requested from the owners.

The developer is advised to undertake an assessment of services pipes and connections etc. within the site and surrounding area. Other standard recommendations and precautions have been advised which has been forwarded to the applicant.

5.12. UK Power Networks: No objection

No objections to the proposed works.

5.13. Sussex Police: Comment

Standard security measures are recommended and this advice has been provided to the applicant.

5.14. Southern Water: Comment

Should the Local Planning Authority be minded to approve the application, Southern Water recommends attaching a condition to the permission securing a drainage strategy detailing the proposed means of foul and surface water disposal and an implementation timetable.

The applicant should be advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator of the premises.

Where a SUDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SUDS scheme

- Specify a timetable for implementation
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

6. MATERIAL CONSIDERATIONS

- 6.1. 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
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove Local Plan 2005 (retained policies 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);
- 6.3. 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.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
DA3	Lewes Road Area
SA5	The South Downs
SA6	Sustainable Neighbourhoods
CP3	Employment land
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP16	Open space
CP17	Sports provision
CP18	Healthy city

CP21 Student housing and Housing in Multiple Occupation

Brighton and Hove Local Plan (retained policies March 2016):

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
TR19	Parking standards
SU3	Surface Water Drainage
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise nuisance
QD7	Crime prevention through environmental design
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD25	External lighting
QD27	Protection of amenity
HO13	Accessible housing and lifetime homes
SR8	Individual Shops
HE6	Development within or affecting the setting of conservation areas
HE10	Buildings of local interest
HE11	Historic parks and gardens
HE12	Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents:

SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPGBH15	Tall Buildings

8. CONSIDERATIONS & ASSESSMENT

8.1. The main considerations in the determination of this application relate to the principle of development, including the loss of the former car sales/repair unit, the student accommodation, the design, the impact on street scene and wider views, heritage assets, the standard of accommodation, the impact on neighbouring amenity, environmental health issues, transport, sustainability, landscaping, and ecology/biodiversity impacts.

8.2. Principle of Development:

The site as a whole lies within an identified development area (DA3). The Development Area (Lewes Road) has been identified as being suitable for student accommodation for attendees of the Universities. The principle of Purpose Built Student Accommodation (PBSU) is therefore acceptable in this area, subject to the considerations set out below.

8.3. The proposal includes the demolition of all buildings on the site, therefore the loss of these buildings/uses, which are subject to protective planning policies, must be considered.

8.4. Loss of the Existing Use:

The existing site contains three buildings including 47 Hollingdean Road; a two storey end of terrace property, 45 Hollingdean Road, a two storey hipped roof building and a single storey building with forecourt to the rear. The last known use of no. 47 was retail for the sale of ancillary parts which operated in conjunction with MOT servicing and repairs within no 45 Hollingdean Road to the rear.

8.5. The previous use is considered a specialist shop, and therefore it is not considered that the site would have contributed to or relied on its location close to the shopping centre or attract footfall and would have drawn custom from a wide area. The property has been vacant for some time and is relatively isolated in comparison to other local parades of retail uses. Policy SR8 seeks to retain individual shops. However, given the above, in this individual case, it is not considered that a marketing exercise would be required to demonstrate that it is likely to be economically unviable as required by policy SR8.

8.6. The single storey building to the rear is currently used for the sale and repairs of vehicles and was operational at the time of the site visit, with a number of vehicles for sale within the forecourt. Whilst the existing use does generate some employment, the use of the site is classed as 'sui generis' which is a category of employment use not specifically identified for protection within the retained Local Plan and City Plan Part One

8.7. Furthermore the vehicle repair unit is located adjacent to the rear gardens of a number of residential properties. The existing relationship results in an awkward mixture of uses, due to the number of vehicle movements, disturbance from the use of power tools and machinery in addition to the general comings and goings associated with the operation of the repair and sales centre. The cessation of such a use would likely improve the quality of life for neighbouring residents.

8.8. On this basis the loss of the existing use on the site is not resisted in principle.

8.9. The Proposed Use:

Policies DA3 and CP21 both envisage purpose built student accommodation coming forward along the Lewes Road corridor, primarily on identified sites but non-identified sites may also provide suitable locations for such accommodation in close proximity to University teaching accommodation.

8.10. Policy CP21 states that the provision of purpose built student accommodation (PBSA) will be encouraged to help meet the housing needs of the city's students and that proposals for new purpose built student accommodation will need to demonstrate that the following criteria have been addressed:

1. Proposals should demonstrate that there will be no unacceptable impact upon residential amenity in the surrounding area through issues such as increased noise and disturbance;
2. High density developments will be encouraged but only in locations where they are compatible with the existing townscape;

3. Sites should be located along sustainable transport corridors where accommodation is easily accessible to the university campuses or other educational establishments by walking, cycling and existing or proposed bus routes;
4. Proposals should demonstrate that they would not lead to an unacceptable increase in on-street parking in the surrounding area;
5. Proposals should be designed to be safe and secure for their occupants whilst respecting the character and permeability of the surrounding area;
6. Schemes should demonstrate that they have entered into a formal agreement with one of the city's two Universities or other existing educational establishments within Brighton and Hove. The council will seek appropriate controls to ensure that approved schemes are occupied solely as student accommodation and managed effectively;
7. Permanent purpose built student accommodation will not be supported on sites allocated for housing or with either an extant planning permission for residential development or sites identified as potential housing sites.

8.11. As set out in detail below, it is considered that the proposed development would have a significant impact on neighbouring amenity, due to the scale of the proposed development in relation to the neighbouring two storey residential properties. The high number of windows overlooking neighbouring gardens and the disturbance associated with the operation of such a site are key impacts.

8.12. The proposed development is high density in character which is acceptable in isolation, and there have been a number of other high density PBSA developments within the area. Given the back-land location however, set within close proximity to two storey dwellings, in addition to the overall plot coverage, it is considered that the proposal would not be suitable in this context and represents an overdevelopment of the site.

8.13. The site is located within close proximity to Lewes Road which is sustainable transport corridor.

8.14. Transport impacts are addressed in detail below. The supporting evidence states that students residing in the development would not be permitted to bring cars to the city. The Transport Officer has, however raised an objection as no analysis or survey has been submitted of on-street parking, taking into account both this development and other recent completed development within the vicinity. The application has therefore failed to demonstrate that the impact would have an acceptable increase in on-street parking within the vicinity.

8.15. The proposal has been designed to be safe and secure for its occupants. Whilst the site is not permeable, given the restricted nature with tall retaining walls and adjacent properties, it is not considered in practical terms that the site could be made permeable.

8.16. The applicants have not entered into a formal agreement with one of the city's two Universities or other existing educational establishments within Brighton and Hove. Although this formed a reason for refusal for one of the earlier applications on site, the requirement for a formal agreement is unlikely to be

complied with when an application is at planning stage, as the future of the site is still uncertain. Furthermore, educational providers may not be in a position to commit to take on PBSA which may not be completed and therefore may not become available for a considerable period. In a number of cases at other sites in the city where purpose built student accommodation has been approved in recent years a similar circumstance has occurred, it has not been possible to secure the formal agreement of an education establishment at planning application stage.

8.17. The proposed PBSA has received formal support from Kings College, a language School recently established on Ditchling Road and the developer has been in discussions with the University of Brighton.

8.18. Although the demand for the proposed student accommodation will only be clear at the point the development is available for occupation, it is considered likely that there will be demand for the development due to the current shortfall of such accommodation within the city.

8.19. Criteria 6 of Policy CP21 also sets out that the council will seek appropriate controls to ensure that approved PBSA is occupied solely as student accommodation and managed effectively. The applicant has engaged with an established student accommodation management company and has submitted a draft student management plan. Furthermore the applicant has confirmed that they are in agreement to the occupation / management of the student accommodation being restricted by planning legal agreement.

8.20. In relation to criteria 7, the site is not allocated for housing within the SHLAA. No. 47 Hollingdean Road does have an extant permission for the conversion to a single residential unit which is due to expire in June this year. The loss of this unimplemented permission alone would not warrant refusal of the proposed development.

8.21. Overall, the principle of student accommodation is not objected to on this site; however the scale and density of the proposed development is not considered commensurate with neighbouring dwellings and as a result would result in significant harm to neighbouring amenity, in particular, substandard living conditions and the potential for overspill parking. These matters are considered in more detail below.

8.22. Design and Appearance:

The site is located within an area of mixed character ranging from two storey terraced dwellings that are immediately adjacent to the site, to larger five storey flatted and commercial buildings further to the west on Hollingdean Road. The plot itself is unusual in character due to the range of different boundaries which, due to their nature, have created an irregularly shaped site. The rear of the site is bound by a tall concrete wall which forms the retaining wall for the service ramp for the Sainsbury's superstore on the Lewes Road Gyratory. The eastern boundary is formed by the vehicular ramp /deck to the Sainsbury's car park.

- 8.23. Although there is a range of local development forms and scales, including PBSA, which does allow scope for larger buildings within the vicinity, the application site itself is effectively a back-land site, located to the rear of a group of two storey terraced houses; 1-6 May Cottages and 41-47 Hollingdean Road. On this basis it is important that any development must be sensitively designed in order to reflect the back-land setting and to ensure that the buildings fronting onto Hollingdean Road retain primacy.
- 8.24. To the front of the site, the development proposes the demolition of no. 47 Hollingdean Road and the construction of a new building to accommodate the Reception Area for the use, in addition to several accommodation units. The proposed building would bridge the gap between the two terraces with an undercroft pedestrian / vehicle access gate below.
- 8.25. The built form would also extend upwards, increasing the eaves height in order to facilitate an additional storey with dormer windows to the front elevation and a full height, full width, flat roofed three storey projection to the rear. The majority of the plot would be covered, a single storey projection to the rear is also proposed. This element in isolation pays little respect to the terrace and the increased eaves height in addition to the dormer windows would appear at odds with the adjacent buildings. The projection to the rear is also considered unsympathetic in relation to the modest pitched roofs and rear extensions of adjacent properties.
- 8.26. The proposed main student accommodation building would be set in an 'L' shape offering a stepped design with two/three storey blocks to the front which rise up to four storeys and a main five storey section set to the south-eastern rear corner of the site, adjacent to the retaining walls and vehicular access ramps beyond. The building would be modular in form comprised by 6 blocks of differing materials, projections and heights. The proposal includes a mixed palette of materials to each section of the block, including a brick base, aluminium panelling with several sections of green walls.
- 8.27. The central section of the site would be clear with a forecourt containing a courtyard with cycle parking, a disabled access car parking space in addition to planted and seating areas. Several planters are proposed around the site and a further decked seating area is proposed to the south-eastern corner.
- 8.28. The varied design forms, finishes and step up in heights have been proposed in an attempt to break up the façade and reduce the visual dominance of the structure in relation to the adjacent buildings. Whilst it is acknowledged that the building would be of visual interest and the use of brick and green walls are supported, the scale of the building would still be significant in comparison to the adjacent buildings. The site lacks a street frontage and would be visible above the terraced properties when viewed from Hollingdean Road and from Popes Folly to the north, in addition to the longer views from the eastern end of Hollingdean Road.
- 8.29. The proposed building would also leave little external spacing between the development and the tall boundary treatments to the south, and the level of

separation from the adjacent dwellings is not considered sufficient to address the disparity in heights.

8.30. It is acknowledged that the design and character of the existing site does not contribute positively to the local area, and a modern redevelopment of the site is encouraged however the existing development on site is relatively low key and does not compete for primacy with the main street frontage. A scheme of the scale proposed in this application may be acceptable on other sites, especially if there is a clear street frontage and it is not set to the rear of established buildings which are significantly smaller in character and form. Given the points raised above, it is considered that the scale and form of development proposed fails to pay respect to the adjacent terrace and as a result is considered to be an overdevelopment of this back-land site. The over scaling of the development also manifests itself in other issues such as impact on neighbouring amenity and standard of accommodation, as set out in further detail below.

8.31. Impact on Amenity:

As identified above, the proposed building is of a significant scale in comparison to the existing buildings on the site, and therefore would have the potential for significant impact upon neighbouring amenity. A Daylight, Sunlight and Overshadowing Report has been submitted to demonstrate the likely impact of the proposed development in these regards, based on BRE guidance.

8.32. The closest neighbouring dwellings to the site are:

- The terrace directly to the north: 15 - 43 (odd) Hollingdean Road and 1-6 May Cottages Hollingdean Road
- A five storey block of flats to the west: Flats 1 - 24 Diamond Court
- Dwellings to the north of Hollingdean Road

8.33. There are a number of dwellings to the south on D'aubigny Road, however the distance from the application site and the relative levels is considered sufficient to avoid any significant impact to neighbouring amenity in this direction.

8.34. The Daylight, Sunlight and Overshadowing Report has not identified a harmful impact upon the block of flats to the west, Diamond Court, given their comparable scale and relative positions of the blocks.

8.35. The proposed development would be partially visible from the front elevation windows of the dwellings to the north of Hollingdean Road, however this relationship is considered acceptable.

8.36. Scale, Bulk and Overshadowing

The existing buildings on site comprise an end of terrace property in keeping with adjacent buildings, a two storey hipped roof building and a 1-2 storey commercial unit. The proposed development would involve the demolition of a new block of up to five storeys in height which would be set in close proximity to rear gardens and rear elevations of adjacent two storey dwellings.

- 8.37. The proposal is set between 2.5m and 7.3m away from the rear boundary of adjacent gardens and between 9m and 13m from adjacent rear elevation windows of the two storey properties. Given the height and bulk of the proposed building and the relative small separation distances, the overall scale of development would result in a significant overbearing impact on these two storey dwellings. Furthermore the eastern element of the block would be set directly on the rear boundary of the garden of nos. 41 and 43 Hollingdean Road. Although the proposed development has been stepped to help reduce the bulk, as opposed to a complete full height development, the fact remains that the tallest five storey elements would still be located within close proximity to the rear elevations of neighbouring dwellings.
- 8.38. In addition to impact of the physical form of the proposed development itself, the proposal would include 34 windows at first floor level and above facing towards neighbouring two storey buildings. The rear gardens of the adjacent properties to the north of the site are already partially overlooked from a five storey flatted development to the west but the current proposal will significantly worsen any overlooking as a number of the new windows proposed are within close proximity and have more direct views towards neighbouring properties. Several of which are less than 4m away from neighbouring boundaries and approximately 10m away from rear elevations. Whilst it is noted that a number of the views would be oblique due to the design of the block, many of the windows would have direct views from an elevated position towards neighbouring windows and rear gardens. The level of overlooking, both real and perceived is considered to result in a negative relationship and would exacerbate the issues associated with the bulk and scale, as identified above.
- 8.39. The sunlight/daylight report indicates that (of the properties tested) a total of 16 windows would fail the daylight assessment, all of which would be from the rear elevation of the terrace of properties directly to the north of the site. All of the windows to the northern elevation of nos. 41 and 43 would fail the daylight assessment test and two windows from each of 1/2, 3/4, and 5/6 May Cottages would fail the test.
- 8.40. With regards to the sunlight assessment, four windows would experience a noticeable reduction in the amount of sunlight received in both summer and winter months and a further three windows would see a noticeable reduction within winter months only. Again all of these windows which would be impacted are located within the terraced properties directly to the north of the site.
- 8.41. In relation to overshadowing of external amenity space, the assessment indicates that the rear gardens of 41/43 Hollingdean Road and 1-6 May Cottages already suffer from limited levels of direct sunlight. Whilst the existing/proposed levels of sunlight are not set out in detail within the submission, the submitted shadow path diagrams indicate that all of the gardens assessed to the north of the site would experience a noticeable loss of direct sunlight as a result of the proposed development.
- 8.42. It is acknowledged that the BRE tests provide only guidance and do not provide an indication of a level of impact which should amount to refusal of a planning

application; they do though, provide a useful reference when assessing developments such as this. In this case it is considered that there are a number of impacts to neighbouring amenity including, overlooking and an overbearing impact. The additional consistent failure of a number of the BRE tests for nos. 41/43 Hollingdean Road and 1-6 May Cottages in combination with the other issues raised above is considered to amount to an impact which would warrant refusal of planning permission. The objections raised above illustrate and reinforce the view that the scale of development proposed is too great for the constraints of the site.

8.43. Standard of Accommodation for Future Occupiers:

The proposed accommodation would be split into two distinct elements; including 72 studio rooms and 16 cluster rooms with shared facilities. The studio rooms range from 17m² to 22m². The main block would accommodate 63 of the studios and each would include individual cooking facilities in addition to access to a communal common room at ground and basement levels. A further 9 studio rooms would be set in the gatehouse section of the site, set over three floors. The cluster rooms would be set in 3 adjoining blocks within the western section of the building and would include 16 en-suite bedrooms set over the three upper levels with shared living rooms and kitchens at ground floor levels.

- 8.44. As identified above, the scale of the development proposed is considered too great for the constraints of the site. The overly scaled nature of the building is further exemplified by its close proximity to the retaining wall of the Sainsburys service ramp and the vehicle ramp to the Sainsburys car park which are at the rear and west of the application site. The service ramp rises from west to east and would be level with the top of the first floor/bottom of the second floor windows to the rear elevation. Due to the close proximity, a number of rooms at ground and first floor would have a single aspect outlook onto a high retaining wall set 3m away, which supports a service ramp beyond used by large commercial vehicles accessing the service yard for the adjacent superstore.
- 8.45. The communal living rooms for the cluster units would also be set between 1.2m and 2m away from the retaining wall to the south, and as a result would suffer from severely restricted outlook. The majority of the communal space within the main block would be located within the basement with the outlook confined to lower ground and ground floor windows facing towards the retaining wall.
- 8.46. Due to the scale of the footprint of the building, the site would also have minimal external space for the use of future occupiers. The amenity space would be confined to an undercroft seating area to the front of the building and the courtyard area; the majority of which would be overshadowed by the development itself. A raised deck area would be provided to the south west corner; however this would be for the sole use of only two of the proposed studio units.
- 8.47. The scheme has been amended from the original submission and the number of studios/bedrooms at ground floor level has been reduced. Furthermore the sizes of the windows to the rear and side elevations have been increased

significantly in order to maximise the amount of light each room would receive. However, the concerns regarding the restricted nature of the site and the proximity to the retaining wall, with minimal external amenity space would still remain and the amendments are not considered to address the concerns raised.

8.48. The submitted Sunlight and Daylight report gives an assessment of the studio rooms at ground floor level. BRE guidance recommends an Average Daylight Factor (ADF) of 5% for a well daylit space and 2% for a partly daylit space. The guidance advises minimum values of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. As a studio is effectively a combination of the three rooms above, a reasonable approach to take for student accommodation is considered to be 1.5%. Only the ground floor level studio rooms were tested and the results indicate that three of the 12 studio rooms would fall below 1.5% ADF.

8.49. On a scheme of 88 units, this shortfall in natural light levels is not particularly significant; however light levels only form one part of an assessment of overall standard of accommodation. The poor outlook would remain to several of the studio rooms and the communal space. As identified above, the majority of the courtyard area would also be overshadowed for the majority of the year. A number of the units within the upper levels would benefit from satisfactory levels of natural light and outlook however the overall standard of accommodation is not considered acceptable due to the constrained nature of the development and the close proximity to the adjacent retaining wall. Accordingly, the application is recommended for refusal on this basis.

8.50. Sustainable Transport:

The proposed development comprising a large number of student studios will generate a substantial number of trips to and from the site. A transport assessment has been submitted as part of the application submission which indicates that the greatest impact in the local highway network will be derived from pedestrian movements. The site is located close to the sustainable transport corridor of Lewes Road which includes ample opportunities for the use of public transport. Furthermore the site would include 84 cycle parking spaces for the use of residents.

8.51. The sustainable transport team have calculated that the development would require a sustainable transport contribution of £36,450. This has been agreed with the applicant and would be secured via a S.106 agreement in the event of an approval. The following measures would also be secured by condition/legal agreement in the event of an approval:

- A travel plan securing details to encourage future occupiers to use sustainable transport methods
- A Construction Environment Management Plan
- A full cycle parking scheme
- Implementation of a new crossover / reinstatement of the old crossover
- A student move in/move out management plan

8.52. The applicant has provided an example scheme detailing a move in/move out strategy detailing that students will be given allocated time slots and additional

staff will be available on site. There are concerns regarding how this would work given the constraints of the site and lack of on-site/local off-site parking, however further details could be secured by condition in the event of an approval.

8.53. The site includes one disabled parking space and does not include any other on-site parking. The site therefore has the potential to generate on street parking albeit the site is outside of a CPZ but within an area of high demand. It is also noted that nearby CPZs have recently been expanded and several recent completions of other PBSA development within the vicinity have further reduced the availability of on-street parking. The draft student management plan indicates that students will not be permitted to bring vehicles to the site or to park locally, however in reality this would be difficult to enforce by the Local Planning Authority. On this basis the sustainable transport team have raised concerns that the proposed development still has the potential to generate on-street parking and therefore consider that a survey and analysis of street parking is required in order to ascertain the level of parking that the development would generate, and whether the local area could accommodate the additional demand created.

8.54. As no analysis or survey has been produced, the application has failed to demonstrate that the proposed development would not result in an impact on the local highway network in terms of parking generated. On this basis the application fails to address the requirements of policies CP9, TR7 and SPD14 guidance. Whilst it is acknowledged that further information could have been sought in order to address/mitigate this issue, the other objections to the proposal would remain. It was therefore not considered reasonable to put the applicant to additional cost, given these other outstanding fundamental issues.

8.55. Sustainability:

In regard to sustainability measures, the scheme incorporates strategies including the use of sustainable materials, efficient thermal building fabric, a heating strategy based on Gas CHP onsite heating provided through a communal system, with energy plant that will have capacity for connection to a heat network; MVHR; and efficient thermal building fabric. In addition the scheme proposes approaches to increase biodiversity, green walls and green roofs. Sustainable drainage systems are also proposed.

8.56. Overall subject to securing a BREEAM rating of 'Excellent' for the proposed development, it is considered that the proposed development adequately addresses policy CP8.

8.57. It is a requirement of policies SU9 and DA3 that developments within the AQMA must where practicable help to alleviate existing air quality problems and deliver improvements wherever possible. A number of measures could be secured to encourage use of sustainable transport modes including cycle storage for all occupants, restricted routes of construction traffic and electromotive charging points. Furthermore it is considered that the proposed development is likely to generate less operational traffic than the existing land use. In addition, areas of planting are proposed to terrace areas, flats roofs and walls. On this basis, it is

considered that proposed development would appropriately address policies SU9 and DA3.

8.58. In regard to drainage, a Flood Risk Assessment, Surface Water Strategy and SUDS Assessment has been submitted. The Flood Risk Management Officer has raised no objections to the proposal subject to full details of the proposed drainage strategy and systems be secured by planning conditions.

8.59. Other Matters:

The applicant has agreed to provide a number of financial contributions in accordance with City Plan policy CP7 and the developer contribution technical guidance as set out below:

- Construction Training and Employment Safety
- Travel Plan
- Contribution to Artistic Component.
- Submission of a Student Management Plan.
- Sustainable Transport Contribution
- Open Space Contributions

8.60. An informative is recommended reminding the applicant that this would be secured in the event permission was recommended.

9. CONCLUSION

9.1. The proposed development would provide 88 student studios/cluster rooms which represent a substantial contribution towards the need for purpose built student housing in the city. The site is in a good location within the city for such developments; being in close proximity to University teaching accommodation and on the sustainable transport corridor of Lewes Road.

9.2. Whilst student accommodation on site is not objected to in principle, the current proposal is considered overly scaled and would fail to address the constraints of the site. As a result, the development creates a number of knock on effects including: impact on local dwellings from overlooking/overshadowing; a poor standard of accommodation for a number of the units due to restricted outlook and a failure to demonstrate that a scheme of this size would not adversely impact on the local highway network.

9.3. It is acknowledged that there would be a number of benefits associated with the proposal, including the provision of PBSA in an area allocated for such development, however the benefits are not considered to outweigh the harm associated with the proposed overdevelopment of the site. Accordingly, refusal of the application is recommended.

10. EQUALITIES

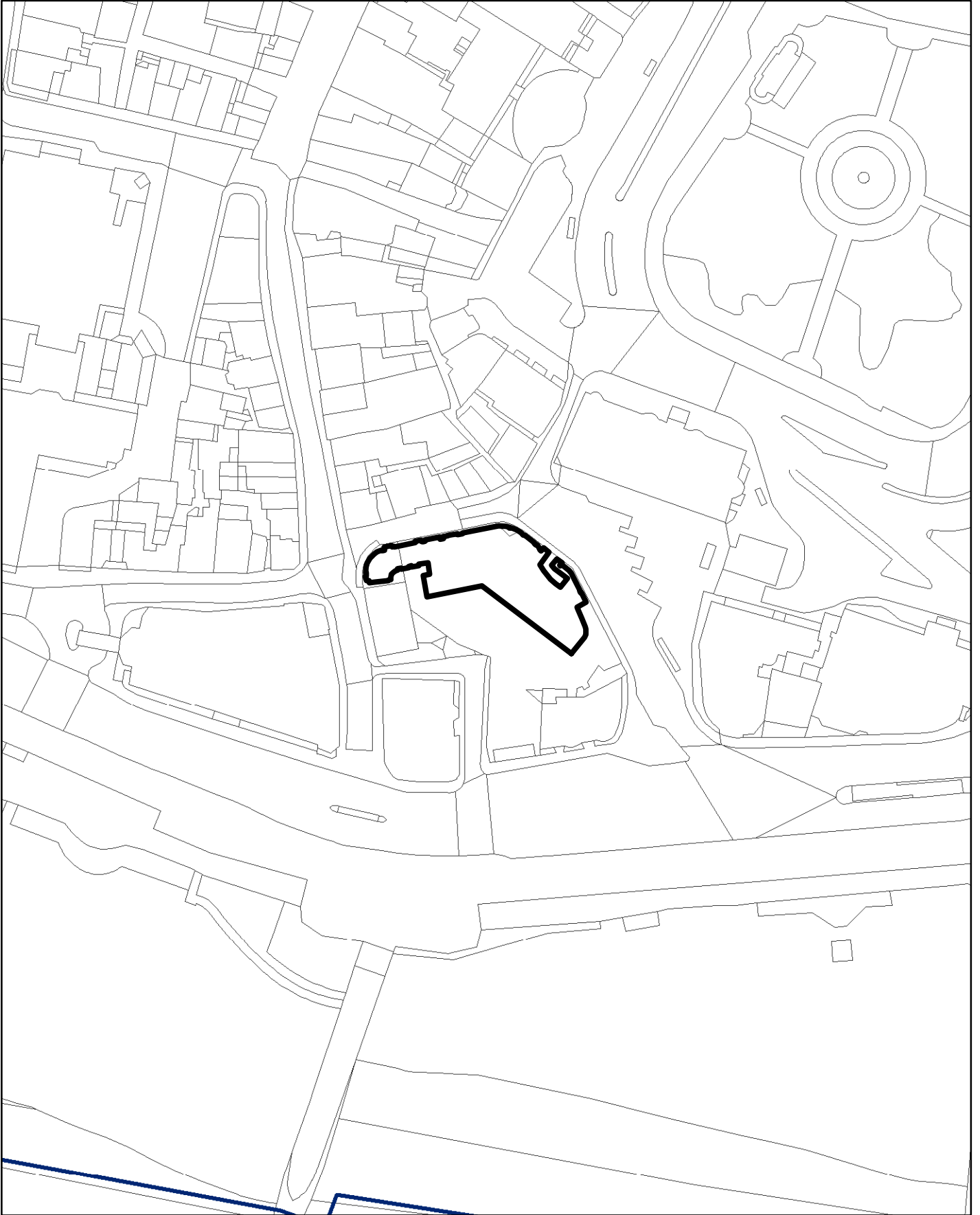
10.1. Five of the proposed studio units would be wheelchair accessible, equating to 5.7% of the overall student units.

ITEM F

**Unit 1, 75 - 79 East Street
BH2018/03932
Full Planning**

DATE OF COMMITTEE: 20 March 2019

BH2018/03932 - Unit 1, 75 - 79 East Street



Scale: 1:1,250

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<u>No:</u>	BH2018/03932	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Unit 1 75 - 79 East Street Brighton BN1 1NF		
<u>Proposal:</u>	Change of use from restaurant (A3) to public house/dancing/entertainment/live music venue (Sui Generis).		
<u>Officer:</u>	Luke Austin, tel: 294495	<u>Valid Date:</u>	15.01.2019
<u>Con Area:</u>		<u>Expiry Date:</u>	16.04.2019
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	HGH Consulting	HGH Consulting	45 Welbeck Street London W1G 8DZ
<u>Applicant:</u>	Falconland (Palace) Ltd	C/O HGH Consulting	45 Welbeck Street London W1G 8DZ

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:

S106 Heads of Terms

- An agreement securing that the Casino use at Unit 4, The Savoy Centre, 10 Pool Valley, as proposed under application BH20
- 18/01926 shall not commence until the live music venue/nightclub/public house at Unit 1, 75 – 70 East Street is fit out and made available for use in addition to an agreement securing that the live music venue/nightclub/public house at Unit 1, 75 – 70 East Street, as proposed under application BH2018/03932 shall not commence until the existing live music venue/nightclub at Unit 4, The Savoy Centre, 10 Pool Valley has ceased to operate.
- A Sustainable Transport Contribution of £3664 to be put towards the implementation of a cycle parking scheme within Pool Valley or other public streets within the vicinity of the site.

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Location and block plan	1427-A.005		24 December 2018
Proposed Drawing	A.003	REV 2	15 January 2019

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. No customers shall occupy the public house element of development hereby approved outside the hours of 12:00 to 01:00 the following day and no customers shall occupy the live music venue/nightclub element of the development hereby approved outside of the hours of 19:30 to 04:00 the following day.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
4. Noise associated with any 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 BS 4142:2014. 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 SU10 and QD27 of the Brighton & Hove Local Plan.
5. Prior to the commencement of the use hereby permitted a full assessment of music noise breakout shall be undertaken. The methodology and assessment criteria used shall be agreed in advance with the Local Planning Authority. The results of the assessment shall inform a Noise Management Plan, including where appropriate physical measures e.g. noise insulation, administrative actions e.g. operating times and management steps e.g. restrictions on the levels of amplified sound played within the premises. This shall be done to ensure that amplified sound emitted from the premises does not cause any increase in the typical LAeq, 5 minute or LAeq, 5 minute in the 1/3 octave bands between 31.5Hz and 125Hz 1 metre from the façade of any residential or noise sensitive premises in the vicinity. The Noise Management Plan is to be approved by the local planning authority in writing before the premises is used as hereby permitted, and the measures, actions and steps in the plan shall be implemented and kept in place whilst the permitted use continues, unless agreed otherwise in writing by the local planning authority.
Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
6. The development hereby permitted shall not be occupied until a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries servicing and refuse collection will take place and the frequency of those vehicle movements has been submitted to and approved in writing by the Local Planning Authority. All deliveries servicing and refuse collection 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 policies SU10, QD27 and TR7 of the Brighton & Hove Local Plan.

7. Prior to first occupation of the development hereby approved a Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This should include details relating to site management, behaviour and conduct of future customers, and details of waste/refuse management.

Reason: To safeguard the amenities of occupiers of the adjoining properties, to ensure parking provisions are effectively managed and to comply with SU10 and QD27 of the Brighton and Hove Local Plan, Policy CP9 of the Brighton and Hove City Plan Part One and SPD14.

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 should be aware that whilst the requisite planning permission may be granted, this does not preclude the Environmental Protection department from carrying out an investigation in line with the provisions Environmental Protection Act 1990, should any complaints be received with regards to noise from the premises.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site relates to a commercial unit fronting onto the junction of East Street and Pool Valley. The site forms a unit located within the western rear section of a substantial mixed use building, formerly known as the ABC Cinema. The building includes a number of frontages, with the main entrance set on Grand Junction Road. There are also a number of entrances fronting onto East Street and Pool Valley.
- 2.2. The building was formerly used as a cinema and was granted permission for the conversion into a number of smaller commercial units in September 2000 including; 4 restaurants / bars, offices and a 3 bedroom flat. Since that time the use of the building has evolved and the site now contains 6 units comprising; a casino (Unit 0), a vacant restaurant (Unit 1), a nightclub (Unit 2), a vacant bar / restaurant (Unit 3), a live music venue / nightclub (Unit 4) and a gentlemen's club (Unit 5).
- 2.3. This application relates to Unit 1 (known as 75 - 79 East Street), which was formerly Days Restaurant and is currently vacant. The application seeks permission for the conversion of Unit 1 into a mixed use venue, including a bar / pub to the north-west corner and a live music venue / performance space / nightclub to the rear section of the site fronting onto Pool Valley. This application is closely linked with another application, **BH2018/01926**, for the

conversion of Unit 4 from a live music venue to a casino. The venue proposed within this application is a proposed relocation site of the existing venue at Unit 4.

3. RELEVANT HISTORY

75 - 79 East Street:

- 3.1. **BH2004/02163/CL** - Certificate of Lawfulness of proposed use as a nightclub within class D2. Approved 27.07.2004.
- 3.2. **BH2003/03939/FP** - Variation of condition 4 of planning permission dated 4th September 2000 (reference BH1999/01370/FP) relating to opening and closing times of A3 units. (Re-submission of withdrawn application BH2001/01838/FP. Approved 02.03.2004.
- 3.3. **BH2003/00215/FP** - Change of use from offices class B1 to gentlemans club class D2. Refused 12.03.2003.
- 3.4. **BH2002/01755/FP** - Installation of new entrance doors - Retrospective. Approved 16.08.2002.
- 3.5. **BH2001/02283/FP** - Installation of new shop front to pool valley/east street entrance (former entrance to cinema). Approved 11.12.2001.
- 3.6. **BH2000/03131/FP** - External alterations to Pool Valley, Brill Lane and Grand Junction Road elevations. Approved 13.07.2001.
- 3.7. **BH1999/02190/CL** - Certificate of Lawfulness to establish the use of the property within Use Class D2 (Assembly and Leisure). Approved 09.11.1999.
- 3.8. **BH1999/01370/FP** - Change of use of part cinema (Class D2) and existing pub (Class A3) to form 4 x restaurant/bars (Class A3), offices and 1 x 3 bedroom flat. Approved
- 3.9. **BH1998/01946/FP** - Use of former cinema and pub as club and two public houses (involving partial change of use of cinema to public house), together with ancillary staff accommodation and off street servicing and minor external alterations. Refused 15.01.1999.

Unit 4:

- 3.10. **BH2018/01926** - Change of use of ground floor and mezzanine above from nightclub (Sui Generis) to casino (Sui Generis). Under Consideration
- 3.11. **BH2017/04226** - Change of use of ground floor and mezzanine above from nightclub (Sui Generis) to casino (Sui Generis). Refused 18.05.2018

4. REPRESENTATIONS

- 4.1. **One (1)** letter has been received, objecting to the proposed development for the following reasons:
- A public house would not be in keeping
 - Would add risk to vandalism
 - Existing ant-social behaviour
 - Already a number of drinking establishments in the area
- 4.2. **Councillor Phillips** objects to the proposed development. A copy of the objection is attached.

5. CONSULTATIONS

Internal:

- 5.1. **Ecology:** No objection
The proposed development is unlikely to have any impacts on biodiversity, therefore no comments to make.
- 5.2. **Environmental Health:** No objection
No objection subject to conditions securing soundproofing to the building and maximum noise levels from plant and machinery. Further controls with regards to queuing and issues such as customers smoking outside the premises can be secured via the licensing regime.
- 5.3. **Heritage:** No Comment
No external alterations are proposed.
- 5.4. **Planning Policy:** Comment
It is recognised that this application is seeking to address the concerns raised with another application BH2018/01962 and provide a venue for an existing live music business/ nightclub to relocate to. It is also recognised that this provides an opportunity to provide a better designed and configured venue. It is understood that rather than linked applications the relocation of the existing business will be secured through s106 Agreement.

The public floorspace area of c.105 sq m - which has been confirmed by the applicant - is below the threshold trigger in Policy SR12 of the retained Brighton & Hove Local Plan 2005. The hours of operation of the public house should be clarified with the application and conditioned and the comments of Sussex Police should be sought as to whether the proposed closing time is appropriate given the number of other public houses in close proximity.

In consideration of Policy SR13 Nightclubs of the retained Brighton & Hove Local Plan 2005, it is recognised that the application is proposing a multi-purpose venue with enhanced space for live music performances/ other performances as well as the venue also operating as a nightclub. The applicant has clarified that the floorspace venue proposed is 260 sq. metres compared with the current premise - Unit 4 having a public floorspace area c.181 sq m. Whilst there is an increase in the public floorspace of c.80 sq m and therefore increased capacity the proposal does not create a new nightclub/ live music

venue in that the existing, established business The Haunt is proposed to be relocated from Unit 4 to Unit 1 and this is to be secured through s106 legal agreement. The concern of the policy is to avoid concentrations of similar venues in close proximity and staggering closing time to avoid peak densities and 'flashpoints' of disorder.

Subject to the comments of Sussex Police it is considered that that on balance the requirement of Policy SR13a that the nightclub should not be within 400 m of another nightclub need not apply. Criteria SR13 b-e do apply and will need to be considered by the case officer. However it is considered that the principle of the change of use would not be contrary to policy.

Conditions will be required regarding the hours of operation, management strategy and the floor areas specified for each element of proposed uses.

5.5. **Sustainable Transport:** Initial Comment

This development - which includes amongst other things a 500 capacity venue - will generate substantial movement. National Planning Policy Framework para 111 requires applications for all such development to be supported by a Transport Statement or Transport Assessment. However, no such document has been included in the submission. This must be provided so that the applications can be assessed.

Second Comment

The comments below were provided following the submission of a Transport Statement:

- The site is considered to be in a good city centre location in terms of access to different transport options and the wider transport network
- the TS does not consider the implications of the proposal, or any net change, on minimum disabled driver/blue badge holder car parking and cycle parking provision, as specified within SPD14 for A4 and D2 land uses.
- the TS suggests (para 4.6) that all deliveries to Unit 1 will continue to be via East Street. Given the relocation of The Haunt to Unit 1, and the servicing needs of a music venue (timing, frequency, volume, weight etc) therefore being significantly different to that of a restaurant, it is recommended that a Servicing/Delivery Plan be secured in order to clarify how and when each unit will be serviced to ensure that appropriate provision/capacity is available to do so safely. In particular, this will need to take account of East Street being closed to vehicular traffic on Sat. and Sun. 11am -7pm
- the TS refers to 430 covers and 450 covers when calculating an estimated existing trip rate - which figure and which calculation is correct?
- it is not clear why the extension to the casino is not expected to generate more trips (para 5.18), but it would be expected that the impacts of any additional trips by patrons would be unlikely to affect busy/peak times for vehicular and people movement

- the TS makes no reference to person access into the building, and the planning application plan of the proposed layout is unclear in terms of explaining/separating access to unit 1 and the entrance to the venue
- the increased capacity (almost double the number of people) of the venue will generate greater congregation of people at its proposed Pool Valley entrance, and therefore some form of crowd management/queuing arrangement proposals within Pool Valley will be required to avoid people standing in the carriageway (Pool Valley is not a pedestrianised street as stated in para 3.4) in order to address potential personal/road safety issues for attendees, and enable continued use of the footway by pedestrians/wheelchair users.

Whilst accepting that the proposal is unlikely to increase overall trip generation and therefore would not have a significant impact on the city's transport network or its operation at busy times, further information is needed, or commitments sought to secure appropriate conditions/obligations to address identified shortfalls, before we could provide a clear and firm indication of the acceptability of the proposal in transport terms, especially with regard to safety and adequate provision of transport infrastructure or appropriate alternatives.

Third Comment

The comments below were provided following the submission of an additional Technical Note to the Transport Statement in order to address the concerns raised above.

The draft management plan provides sufficient confidence that crowd/audience management will be in place when required, in terms of public safety on the highway at full capacity events.

The addendum advises that the enlarged and relocated music venue will be serviced from double yellow lines in Pool Valley. The submission of swept path analysis is welcomed and provides sufficient confidence that vehicles could be accommodated.

The casino extension clarification is noted.

In terms of the council's parking standards as set out in SPD14, the comparative table that has been submitted is welcomed, although it would have been expected that the applicant should have initially assessed the music venue based on a D2 use (music hall).

- Disabled driver parking - the applicant's interpretation of the SPD guidance is noted and therefore it is expected that any customer visiting either of the new uses will utilise existing dedicated parking provision for blue badge holders, or park on double yellow lines for up to three hours, within the vicinity of the site.
- Motorcycle parking - the applicant's interpretation of the SPD guidance is noted and therefore it is expected that any customer visiting either of the new uses will utilise existing dedicated parking provision within the vicinity of the site, most likely being the Old Steine or Grand Junction Road (the A259).

- Cycle parking - assessment of the proposed D2 use of almost 900 people (equivalent to seats) indicates that a minimum of 30 spaces should be provided rather than 6. Taking account of the net change in capacity from 450 people of the music venue, it would be appropriate to seek to secure 15 cycle spaces within the vicinity of the site via an appropriate mechanism, and that these should be located within Pool Valley.

External:

5.6. Sussex Police: Comment

Sussex Police have recommended a number of security measures in order to design out crime within the proposed development including safety specifications for windows and doors. Alarms and appropriate CCTV are also recommended.

Concerns are raised regarding the possible entrance of the unit on East Street, given the close proximity to another licensed venue and residential flats. It is recommended that the Pool Valley entrance is used for entrance and exit of large volumes of people.

The applicants are advised to take note of the Brighton & Hove City Council Statement of Licensing Policy in relation to licensed premises in the Cumulative Impact Area, and to consult directly with Police Licensing at Sussex Police before making plans for licensed premises serving alcohol or conducting other licensable activities at this location.

5.7. County Archaeology: No objection

Although this application is situated within an Archaeological Notification Area, based on the information supplied, it is unlikely 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.

5.8. Scotia Gas Networks: Comment

The developer is advised that there is a low/medium/intermediate pressure gas main near the site. There should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system. The developer should, where required confirm the position using hand dug trial holes.

5.9. UK Power Networks: Comment

The developer is advised to take note of the enclosed a fact sheet which contains important information regarding the use of our plans and working around UK power equipment.

6. MATERIAL CONSIDERATIONS

- 6.1. 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

6.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies 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);

6.3. 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.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP4	Retail provision
CP5	Culture and tourism
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP15	Heritage
CP18	Healthy city

Brighton and Hove Local Plan (retained policies March 2016):

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD27	Protection of amenity
SR4	Regional shopping centre
SR12	Large Use Class A3 (food and drink) venues and Use Class A4 pubs and clubs)
SR13	SR13 Nightclubs
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD14	Parking Standards
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8. CONSIDERATIONS & ASSESSMENT

8.1. The main considerations in the determination of this application relate to the principle of development, the loss of the existing use, the proposed use, the

impact of the proposed use on neighbouring occupiers and the sustainable transport impacts.

8.2. **Principle of Development :**

The application has been submitted alongside another application (BH2018/01926) for the conversion of an existing nightclub/music venue to a casino at Unit 4 within the wider site. Application BH2018/01926 is a resubmission of an earlier application (BH2017/04226) for the same conversion which was refused for the following reason:

The proposed development would result in the loss of a use including a live music venue. City Plan Part One Policy CP5 resists the loss of arts and performance venues including live music venues unless certain tests are met. The application has not addressed these tests and the proposed development would harm the City's culture and tourism offer, contrary to Policy CP5. The limited merits of the proposal to enlarge an existing casino do not outweigh the harm and the application is therefore refused.

8.3. In order to overcome this reason for refusal, the current application has been submitted alongside the application for the casino in Unit 4. This application therefore seeks permission for the conversion of Unit 1 from a vacant restaurant to a mixed use public house/live music venue/nightclub, in order to relocate, and improve whilst doing so, the existing venue at Unit 4. It is proposed that the two applications are to be linked together via a S.106 agreement in order to secure that the casino use cannot commence until the music venue is ready for occupation, provided the new venue is acceptable in all other respects. Conversely, it is also required that the existing use in unit 4 does not continue in the event this permission is implemented. This is to prevent a concentration of similar uses in the immediate surroundings.

8.4. Loss of the existing use:

The last use of the application site (unit 1) as a restaurant does not benefit from policy protection. On this basis there is no objection to the loss of the current A3 use on site.

8.5. The proposed use:

The proposed development will comprise a mixed use including a public house to the section fronting onto East Street and a live music/entertainment/nightclub venue within the rear section. As detailed above, the proposed use is a relocation of another similar business operating in Unit 4 within the same building, known as The Haunt.

8.6. The draft management plan indicates that the public house element will open at midday and will close at 1:00am. On theatre and performance nights, the venue element will open at 19:30 and will close at 22:00. On club nights the venue will open at 23:00 and close at 04:00, which matches the hours of operation at the current use at Unit 4.

8.7. The public house will use the entrance on East Street and is proposed to be used as an informal pub environment with no live music performance. The draft

management plan indicates that while patrons of the music venue may well use the pub, there will be no direct access between the two. Patrons visiting the music venue would access the site via the entrance on Pool Valley. The venue is envisaged to be a multipurpose venue capable of seating c500 seated people and up to c900 standing. The submission indicates that theatre and performance nights will take place 3-4 times a week, in accordance with the frequency of events at the existing venue (The Haunt) at Unit 4. The nightclub element would usually operate on four regular nights a week (Mondays, Thursdays, Fridays and Saturdays) with up to 10 additional nights each year for particular events.

- 8.8. Local Plan policy SR12 seeks to avoid a high concentration of large drinking establishments within close proximity to one another, and stipulates that any new pubs and bars with a public floor area in excess of 150m² will not be permitted if they are within 400m of another establishment falling into the same category. Policy SR12 applies to the public house element of the proposal as it can be considered that the public house element operates separately to the rear live performance venue. With a public floorspace area of c.105m² however the requirements of policy SR12 would not be triggered in this instance.
- 8.9. Local Plan policy SR13 relates to nightclub uses and, similarly to policy SR12, seeks to avoid concentrations of large premises' within the city, in order to avoid anti-social behaviour and associated disturbance to neighbouring occupiers. Although the sole use of the venue would not be as a nightclub, it would encompass a number of similar qualities, due to the numbers of people coming and going. Club nights would also be held there on a regular basis. It is therefore considered that policy SR12 should be applied in this instance. SR12 states that new nightclub uses / extension to existing nightclubs with a public floor area of above 150m² will not be permitted if they trigger one of following criteria:
- it would be located within 400m of another venue falling into the same category;
 - it would not operate within, or directly abutting, a building containing residential accommodation;
 - it would not result in additional noise impact or public nuisance to neighbouring occupiers;
 - it would be in close proximity to late night transport options.
- 8.10. The proposed venue would contain 260m² of public floor space, however it should be noted that the proposed site would be a relocation of on an existing premises nearby which current contains c181m². Whilst there is an increase in the public floor space of c.80m², and therefore represents increased capacity, the proposal does not create a new nightclub/live music venue as the existing, established business is proposed to be relocated from Unit 4 to Unit 1. It is therefore considered that on balance the requirement of Policy SR13a that the nightclub should not be within 400 m of another nightclub should not apply in this instance. In order to avoid the potential scenario of two large venues operating within close proximity to one another, a S.106 agreement is proposed

in order to ensure that the new venue use in unit 1 cannot commence until the use in unit 4 has ceased operation.

- 8.11. With regards to the remaining criteria of SR14, the unit would not operate within a building, or directly abut a building, containing residential accommodation. With regards to potential noise and disturbance, the venue has the potential to generate significant levels of noise and associated disturbance due to the nature of the use proposed. An initial acoustic assessment, in addition to a draft management plan have been submitted which set out a number of methods of how noise and disturbance will be managed. On this basis, as set out on further detail below, it is considered that the proposed use can be accommodated on site whilst avoiding significant harm to neighbouring amenity.
- 8.12. The application site is in a central location, within close proximity to several taxi ranks and bus services which operate at late hours.
- 8.13. In favour of the proposed use, City Plan policy CP5 seeks to maintain and enhance the cultural offer within the city and will support the roles of arts and creative industries with high quality facilities for events and experiences. As identified above, the proposed use is a relocation of an existing business at Unit 4 within the building. The adjacent unit (The Haunt) is currently operating as a live music venue and is a well renowned venue within the city catering for a number of acts/performances each year. The venue and facilitates a number of performances, several of which are associated with festivals hosted within the city. The loss of such a use would be contrary to policy CP5, as established within the refusal of the previous planning application (**BH2017/04226**). This application would secure the continued operation of a live music within the city centre whilst improving the facilities on offer.
- 8.14. Given the points set out above and subject to the securing of the necessary measures via condition and by a legal agreement, the proposed development is considered acceptable in principle.

8.15. Design and Appearance:

No external alterations are proposed as part of the conversion.

8.16. Impact on Amenity:

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

- 8.17. The application site is located at the junction of East Street and Pool Valley within an area including several pubs/bars/nightclubs and several vacant units which have been previously been occupied by similar uses. The night-time economy forms part of the character of the area and therefore the same level of amenity cannot be expected as would be found in a predominately residential area.

- 8.18. There are a number of residential dwellings within the vicinity, including flats on; Pool Valley, East Street, Brills Lane and adjacent to the Pool Valley Coach Station. Nos. 2-9 Pool Valley comprises a terrace of properties to the north of site with commercial uses at ground floor levels and several flats within the upper levels. To the south of the site is Clarendon Mansions, a five storey residential block with an A4 use at ground floor level. Pool Valley includes an open area occupied by the coach station and parking with several residential blocks to the north and east including 42A Old Steine and Lace House. There is also the Royal Albion Hotel to the east and the YHA Hostel to the north-east.
- 8.19. Due to the nature of the proposed use, and the close proximity to residential dwellings set out above, the proposed development must be carefully managed in order to avoid noise disturbance and public nuisance to neighbouring occupiers. The existing venue at unit 4 has received one complaint from noise breakout within in 2015 as the fire escape doors were left open. No other complaints have been received relating to music breakout within the last five years.
- 8.20. The application has been submitted with an initial noise assessment. The document makes reference to the following concerns regarding noise:
- Noise breakout (from music within the venue)
 - Noise from plant, machinery and ventilation equipment
 - Noise from customers queuing outside.
- 8.21. With regards to breakout of noise, the report acknowledges that noise levels within the venue are likely to be high and will generate significant levels of bass, which has the potential to cause the most disturbances to neighbouring dwellings. The report indicates that satisfactory noise levels should be achievable due to the substantial structure of the building, with thick masonry and no direct openings. This approach is considered acceptable by the Environmental Health team, subject to the inclusion of an appropriately worded condition securing a noise management plan and maximum noise levels.
- 8.22. Similarly, it is considered that the noise emitted from plant and machinery can be adequately controlled through the use of a condition securing maximum noise levels.
- 8.23. In relation to noise from queuing customers and potential noise from designated smoking areas, the draft management plan indicates that customers would queue for the music venue within the internal corridor / staircase accessed from Pool Valley. The draft management plan indicates that there is potential for overspill onto Pool Valley on busier nights, however it is acknowledged that this would be an improvement to the existing situation a Unit 4, where all queuing is external. A number of security measures would also be implemented including CCTV cameras and staff with direct access to the Police, should an incident occur requiring assistance.

- 8.24. The pub element would not have any external queuing as customers would be free to enter and exit without restrictions. Furthermore there would be no live music performances within the pub element.
- 8.25. The Environmental Health team have identified that there have been several complaints relating to noise from customers using the designated smoking area outside of the existing venue. These complaints have all been made from guests at the Royal Albion Hotel which includes windows overlooking the existing venue. The proposed use would include a fenced off external smoking area on Pool Valley which would be beneficial given the location of where current complaints have been received from, however it is acknowledged that this may simply displace the issue. The Environmental Health team have raised no objection to this approach and have advised that the licence for the current venue at unit 4 includes restrictions on the maximum number of customers permitted to smoke outside. It has been advised that a similar approach will be secured via the licencing for the proposed venue.
- 8.26. On theatre and performance nights, the venue is proposed to be open between the hours of 19:30 and 22:00. On club nights the venue will be open between 23:00 and 04:00. These opening hours closely match those of the existing venue at Unit 4 and are therefore considered acceptable and shall be secured by condition. The pub element is proposed to be open between the hours of 12:00 and 01:00 which is comparable to other similar venues within the vicinity. These opening hours are considered acceptable and shall be secured by condition, subject to final comments by Sussex Police.
- 8.27. It is acknowledged that there will be a level of disturbance associated with the venue which is unavoidable given the nature of proposed development; however such a level of activity is to be expected within a central location such as this. Furthermore, the proposed use is a re-location of another nearby venue, meaning in terms of numbers of units, there is no net gain of uses of this character within the area. Although the proposed venue would have a larger capacity, a considerable proportion of the activity associated with the use would be offset by the closure of the current venue. The new venue also gives the opportunity for further control and stricter measures to be secured by condition and licensing. Finally, it should be noted that whilst planning permission may be granted, this does not preclude the Environmental Health team from carrying out an investigation in the future, should any complaints be received with regards to noise from the premises.
- 8.28. On the basis of the points raised above, it is considered that the proposed development would not result in significant harm to neighbouring amenity, subject to the inclusion of the necessary measures to be secured by condition.
- 8.29. Sustainable Transport:**
City Plan Policy CP9 seeks to reduce reliance on private car usage through the promotion of sustainable transport measures. The proposed development is likely to generate a substantial amount of movement through the associated comings and goings of customers to and from the site.

- 8.30. The application includes a supporting Transport Assessment (TA) which assesses the likely impact of the proposed use on the local highway and transport network.
- 8.31. In terms of access, no parking is provided on site however the building is located in the city centre within walking distance of a number of local transport options including bus stops, public car parks, taxi ranks and the Brighton Railway Station. The site is also located within a Controlled Parking Zone (CPZ) meaning that the proposed development will not result in a high proportion of on street parking within the vicinity. The site is therefore accessible via a range of sustainable transport options.
- 8.32. The proposal includes stepped access via a corridor with multiple corners and therefore does not provide a route for potential customers with restricted access. Whilst this arrangement is not ideal, and it would be preferable for access to be provided for all users, it is noted that the proposed application is making use of an existing building with restricted access.
- 8.33. In terms of trip generation, the TA indicates that the combination of the existing uses including the venue at unit 1 and the restaurant at the application site generate a total number of person trips of 3824 per day, whilst the proposed uses would generate a total of 2,286, thus resulting in a reduction of 1538 trips.
- 8.34. The TS Technical note also includes a calculation of the minimum requirement for cycle, motorcycle and disabled parking spaces required for the proposed use. The Technical note applies the existing use vs the proposed use in order to compare the level of each type of parking would be required in order to establish whether there would be any net gain. The calculations provided indicate that there would be no net gain in the requirement for cycle or motorcycle parking spaces and that there would be a decrease of the requirement of cycle parking spaces by 3.
- 8.35. The TS Technical note however applies an A4 use across the entire site whereas the live music venue would be more akin to a D2 use for the basis of SPD14. Using this approach the level of disabled parking and motorcycle parking required would be the same; however the level cycle parking required would increase from 6 to 15 based on a net gain of c450 customer to the music venue in addition to staff. On this basis a contribution for the implementation of cycle parking within Pool Valley shall be secured via a legal agreement.
- 8.36. The submission details that the food and drink deliveries for the existing venue take place in Pool Valley using the western stub of the road where no loading restrictions are in place. It is proposed that this same arrangement would be retained for deliveries, serving and loading/unloading for performers within the proposed use. A swept path analysis has been provided indicating that vehicles can appropriately manoeuvre in this area without restricting the movements of the adjacent coach station. The measures are detailed are considered acceptable.

8.37. Given the points raised above; it is considered that the proposed development is considered acceptable in terms of sustainable transport, subject to inclusion of the necessary conditions and securement of the appropriate contribution via a legal agreement.

9. CONCLUSION:

9.1. The proposed development would facilitate the retention of a live music venue within the city centre whilst improving the standard of facilities and increasing the capacity available. The proposed development is acceptable in transport and s106 requirements are recommended to secure a scheme of cycle parking within the vicinity of the site.

9.2. There is likely to be an increased level of disturbance associated with the proposed use in comparison to the existing restaurant use, however when taking the closure and relocation of the existing venue in unit 4 into account the level of additional harm is considered acceptable, subject to the inclusion of necessary conditions securing sound proofing.

9.3. Overall, it is considered that the scheme would deliver substantial benefits and planning permission is recommended subject to the conditions and s106 requirements.

10. EQUALITIES

10.1. As identified above, the proposed venue does not include a level access; however the applicant would be required to make reasonable adjustments in order allow for disabled access in accordance with the Equalities Act 2010.

Cllr. Alexandra Phillips

BH2018/03932 - Unit 1, 75 - 79 East Street

05/02/2019

Both Tom and I would like to object to the planning application BH2018/03932 Unit 1 75-79 East Street and therefore would like it called into Planning a Committee. Please let us know when it is called so that one of us can make a representation at the committee.

As ward councillors we feel that the Cumulative Impact Zone is being compromised by piecemeal planning and licensing applications. This is leading to the breach of planning objectives. This includes more noise, more anti social behaviour and more police required at the southern end of East Street, all affecting residents' quality of life immensely.

With Days turning into a pub, right next door to the East Street Tap and opposite Pitcher and Piano, there will be a greater increase in noise and disturbance in such a small area due to late night licenses.

ITEM G

**Unit 4, The Savoy Centre
BH2018/01926
Full Planning**

DATE OF COMMITTEE: 20 March 2019

BH2018/01926 - Unit 4, The Savoy Centre



Scale: 1:1,250

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<u>No:</u>	BH2018/01926	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Unit 4 The Savoy Centre 10 Pool Valley Brighton BN1 1NJ		
<u>Proposal:</u>	Change of use of ground floor and mezzanine above from nightclub (Sui Generis) to casino (Sui Generis).		
<u>Officer:</u>	Luke Austin, tel: 294495	<u>Valid Date:</u>	13.06.2018
<u>Con Area:</u>		<u>Expiry Date:</u>	08.08.2018
<u>Listed Building Grade:</u>		<u>EOT:</u>	
Agent:	Barton Willmore Road Cambridge CB4 1WB	Barton Willmore St Andrews House	St Andrews House St Andrews
Applicant:	Grosvenor Casinos Limited Cambridge CB 1WB	C/o Barton Willmore	St Andrew House

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:

S106 Heads of Terms

- An agreement securing that the Casino use at Unit 4, The Savoy Centre, 10 Pool Valley, as proposed under application BH2018/01926 shall not commence until the live music venue/nightclub/public house at Unit 1, 75 – 70 East Street is fit out and made available for use in addition to an agreement securing that the live music venue/nightclub/public house at Unit 1, 75 – 70 East Street, as proposed under application BH2018/03932 shall not commence until the existing live music venue/nightclub at Unit 4, The Savoy Centre, 10 Pool Valley has ceased to operate.

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Location and block plan	001 A		13 June 2018
Floor Plans Proposed	101 D		13 June 2018

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.

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. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site relates to a two storey unit located within the Savoy Centre to the west of Pool Valley and the North of Grand Junction Road. The site is currently used as a night/club music venue and is located adjacent to the Grosvenor Casino. The Savoy centre includes a number of commercial units. The unit in question is known as Unit 4. The interior of the site is set over two levels with a stage and bar area and is accessed from Pool Valley. The site falls within the Old Town Conservation Area on the border with the Valley Gardens Conservation Area. There is a Grade II Listed Building adjacent to the site.
- 2.2. The application seeks consent for the change of use of the venue from a nightclub to a casino in order to facilitate and extension to the adjacent casino. This would involve the creation of a ground floor link through the two sites in addition to internal cosmetic changes. No external alterations are proposed.
- 2.3. The supporting documents indicate that the existing occupier of the venue is to be relocated from Unit 4 to an adjacent unit (Unit 3) within the building; however this application does not seek permission for such a conversion. This application seeks permission for the conversion of Unit 4 only. Since the submission of the original application however, the developer has submitted a second application for the conversion of Unit 1 within the building from a restaurant to a live music venue/entertainment venue/nightclub. It is the intension of the developer that the use operating with the site is in question within this application is to be relocated to Unit 1 and shall be secured as such via a S106 agreement.

3. RELEVANT HISTORY

Unit 4, 10 Pool Valley

- 3.1. **BH2017/04226** - Change of use of ground floor and mezzanine above from nightclub (Sui Generis) to casino (Sui Generis). Refused 18.05.2018 for the following reason:

The proposed development would result in the loss of a use including a live music venue. City Plan Part One Policy CP5 resists the loss of arts and performance venues including live music venues unless certain tests are met. The application has not addressed these tests and the proposed development would harm the City's culture and tourism offer, contrary to Policy CP5. The limited merits of the proposal to enlarge an existing casino do not outweigh the harm and the application is therefore refused.

- 3.2. **BH2007/00253** - Variation of condition 4 of planning approval BH1999/01370/FP for 10 Pool Valley only to extend business closing hours from 0200 hrs to 0430 hrs. Approved 15.03.2007.

Unit 1, 75 - 79 East Street

- 3.3. **BH2018/03932** - Change of use from restaurant (A3) to public house/dancing/entertainment/live music venue (Sui Generis). Under Consideration.

4. REPRESENTATIONS

- 4.1. **Two (2)** letters have been received, objecting to the proposed development for the following reasons:

- The existing venue plays a vital part of the local music industry
- There are no suitable replacement venues within the city
- How will the operations of the business be protected from residential complaints?
- Without the Haunt there would be little on offer between grass-root venues and other larger venues within the city

- 4.2. A further letter has been received with **Sixteen (16)** signatures, objecting to the proposed development for the following reasons:

- The proposed move will have a detrimental effect on the Haunt and the Wider community of Brighton & Hove.
- The proposed venue is not a suitable space for live music
- The relocation will be exceptionally costly and risky
- The new venue is close to noise sensitive properties
- The existing venue is paramount to the survival of the live music industry in Brighton
- No true 'net gain' of a music venue
- The relocated venue would ultimately fail and lead to a loss of the venue
- The existing venue is unique
- The venue is a vital cog in preserving the viability of all music venues within the city
- The proposed development fails to accord with Policy CP5

- 4.3. **Councillor Miller** objects to the proposed development. A copy of the objection letter is attached.

5. CONSULTATIONS

- 5.1. **Sustainable Transport:** No objection

The change of use is unlikely to result in additional impact on the surrounding highway and transport network.

- 5.2. **Sussex Police:** Comment

Consideration should be given to any potential internal CCTV within the new part of the premises including covering the Pool Valley access doors and also the fire doors leading into Brills Lane, ensuring that the lighting is commensurate with the CCTV equipment.

Any fire doors should be devoid of external door furniture and be fitted with an alarm with remote access to enable staff to be alerted that the door has been opened. Warning signage should be displayed close to the doors regarding any penalty for misuse.

The applicant and their partners are strongly advised to take note of the Brighton & Hove City Council Statement of Licensing Policy in relation to licensed premises in the Cumulative Impact Area, and to consult directly with Police Licensing at Sussex Police before making plans for changes to licensed premises serving alcohol or conducting other licensable activities at this site.

5.3. **Planning Policy: Initial Comment - Objection**

Policy CP5 Culture and Tourism seeks at part 4) to protect the city's existing cultural infrastructure in order to maintain the potential for a wide variety of arts and cultural uses in the city.

The policy protects existing venues for their existing use or potential for such use. The tests need to be met in order for a change of use proposal to be permitted.

With respect to criteria CP5.4a) the applicant suggests in paragraph 5.6 of the Planning Statement that there are other live music venues available in the in city giving a large choice for residents and tourists however it is considered that live venue numbers have increased in recent years.

With respect to criterion CP5.4.b it is understood that the site is operational with live music events and club nights scheduled for the foreseeable future and therefore cannot be considered to be no longer viable.

It is acknowledged that the applicant intends to relocate the existing venue to another unit within the building, however there is no linked planning application to provide sufficient certainty that the existing nightclub and live music venue will be adequately and appropriately replaced through relocation within the Savoy Centre Estate and therefore it is considered on the basis of the information provided the proposal would be contrary to Policy CP5 Culture and Tourism.

Second Comment:

A concurrent application (BH2018/03932) has been submitted for a change of use of Unit 1 within the building from restaurant (A3) to public house/dancing/entertainment/ live music venue. It is proposed that the two applications are to be linked by way of a Section 106 agreement to ensure there would be no loss of a live music venue.

This mechanism would allow for the relocation of the existing venue and is not objected to, provided the proposed venue is acceptable in all other respects.

6. MATERIAL CONSIDERATIONS

- 6.1. 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
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove Local Plan 2005 (retained policies 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);
- 6.3. 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.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP2	Sustainable economic development
CP3	Employment land
CP5	Culture and tourism
CP8	Sustainable buildings
CP9	Sustainable transport
CP15	Heritage
CP18	Healthy city

Brighton & Hove Local Plan (retained policies March 2016):

TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD27	Protection of amenity
HE1	Listed buildings
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD14	Parking Standards
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8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principal of the conversion, the loss of the music venue and the associated impacts of the proposed casino on the sustainable transport network and neighbouring amenity.

Principle of Development:

8.2. The Proposed Use:

The application site is forms a part (Unit 4) of a building known as The Savoy Centre which houses a number of commercial units. One of the larger units within the site is currently occupied by the Grosvenor Casino.

- 8.3. Permission is sought for the conversion of part of the building from a nightclub / music venue to a casino in order to facilitate an extension to the adjacent casino. The existing use of the site is an established local music venue which caters for a range of artistic events including gigs, performances and club nights to generate additional income.
- 8.4. The existing site is adjacent to the Grosvenor Casino located within Unit 0. The application seeks permission for the extension of the casino into Unit 4 in order to facilitate additional space within the casino to cater for addition electric area and poker room. The works would involve the removal of an internal wall and staircase at ground floor level in order to create a link through. No external alterations are proposed and the existing entrance on Grand Junction road will be retained. The licence for the existing venue is operational for 24hrs a day, and it is proposed that the extension will fall under this same regime.
- 8.5. The proposed casino extension would operate as part of the established use within the adjacent site and the level of impact is likely to be relatively low key given the nature of the use. The planning statement give a detailed explanation of operating conditions and codes of practice in order to promote responsible gambling and to prevent crime and disorder. The proposed casino is therefore considered acceptable, subject to the considerations set out below.
- 8.6. Loss of the Existing Use:
Brighton & Hove City Plan Part One Policy CP5 - Culture and Tourism, seeks to enhance the cultural offer of the city by creating modern and exciting visitor destinations whilst retaining the existing stock of arts and performance venues. CP5 section 4 states that:
- 8.7. 'Existing arts and performance venues including; museums, art galleries, cinemas, live music venues, theatres and exhibition space will be protected and enhanced to maintain the city's cultural infrastructure. Proposals for change of use would need to demonstrate:
- a) availability of adequate provision elsewhere in the city; and

- b) that the existing use was no longer viable or could no longer be sustained on a long-term basis; or
- c) that change of use was the only practicable means of preserving a listed building.'

8.8. The policy protects existing venues for their existing use or potential for such use. The tests need to be met in order for a change of use proposal to be permitted. The purpose of protecting existing venues is in recognition of the role existing arts and performance venues play in the cultural infrastructure of the city and the local economy; the recognition that the often purpose built buildings/ premises are well-suited to that use and are in appropriate locations but that such venues can be under commercial and regulatory pressures.

8.9. The Brighton & Hove Live Music Venue Partnership Report published in March 2018 highlights the importance of the live music scene to the local economy and notes that there has been a trend of declining numbers of live music venues in Brighton Hove. It is understood that venues of the size of the Haunt are important for local bands/ musicians as they provide an important stepping stone to larger sized venues in the city.

8.10. The current application follows a previous application for the same conversion which was refused for the following reason:

The proposed development would result in the loss of a use including a live music venue. City Plan Part One Policy CP5 resists the loss of arts and performance venues including live music venues unless certain tests are met. The application has not addressed these tests and the proposed development would harm the City's culture and tourism offer, contrary to Policy CP5. The limited merits of the proposal to enlarge an existing casino do not outweigh the harm and the application is therefore refused.

8.11. The application was originally submitted with a statement which made the case that there would be no net loss of a music venue as a result of the proposed conversion, as the current occupier is to be relocated within another vacant unit (Unit 3) within the Savoy Centre. At the time however, this evidence alone was not considered sufficient as there was no mechanism in place in order to ensure that music venue would be relocated, and it was not considered that the proposed relocation site was a comparable offer to the existing venue at Unit 4. Furthermore there was no planning permission in place for the relocation site.

8.12. The application has progressed significantly since the position set out above, and a subsequent application (BH2018/03932) has been submitted for the conversion of another site within the building at 75-79 East Street (Unit 1) to be converted to a live music venue/nightclub which is currently under consideration. The proposed relocation site has a larger capacity of c.900 people and will be an improvement in comparison to the existing use in terms of the facility on offer. The additional space allows scope to create an improved stage with better site lines for the audience and allows equipment to be moved in and out of the venue more freely.

8.13. The approach of relocating the music venue is considered acceptable in order to overcome the policy objection associated with the loss of the existing premises and it is acknowledged that there would be several benefits associated with the move in terms of operation and management of the facility. On this basis, the acceptability of this application is subject to the implementation of the music venue proposed under the concurrent application.

8.14. The applicant has agreed to commit to a legal agreement in order to ensure that the proposed Casino use shall not commence until the proposed live music venue/nightclub is fit out and made available for use. The use of such a mechanism is considered appropriate and would ensure the implementation of the music venue through this development. The legal agreement will also ensure that the current venue must cease to operate before the proposed use commences in order to avoid the possible scenario of two venues of this type operating simultaneously within close proximity to each other.

8.15. The loss of the existing music venue is therefore considered acceptable on the basis that the use is to be relocated to an improved venue within close proximity to the application site.

8.16. Design and Appearance:

No external alterations are proposed. It is not considered that the proposed development would impact on the conservation area or adjacent grade II Listed Building.

8.17. Impact on Amenity:

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

8.18. The site is located within a central area with a number of late night premises nearby including the application site itself. The proposed use would retain the existing unit in order to use the space to extend the adjacent casino. It is proposed that the casino would be open 24hrs in accordance with the existing casino. Whilst the proposed use would be open for longer hours than the existing use, it would likely reduce the impact to neighbouring residents in terms of noise associated with the existing from amplified music and queuing / exiting customers which would be concentrated around specific times. Furthermore customers would enter and exit the site via the existing casino entrance on Grand Junction Road, rather than the entrance to the application site. No objections are raised in terms of impact to neighbouring amenity in this regard.

8.19. Sustainable Transport:

There is not expected to be a substantial difference deliveries and servicing or the number of trips generated to and from the site as a result of the proposed conversion as the proposed use is an extension to an existing casino. Accordingly no objections are raised on sustainable transport grounds. The concurrent application (**BH2018/03932**) for the new venue within Unit 1 has

been submitted with a detailed Transport Assessment which indicates that the trip generation associated with the new venue would be less than that associated with the existing use at Unit 1.

8.20. Sustainability:

City Plan policy CP8 seeks all development to include sustainability measures in all development including conversions and changes of use. CP8 states that all non-major development (236m² - 1000m²) should achieve a BREEAM rating of 'Very Good'. As the building relates to an existing building which has been in situ for some time, it would be unreasonable to secure these standards within this permission.

9. CONCLUSION

- 9.1. The loss of an established venue is regrettable, however as identified above it is proposed that the existing operator is to be relocated to another unit within the building and is to be secured via a legal agreement. It is also recognized that there would be a number of benefits associated with the proposed relocation site including an improvement of the facility on offer and improved management / operation of the site. The proposed extension of the Casino is acceptable in terms of neighbouring amenity and the impact on the local highway network would also be less than the existing use. The proposed development is therefore recommended for approval, subject to the appropriate conditions and legal agreement set out in the report.

10. EQUALITIES

None identified

COUNCILLOR REPRESENTATION

Cllr. Joe Miller

BH2018/01926 - Unit 4, The Savoy Centre

12/10/2018:

I wish to object to the above application. I appreciate I am out of time to call the matter to committee.

However, having chaired the Live Music Policy Panel in the City which has resulted in the creation of the Live Music Partnership and Live Music Roundtable: I wholly object to the loss of this music venue in the city. There are very few of this sized unit in our city: as such this space provides a crucial space for stepladdering audience sizes for budding artists. Equally it is in a wholly appropriate location for such a use, away from any significant number of residential dwellings. Losing a venue in this location could increase demand for a new venue to establish itself in a less suitable location, which could see it's closure due to enforcement action. Hence the net loss of 1 venue for the city.

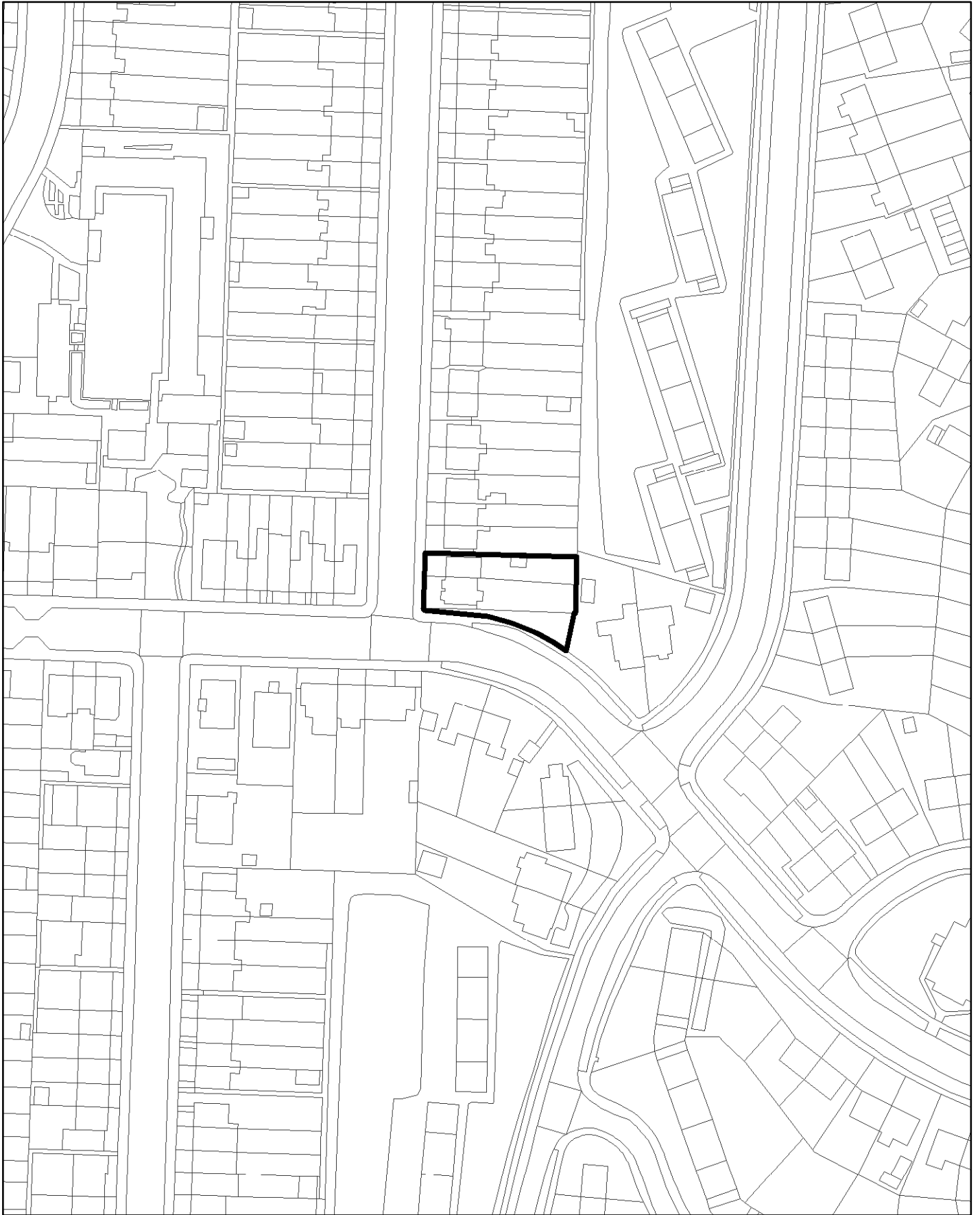
This application is contrary to policy CP5: and does not meet any of the exceptions in my view. here will be a net loss of 1 venue as a result of the application submitted. It can not be mitigated by a suggestion of another venue opening which may not come to fruition, be commercially viable or sustainable in the long term in that location. The venue as is has a strong track record of providing a culture service to the city for some time without any major impacts. Please do not put this at risk. The casino building is large enough to expand and has never been on my occasional entry into it, more than twenty percent full. I hope you consider my comments fully in determining the application and the LPA decides to refuse the application.

ITEM H

**2 And 2A Barnett Road
BH2017/02857
Full Planning**

DATE OF COMMITTEE: 20 July 2019

BH2017/02857 - 2 And 2A Barnett Road



Scale: 1:1,250

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<u>No:</u>	BH2017/02857	<u>Ward:</u>	Hollingdean And Stanmer Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	2 And 2A Barnett Road Brighton BN1 7GH		
<u>Proposal:</u>	Demolition of existing dwellings and erection of three storey building comprising of 6no flats with associated landscaping.		
<u>Officer:</u>	Joanne Doyle, tel: 292198	<u>Valid Date:</u>	25.08.2017
<u>Con Area:</u>		<u>Expiry Date:</u>	20.10.2017
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Mr Emilio Savvides Care Of Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		

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.

Plan Type	Reference	Version	Date Received
Location and block plan	01	B	24 April 2018
Site Layout Plan	09	B	24 April 2018
Floor Plans Proposed	10	H	24 April 2018
Floor Plans Proposed	11	H	24 April 2018
Floor Plans Proposed	12	G	24 April 2018
Streetscene elevation proposed	13	F	24 April 2018
Streetscene elevation proposed	14	F	24 April 2018
Elevations Proposed	15	G	24 April 2018
Elevations Proposed	16	G	24 April 2018
Sections Proposed	17	H	24 April 2018
Sections Proposed	18	H	24 April 2018
Report/Statement	(Daylight Sunlight Overshadowing)	2	21 May 2018

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. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.
4. None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using 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.
5. The window in the first floor window on the north side elevation toward the eastern end of the development hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan and policy CP12 of the Brighton & Hove City Plan Part One.
6. Notwithstanding the approved plans, 1.8m high obscure glazed privacy screens shall be installed to all elevations of the first floor rear balcony hereby approved. The screening shall be erected prior to first use of the balcony hereby approved and maintained as such thereafter.
Reason: To safeguard the amenities of the occupiers of the adjacent properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan and policy CP12 of the Brighton & Hove City Plan Part One.
7. Access to the flat roofs other than the balconies hereby approved 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 QD14 and QD27 of the Brighton & Hove Local Plan policy CP12 of the Brighton & Hove City Plan Part One.
8. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

9. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples and details of 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:
- a) samples of all brick, render and roof material
 - b) details of fenestration
 - c) samples of all hard surfacing materials
 - d) samples 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 CP12 of the Brighton & Hove City Plan Part One..

10. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

11. No development shall commence until full details of existing and proposed ground levels (referenced as Ordinance 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 policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

12. 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 type, position, design, dimensions and materials and any sustainable drainage system used;
- b) a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;

- c) details of all boundary treatments to include type, position, design, dimensions and materials;

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

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

13. Prior to first occupation of the development hereby permitted, dropped kerbs and tactile paving shall have been installed across Barnett Road at its junction with The Crossway.

Reason: To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7 and TR8 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12, CP13 and CP15 of the Brighton & Hove City Plan Part One.

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. 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 TR14 of the Brighton & Hove Local Plan.

15. Prior to the first occupation of the development hereby permitted the applicant shall reinstate the redundant vehicle crossover on Barnett Road back to a footway by raising the existing kerb and footway.

Reason: In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

16. Prior to first occupation of the development hereby permitted, a scheme of Travel Plan measures to promote sustainable transport to and from the site and evidence of these measures shall have been submitted to and been approved in writing by the Local Planning Authority. The Scheme should include, but not be limited to, the following measures:

- 2 year car club membership;
- 3 month bus season ticket for Brighton & Hove buses
- 1 no welcome pack including information on local walking, cycling and public transport routes, bus times and ticketing information.

Reason: To ensure the development maintains a sustainable transport strategy and to comply with policies CP9 of the Brighton & Hove City Plan Part One and TR4 and TR14 of the Brighton & Hove Local Plan.

17. Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall have been submitted to and approved in

writing by the Local Planning Authority. The scheme shall be carried out in full as approved 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 policy QD27 of the Brighton & Hove Local Plan.

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. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site relates to 2no attached dwellinghouses, no's 2 and no.2a Barnett Road, located on a corner plot at the junction of Barnett Road and The Crossway. No. 2 Barnett Road is a two storey property with roof accommodation; no. 2a Barnett Road forms part of the conversion of the attached garage of no.2.
- 2.2. The area is residential in character consisting of a mix of built form; with predominately terraced and semi-detached houses and some detached and mid-rise apartment blocks.
- 2.3. Planning permission is sought for demolition of the existing dwellings and erection of a three/two storey building comprising of 6no flats with associated landscaping. The building would accommodate a 1no three bedroom maisonette over three levels; 2no two bedroom flats at ground floor level; 1no two bedroom flat and a 1no one bedroom flat at first floor level and 1no two bedroom flat and a 1no one bedroom flat at second floor level.
- 2.4. During the course of the application the design of the scheme has been amended and an updated daylight/sunlight report has been submitted.

3. RELEVANT HISTORY

- 3.1. 71/119- Extension to existing dwelling. Approved 25.05.1971.
- 3.2. 87/2256F- Retention of extension 2a Barnett Road approved under ref BN71/1119 without complying with condition 3, which required the accommodation to be used only in connection with the existing dwelling at 2 Barnett Road.

4. REPRESENTATIONS

- 4.1. **Fourteen (14)** letters of representation have been received objecting to the proposal for the following reasons:
- Overdevelopment
 - Overlooking
 - Loss of light
 - Object to balconies
 - Traffic and parking issues
 - Design out of character
 - Building too large and dominating
 - No disabled access
 - Loss of view
 - Noise from building works
 - Refuse issues
 - Disruption from intensive use
 - Intrusive development
 - Loss of pre-war architecture
 - The proposed roof would be out of keeping with the locality
 - Concentration of HMO's
 - Too close to boundary
 - Poor design

5. CONSULTATIONS

- 5.1. **Sustainable Transport:** No objection
No objection subject to recommended conditions.
- 5.2. **Environmental Health:** No objection
No objection subject to recommended condition.
- 5.3. **Arboriculture:** Verbal 20.02.2019- No objection
No objection subject to recommended condition.

6. MATERIAL CONSIDERATIONS

- 6.1. 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
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);

- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3. 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.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP14	Housing density
CP16	Open space
CP19	Housing mix

Brighton & Hove Local Plan (retained policies March 2016):

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD14	Extensions and alterations
QD15	Landscape design
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD14	Parking Standards

8. CONSIDERATIONS & ASSESSMENT

8.1. The main considerations in the determination of this application relate to the principle of the development, the design and appearance of the building and wider streetscene, the effect on the amenity of neighbouring residential occupiers, the standard of proposed accommodation, and transport and sustainability issues.

- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). The figures presented in the SHLAA reflect the results of the Government's 2018 Housing Delivery Test which was published in February 2019. The Housing Delivery Test shows that housing delivery in Brighton & Hove over the past three years (2015-2018) has totalled only 77% of the City Plan annualised housing target. Since housing delivery has been below 85%, the NPPF requires that a 20% buffer is applied to the five year housing supply figures. This results in a five year housing shortfall of 576 net dwellings (4.5 years supply). In this situation, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 8.4. Policy CP20 of the Brighton and Hove City Plan Part One requires the provision of affordable housing on all sites of 5 or more dwellings. The existing property relates to 2no attached dwellinghouses, no's 2 and no.2a Barnett Road, with no.2a forming part of a conversion of the attached garage of no.2 Barnett Road. Council Tax records detail the property as being in use as 2 separate units, dating back to July 1993. The property has therefore been in use as two units for more than 10 years and is considered lawful in planning terms. The scheme would provide a net increase of 4 residential units and the provision of affordable housing would not be required.
- 8.5. Principle of development:**
The application site is in existing use as 2no attached dwellinghouses, the immediate area surrounding the application site is residential in character and the neighbouring properties are all residential. Therefore, a residential use would appear acceptable in principle given the character of the surrounding land uses but it will be the details of the scheme and the relationship with the surrounding properties which will determine the acceptability of the application.
- 8.6. Design and Appearance:**
Policy CP12 of the Brighton & Hove City Plan seeks to ensure that all new development raises the standard of architecture and design in the City. In tandem with this, Policy CP14 of the City seeks to encourage a higher density of development than those typically found in the locality provided developments will, amongst other things, respect, reinforce or repair the character of a neighbourhood and contribute positively to its sense of place.
- 8.7. Barnett Road, The Crossway and surrounding area are characterised by modest two storey properties, generally small scale, consisting of two storey terraces, detached and semi-detached properties with some mid-rise apartment blocks namely to the east of the site. The existing property relates to 2no

attached dwellinghouses, no's 2 and no.2a Barnett Road, located on a corner plot at the junction of Barnett Road and The Crossway.

- 8.8. No. 2 Barnett Road is a two storey property with roof accommodation; no. 2a Barnett Road forms part of the conversion of the attached garage of no.2. The gradient of land slopes up sharply to the north and east. The building line of the properties on The Crossway is staggered, with the height of the properties reflecting changing ground levels along the road. The building line of the properties on Barnett Road are fairly consistent with the height of the terraces generally stepping down to reflect the gradient of land. The application property is not uniform in appearance to the adjacent or surrounding properties and with the height of the building significantly higher than the terraces of Barnett Road to the north.
- 8.9. This application seeks a redevelopment of the site to facilitate the demolition of the existing building and the erection of an apartment block totalling three storeys to the front with a two storey element to the rear. The proposed building would comprise two pitched roofs to the front section with two gable projections to the front and a barn hipped roof to the rear section. The building would feature two front bay projections, side dormer windows, rooflights, balconies to the front and rear and full height Juliet balconies to the side elevation fronting the street. The building would be constructed in red brick with render panels, a red clay tile roof and aluminium fenestration.
- 8.10. The existing building on the site, sits as a stand-alone detached building, sited at the end of a row of terraces, on a prominent corner plot location. The building is fairly dominant within its surroundings with a high pitched roof, two storey side extension and the south side elevation presenting a long expanse to The Crossway. The proposed building would be a dominant addition, however the design and detailing of the building would allow the building to sit appropriately in conjunction within its surroundings. The ridge height would be higher than the terraces of Barnett Road to the north and lower than no.1 Stephens Road to the east, whereby the building line staggers down the slope of The Crestway due to the changing ground levels. The building height would step down to two storeys at the rear fronting The Crestway which would allow the building to sit appropriately within the sloping site. It is therefore felt that the height of the building respects the general appearance of the Barnett Road and The Crestway streetscene and its topography.
- 8.11. The design and appearance of the building would exhibit an array of detailing with a rhythm to the placement of fenestration. Following amendments, the building would exhibit a number of features prevalent within the streetscene, with front bay projections and front gables and with compatible contemporary elements such as the full height Juliet balcony windows to the side elevations and the balconies within the front gables. The roof form would fit with the variety of roof forms within the street and the palette of materials would fit with the mix of materials within the area. The design, scale, footprint and building line of the new building would sit appropriately within its surroundings, where there is a variety of built form, heights, orientation and building lines given the differing land levels within the area.

8.12. Overall it is considered that the proposed building design would not harm the visual amenities of the Barnett Road or The Crossway streetscene, in compliance with Policy CP12 of the Brighton and Hove City Plan Part One.

8.13. Impact on Amenity:

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health. This policy accords with paragraph 17 of the NPPF which establishes as a key principle the need to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

8.14. No. 1 Stephens Road to the rear (east) of the site would be located approximately 12.8m away from the development and therefore there would be no impact in terms of overshadowing, loss of outlook or loss of privacy.

8.15. The main concern is with regard the impact of the development on the adjoining property to the north no. 4 Barnett Road. This property features first floor rear windows serving bedrooms, a ground floor rear window and door serving a kitchen and a ground floor door serving a lounge/dining room. A first floor window on the south side elevation serves a hallway.

8.16. As part of the application a Daylight, Sunlight and Overshadowing Report has been submitted which assesses the impact of the proposal on no. 4 Barnett Road.

8.17. Impacts on sunlight/daylighting to neighbouring development have been considered by the applicant in line with best practice, contained within the (BRE) guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice' (2011).

8.18. An extract from the BRE guide states; "The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly, since natural lighting is only one of many factors in site layout design."

8.19. The submitted assessment is based upon the recommended levels outlined within the BRE Guide with regards to habitable rooms. The Vertical Sky Component (VSC), Annual Probable Sunlight Hours (APSA) and Overshadowing have been assessed.

8.20. When assessing the impact of a new development on existing buildings the guidance suggests that if with a new development, an existing window has a VSC greater than 27% it should still receive sufficient skylight. If the VSC is reduced below 27% and less than 0.8 times its former value, then the occupants are likely to notice the loss of skylight.

- 8.21. The report identifies that the available daylight to all rear (east) windows compared to the existing arrangement would barely change and with none of the windows achieving less than 27% VSC. The BRE impact criteria for the Vertical Sky Component has been met.
- 8.22. The BRE guidance summarises that a dwelling shall appear reasonably sunlit if the centre of a main living room window can receive 25% of annual probable sunlight hours, including at least 5% of annual probable sunlight hours in winter months between 21st September and 21st March.
- 8.23. The report identifies that that the main window to be assessed for the Annual Probable Sunlight Hours is the living room. The ground floor rear window located to the northern side serves an open planned lounge/dining room as the internal wall has been knocked through. The results show that the this room would receive more than 25% APSH and more than 5% in winter months. The BRE impact criteria for the Annual Probable Sunlight Hours has been met.
- 8.24. The impact of the proposed development on existing surrounding gardens is assessed against the BRE Guidance and states that the sunlight to a garden will be adversely affected if both of the following criteria are infringed upon:
1. The area of garden that can receive 2 or more hours of direct sunlight on 21st March is reduced to below 50% of the total area.
 2. The total area of the garden that can receive 2 or more hours of direct sunlight on 21st March is reduced by 20% or more of the existing value as a result of the proposed development.
- 8.25. Therefore, where less than 50% of the garden is found to receive direct sunlight for at least 2 hours as a result of the development and the total area that still receives direct sunlight is less than 80% of the former value the garden is considered to be overshadowed.
- 8.26. The results of the report show that the lower area of the garden will remain unchanged by the proposed development until 12pm when there will begin an increase in overshadowing. For the upper area of the garden, the available sunlight will remain unchanged until 4pm when the shadows will gradually increase. The BRE impact criteria for overshadowing has been met.
- 8.27. Views toward the rear garden of no.1 Stephens Road to the east and the upper garden space of no. 4 Barnett Road to the north could be achievable from the rear balcony and therefore a condition will be attached to ensure that there is a privacy screen in situ.
- 8.28. The dormer window and windows on the north side elevation toward the western side would face onto the southern side elevation of no. 4 Barnett Road. The side window at first floor level to no.4 serves a hallway and therefore no loss of privacy would result. The first floor window on the north side elevation toward the eastern side could have the potential to overlook the garden space

of no. 4 Barnett Road and therefore a condition will be attached to obscure glaze this hallway window.

8.29. Standard of accommodation:

The proposal would create a 1no three bedroom maisonette at ground, first and second floor level, 2no two bedroom flats at ground floor level, a 1no two bedroom flat and 1no one bedroom flat at first floor level and a 1no two bedroom flat at second floor level.

8.30. The gross internal floor area of the 1no 3 bedroom maisonette measuring approximately 112.6sqm would meet the government's Technical Housing Standards for a 6 person, 3 bedroom, 3 storey property which should measure 108sqm. All three bedrooms meet the minimum space standards for double bedrooms. All habitable rooms benefit from sizable window openings providing sufficient light and outlook.

8.31. The gross internal floor area of the 4no 2 bedroom flats measuring approximately 63.8sqm, 65.23sqm, 64.2sqm and 76.3sqm would meet the government's Technical Housing Standards which states that a 3 person, 2 bedroom, 1 storey property should measure 61qm.

8.32. The gross internal floor area of the 1no 1 bedroom flat measuring approximately 53.4sqm would meet the government's Technical Housing Standards which states that a 2 person, 1 bedroom, 1 storey property should measure 50sqm.

8.33. All the bedrooms within the flatted units would meet the minimum standards for single and double bedrooms.

8.34. It is noted that the council has not adopted these sizes locally but as a comparable indicator of acceptable space standards, the units would meet these standards and is an indication that the accommodation proposed is an acceptable size.

8.35. Policy HO5 requires the provision of private useable amenity space in new residential development. The application proposes 2no communal garden spaces for all flats and 2no private gardens for the three bedroom maisonette and the ground floor two bedroom flat located to the rear. The communal garden spaces would be sufficient for the scale and type of development. The private garden space for the three bedroom maisonette which is the largest unit, would be relatively small, however this unit would have use of the communal space and would be within close proximity to accessible public open spaces.

8.36. Policy HO13 requires all new residential dwellings to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the (new-build) does not appear to be achievable as there is stepped access and a steep gradient of land; therefore a condition will not be applied to ensure the

development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.

8.37. Arboriculture:

There is an elm tree on the site located on the south east corner which would be in close proximity to the proposed development. It has been confirmed that this tree will be retained and protected during construction. The Arboricultural team have commented that this tree should be protected and a condition attached relating to tree protection measures. The 2no shrub trees located on the north east corner of the site are of limited amenity value and are set an adequate distance from the development.

8.38. Sustainability:

City Plan Part One policy CP8 requires new residential development demonstrate efficiency in the use of water and energy, setting standards that mirror the national technical standard for water and energy consumption, therefore a condition will be applied to ensure the development meets the standards set out in policy CP8.

8.39. Sustainable Transport:

It is likely that 4 additional dwellings will result in an increase in person trips to the site. In order to ensure that the proposed development provides for the transport demand it generates conditions are attached requesting pedestrian crossing improvements across Barnett Road and the junction The Crossway.

8.40. No car parking is proposed, however the site is located outside a CPZ and the likely levels of additional on-street parking demand would not amount to a severe impact on the highway in this location. There is forecast to be the potential for some overspill and therefore a condition have been applied for the applicant to provide a travel plan with a 3 month bus ticket and a 2 year free car membership per new resident.

8.41. The proposal to remove the garage and driveway will result in the associated dropped kerb on Barnett Road becoming redundant; a condition will be attached to ensure the footway and kerb edge are reinstated.

8.42. The applicant is proposing 8 cycle parking spaces; the details of which will be secured via condition. It is noted that there is stepped access to the front cycle parking spaces and residents of flat 3 will need to wheel their cycles through the flat to gain access to the parking at the rear. These arrangements are not ideal however due to the site's topography and location it is deemed acceptable in this instance.

9. EQUALITIES

9.1. Policy HO13 seeks access standards above normal Building Regulations. These standards are not applied to this scheme as step-free access to the (new-build) does not appear to be achievable as there is stepped access a steep gradient of land.

Information on Pre-application Presentations and Requests 2018/19

Date	Address	Ward	Proposal	Update
06/03/18	29-31 New Church Road, Hove	Westbourne	Mixed use development.	Application BH2018/02126 under consideration.
06/03/18 & 03/04/18	Toad's Hole Valley, Hove	Hangleton & Knoll	Mixed use development comprising residential, neighbourhood centre, secondary school, B1 floorspace, SNCl enhancements, accesses from highway, landscaping and parking.	Application BH2018/03633 under consideration.
08/05/18	Longley Industrial Estate, New England Street, Brighton	St Peter's & North Laine	Mixed use scheme, 3000sqm B1 with 200-250 'build-to-rent' residential units above, 1000sqm communal space, disabled car parking, public realm improvements.	Application BH2018/02598 under consideration.
08/05/18	119-131 London Road (Co-op and Boots), Brighton	St Peter's & North Laine	Mixed use redevelopment to re-provide retail and student accommodation above.	Application BH2018/02699 under consideration.
08/05/18	Rear of Lyon Close, Hove	Goldsmid	Mixed use scheme 160 units (C3) and 1000sqm office (B1) floorspace.	Application BH2018/01738 under consideration.
05/06/18	Former Peter Pan amusements, Madeira Drive, Brighton	Queen's Park and East Brighton	Mixed use leisure/commercial including outdoor pool (temporary 5yrs).	Application BH2018/01973 refused 6 December 2018.
17/07/18	Enterprise Point,	Hanover & Elm	Purpose Built Student Housing	Application BH2018/02751 under

NOTE: The Pre Application Presentations are not public meetings and as such are not open to members of the public. All Presentations will be held in Hove Town Hall on the date given after scheduled site visits unless otherwise stated.

	Melbourne Street, Brighton	Grove	(350 bedspaces), with some employment space at ground floor and affordable housing block	consideration.
14/08/18	KAP, Newtown Road, Hove	Hove Park	Mixed Use residential / B1 scheme. Approx. 150 units	Application BH2018/03353 under consideration.
14/08/18	21 – 24 Melbourne Street, Brighton	Hanover & Elm Grove	Co-living (100 units) C3 / B1	
11/09/18	Sackville Trading Estate, Sackville Road, Hove	Hove Park	Mixed residential and commercial development.	Application BH2018/03697 under consideration.
03/10/18	Urban Fringe at Coldean Lane, NW of Varley Halls, Brighton	Hollingdean & Stanmer	Residential development.	Application BH2018/03541 under consideration.
03/10/18	Urban Fringe Site at The Whitehawk Estate, Brighton	East Brighton	Residential redevelopment.	Member and officer pre-app and Design review undertaken.
09/10/18	Land at former Belgrave Nursery, Clarendon Place, Portslade	South Portslade	Residential redevelopment.	Application BH2018/02629 under consideration.
06/11/18 & 04/12/18	Outer Harbour Development, West Quay, Brighton Marina	Rottingdean Coastal	Mixed Use Residential-led development – significant changes to later phases of Outer Harbour Development	Pre-app discussions in progress and PPA agreed. 1st Design Review 03/10/18. Public consultation event end of October. 2 nd Design Review 27/11/18.
19/03/19 or 02/04/19 requested	Court Farm, King George VI Avenue, Hove	Handleton & Knoll	Development of the site for a new care facility, comprising two care homes of 68 bedrooms and 36	History: Permission was granted for a C3 residential scheme in March 2017 for 69 flats.

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			bedrooms respectively, together with associated communal spaces, back of house and service areas, car and cycle parking, landscaping and planting (Use Class C2).	The current pre-app scheme was presented to the Design Panel on 26/02/19.
	Vantage Point and Circus Parade, New England Street/New England Road/Elder Place, Brighton	St Peter's & North Laine	Mixed use office-led redevelopment, incl residential, retail, dance studio, student flats, car park, public realm improvements.	Presented at Design Review Panel 04/7/18, amended and then re-presented on 30/10/18. LPA provided written feedback 04/10/18 and discussions on-going.

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NEW APPEALS RECEIVED

<u>WARD</u>	BRUNSWICK AND ADELAIDE
<u>APPEALAPPNUMBER</u>	BH2018/02524
<u>ADDRESS</u>	22 Western Road Hove BN3 1AA
<u>DEVELOPMENT DESCRIPTION</u>	Change of use for first and second floor offices (B1), to 4no bedroom house in multiple occupation (C4), with associated internal alterations (Part Retrospective).
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	15/02/2019
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	CENTRAL HOVE
<u>APPEALAPPNUMBER</u>	BH2018/02727
<u>ADDRESS</u>	75-77 Church Road Hove BN3 2BB
<u>DEVELOPMENT DESCRIPTION</u>	Display of 1no externally illuminated fascia sign, 1 no externally illuminated hanging sign, 2no internally illuminated menu boxes & 1no non-illuminated wall mounted amenity board. (Part-Retrospective)
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	15/02/2019
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	CENTRAL HOVE
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	7 Clarendon Villas Hove BN3 3RD
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	07/02/2019
<u>APPLICATION DECISION LEVEL</u>	Not Assigned

<u>WARD</u>	GOLDSMID
<u>APPEALAPPNUMBER</u>	BH2017/01161
<u>ADDRESS</u>	Land To The Rear Of 74-82 Denmark Villas Hove BN3 3TJ
<u>DEVELOPMENT DESCRIPTION</u>	Erection of 2no single storey single dwellings (C3).
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	01/03/2019

APPLICATION DECISION LEVEL Delegated

WARD

GOLDSMID

APPEALAPPNUMBER

BH2017/03754

ADDRESS

18 Davigdor Road Hove BN3 1TT

DEVELOPMENT DESCRIPTION

Erection of 2 storey 3 bedroom detached dwelling (C3)

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

01/03/2019

APPLICATION DECISION LEVEL

Delegated

WARD

GOLDSMID

APPEALAPPNUMBER

BH2018/00747

ADDRESS

Flat 2 83 Lorna Road Hove BN3 3EL

DEVELOPMENT DESCRIPTION

Replacement of existing ground floor rear window with timber framed double glazed door, juliet balcony and associated privacy screening. Replacement of existing timber sash window to rear with double glazed sash upvc window and replacement of existing side door and timber sash window with 2no upvc double glazed windows. Alteration to the existing rear platform/access over basement flat window. (Amended Description)

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

13/02/2019

APPLICATION DECISION LEVEL

Delegated

WARD

HANOVER AND ELM GROVE

APPEALAPPNUMBER

BH2018/02120

ADDRESS

238 Elm Grove Brighton BN2 3DA

DEVELOPMENT DESCRIPTION

Demolition of existing garage & erection of 1no. one bedroom single storey dwelling (C3).

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

11/02/2019

APPLICATION DECISION LEVEL

Planning (Applications) Committee

WARD

HANOVER AND ELM GROVE

APPEALAPPNUMBER

BH2018/02223

ADDRESS

22 Bear Road Brighton BN2 4DA

DEVELOPMENT DESCRIPTION

Erection of two storey rear extension, 2no rear dormers with rear rooflight. Change of Use to part of ground floor gallery space (D1)

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

11/02/2019

APPLICATION DECISION LEVEL

Delegated

<u>WARD</u>	HANOVER AND ELM GROVE
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	81 Washington Street Brighton BN2 9SR
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	25/02/2019
<u>APPLICATION DECISION LEVEL</u>	Not Assigned
<u>WARD</u>	HOLLINGDEAN AND STANMER
<u>APPEALAPPNUMBER</u>	BH2017/00412
<u>ADDRESS</u>	29 Hollingdean Terrace Brighton BN1 7HB
<u>DEVELOPMENT DESCRIPTION</u>	Change of use from residential property (C3) to 3no bedroom small house in multiple occupation (C4). (Retrospective)
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	11/02/2019
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	HOVE PARK
<u>APPEALAPPNUMBER</u>	BH2018/01053
<u>ADDRESS</u>	16 Hill Drive Hove BN3 6QN
<u>DEVELOPMENT DESCRIPTION</u>	Erection of two storey house with basement (C3) to rear of existing house.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	01/03/2019
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	MOULSECOOMB AND BEVENDEAN
<u>APPEALAPPNUMBER</u>	BH2018/03039
<u>ADDRESS</u>	First Floor Flat 22-23 Coombe Terrace Brighton BN2 4AD
<u>DEVELOPMENT DESCRIPTION</u>	Conversion of existing first floor flat to form 2no one bedroom flats (C3).
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	05/03/2019
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	MOULSECOOMB AND BEVENDEAN
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	2 Plymouth Avenue Brighton BN2 4JB
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	25/02/2019
<u>APPLICATION DECISION LEVEL</u>	Not Assigned

<u>WARD</u>	MOULSECOOMB AND BEVENDEAN
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	32 The Highway Brighton BN2 4GB
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	15/02/2019
<u>APPLICATION DECISION LEVEL</u>	Not Assigned
<u>WARD</u>	MOULSECOOMB AND BEVENDEAN
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	52 Barcombe Road Brighton BN1 9JR
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	25/02/2019
<u>APPLICATION DECISION LEVEL</u>	Not Assigned
<u>WARD</u>	PATCHAM
<u>APPEALAPPNUMBER</u>	BH2018/00646
<u>ADDRESS</u>	22 Brangwyn Crescent Brighton BN1 8XJ
<u>DEVELOPMENT DESCRIPTION</u>	Erection of part one part two storey rear extension with rear balcony and associated roof alterations incorporating front and side rooflights. Conversion of garage into habitable room, removal of chimney, revised fenestration and associated works and landscaping.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	27/02/2019
<u>APPLICATION DECISION LEVEL</u>	Delegated
<u>WARD</u>	PRESTON PARK
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	33 Beaconsfield Road Brighton BN1 4QH
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	25/02/2019
<u>APPLICATION DECISION LEVEL</u>	Not Assigned
<u>WARD</u>	QUEEN'S PARK
<u>APPEALAPPNUMBER</u>	BH2018/01667
<u>ADDRESS</u>	18 Egremont Place Brighton BN2 0GA
<u>DEVELOPMENT DESCRIPTION</u>	Change of Use from small house in multiple occupation (C4) to 8no bedroom large house in multiple occupation (Sui generis) (Retrospective).
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	07/02/2019

APPLICATION DECISION LEVEL Delegated

WARD

QUEEN'S PARK

APPEALAPPNUMBER

ADDRESS

18 Egremont Place Brighton BN2 0GA

DEVELOPMENT DESCRIPTION

Appeal against

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

07/02/2019

APPLICATION DECISION LEVEL

Not Assigned

WARD

REGENCY

APPEALAPPNUMBER

BH2017/04065

ADDRESS

12 Montpelier Villas Brighton BN1 3DG

DEVELOPMENT DESCRIPTION

Erection of single storey rear orangery extension, widening of the existing vehicular entrance and hard and soft landscaping.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

04/03/2019

APPLICATION DECISION LEVEL

Delegated

WARD

REGENCY

APPEALAPPNUMBER

BH2017/04066

ADDRESS

12 Montpelier Villas Brighton BN1 3DG

DEVELOPMENT DESCRIPTION

Erection of single storey rear orangery extension, widening of the existing vehicular entrance, internal alterations and hard and soft landscaping.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

04/03/2019

APPLICATION DECISION LEVEL

Delegated

WARD

ROTTINGDEAN COASTAL

APPEALAPPNUMBER

BH2018/02838

ADDRESS

22 Winton Avenue Saltdean Brighton BN2 8FN

DEVELOPMENT DESCRIPTION

Erection of two storey rear extension at lower ground floor and ground floor level.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

26/02/2019

APPLICATION DECISION LEVEL

Delegated

WARD

SOUTH PORTSLADE

APPEALAPPNUMBER

BH2018/01577

ADDRESS

1 Garden Close Portslade BN41 1XL

DEVELOPMENT DESCRIPTION

Erection of 2no bedroom single storey dwelling (C3) with rooms in roof space, access and associated works.

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 13/02/2019
APPLICATION DECISION LEVEL Delegated

WARD **ST. PETER'S AND NORTH LAINE**
APPEALAPPNUMBER BH2017/03843
ADDRESS 7 - 8 Windsor Street Brighton BN1 1RJ
DEVELOPMENT DESCRIPTION Demolition of 2no existing dwellings and erection of a 5 storey building comprising of 2no two bedroom flats and 6no one bedroom flats (C3).

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 25/02/2019
APPLICATION DECISION LEVEL Delegated

WARD **ST. PETER'S AND NORTH LAINE**
APPEALAPPNUMBER BH2018/00928
ADDRESS Smart House Ditchling Road Brighton BN1 4SE
DEVELOPMENT DESCRIPTION Erection of roof extension and conversion of existing two bedroom house into 2no two bedroom houses and erection of 1no two bedroom house (C3) with associated alterations.

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 08/02/2019
APPLICATION DECISION LEVEL Delegated

WARD **ST. PETER'S AND NORTH LAINE**
APPEALAPPNUMBER BH2018/02140
ADDRESS 3 Queens Road Brighton BN1 3WA
DEVELOPMENT DESCRIPTION Change of use from vacant office (B1) to residential (C3) to create 1no two bedroom flat with alterations including revised ground floor access, rear dormer & two front rooflights.

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 11/02/2019
APPLICATION DECISION LEVEL Delegated

WARD **ST. PETER'S AND NORTH LAINE**
APPEALAPPNUMBER BH2018/02611
ADDRESS 17 Kingsbury Road Brighton BN1 4JR
DEVELOPMENT DESCRIPTION Installation of rear dormer and 1no rooflight to front slope to form additional bedroom.

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 08/02/2019
APPLICATION DECISION LEVEL Delegated

WARD **WESTBOURNE**

APPEALAPPNUMBER BH2018/02525
ADDRESS 2 Sackville Gardens Hove BN3 4GH
DEVELOPMENT DESCRIPTION Demolition of existing garage and erection of 1no semi-detached three storey dwellinghouse (C3).
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 01/03/2019
APPLICATION DECISION LEVEL Planning (Applications) Committee

WARD **WITHDEAN**
APPEALAPPNUMBER BH2018/03231
ADDRESS 31 Valley Drive Brighton BN1 5FA
DEVELOPMENT DESCRIPTION Erection of a single storey side and rear extension.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 26/02/2019
APPLICATION DECISION LEVEL Delegated

WARD **WITHDEAN**
APPEALAPPNUMBER
ADDRESS 18 Station Road Brighton BN1 6SF
DEVELOPMENT DESCRIPTION Appeal against
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 07/02/2019
APPLICATION DECISION LEVEL Not Assigned

PLANNING COMMITTEE: 6th March 2019

Agenda Item

Brighton & Hove City Council



**Brighton & Hove
City Council**

INFORMATION ON HEARINGS / PUBLIC INQUIRIES

This is a note of the current position regarding Planning Inquiries and Hearings

Planning Application no:	BH2016/02663
Description:	Demolition of existing commercial units (B8) and erection of buildings ranging from four storeys to seventeen storeys in height comprising a mixed use development of no.186 residential apartments (C3), 1,988 sqm of offices (B1) and 226sqm of retail (A1) with car parking at basement level.
Decision:	
Type of Appeal	Informal Hearing against refusal
Date:	Awaiting Decision
Site Location:	Unit 1-3 Ellen Street Hove

APPEAL DECISIONS

Page333

A – 166 HEATH HILL AVENUE, BRIGHTON, - MOULSECOOMB & BEVENDEAN

Application BH2018/02316 – appeal against refusal to remove condition 5 **APPEAL ALLOWED** – (delegated decision)

B – 22C SILLWOOD STREET, BRIGHTON – ST PETER’S & NORTH LAINE

337

Application BH2016/02093 – Appeal against Enforcement Notice. **APPEAL ALLOWED & ENFORCEMENT NOTICE QUASHED** (delegated decision)

C – 27 PRESTONVILLE ROAD, BRIGHTON, – PRESTON PARK

345

Application BH2018/00866 – Appeal against refusal to grant planning permission for rear extensions to 1st and 2nd floor levels of existing residential 2 bedroomed maisonette, including a rear dormer to existing loft space to create an additional bathroom and external, with concurrent internal alterations. **APPEAL DISMISSED** (delegated decision)

D – 87 - 89 COWPER STREET, HOVE – WESTBOURNE

349

Application BH2018/01150 – Appeal against refusal to remove Condition 4 of planning permission. **APPEAL ALLOWED** (delegated decision)

E – THE HAMES, OIVINGDEAN, BRIGHTON – ROTTINGDEAN COASTAL

353

Appeal against Enforcement Notice. **APPEAL DISMISSED AND ENFORCEMENT NOTICE UPHOLD** (delegated decision)

F – 20 LEIGHTON ROAD, HOVE – HOVE PARK 357

Application BH2018/011876 – Appeal against refusal to grant certificate of lawful use or development for loft conversion with rear dormer. **APPEAL DISMISSED** (delegated decision)



Appeal Decision

Site visit made on 18 December 2018

by **Timothy C King BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 February 2019

Appeal Ref: **APP/Q1445/W/18/3212326**

166 Heath Hill Avenue, Brighton BN2 4LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Rivers Birtwell against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/02316 was refused by notice dated 12 September 2018.
 - The application sought planning permission for the removal of condition 5 of BH2018/00095 (change of use from dwelling house (C3) to six bedroom small house in multiple occupation (C4) incorporating conversion of garage into habitable space) relating to removal of permitted development rights, dated 11 June 2018.
 - The condition in dispute is No 5 which states that: *'No extension, enlargement, alteration or provision within the curtilage of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A-E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.'*
 - The reason given for the condition is: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of condition 5 of application BH2018/02316 {Change of use from dwelling house (C3) to six bedroom small house in multiple occupation (C4) incorporating conversion of garage into habitable space) relating to removal of permitted development rights} at 166 Heath Hill Avenue, Brighton BN2 4LS in accordance with application Ref BH2018/02316 without compliance with condition no 5 previously imposed on planning permission BH2018/00095, dated 11 June 2018, but subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 11 June 2021.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos COU.01 and 01 (Location Plan).

- 3) The layout of the kitchen/dining/living room as shown on Drawing No COU.01 shall be retained as communal space at all times and shall not be used as bedroom space.
- 4) The development hereby approved shall be occupied by a maximum of six persons.
- 5) Prior to any occupation of the development hereby permitted full details of secure cycle storage facilities shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be fully implemented and made available for use prior to first occupation of the property and shall be retained thereafter.

Background and Main Issue

2. The planning permission for the change of use to a House in Multiple Occupation (HMO) includes a condition removing the permitted development (PD) rights for extensions, roof alterations and outbuildings, namely Classes A-E, at the site.
3. Taking the above background into account the main issue is whether the removal of Classes A-E PD rights is reasonable and necessary in the interests of protecting the living conditions of neighbouring occupiers and in safeguarding the character of the area.

Reasons

4. The appeal site comprises a semi-detached, two-storey dwelling with front and rear garden areas. The planning permission granted involved the conversion of the garage into a large kitchen/dining/living area, along with a layout comprising two ground floor bedrooms and four bedrooms at first floor level.
5. The dwelling's building lines are flush with that of No 164 and their rear gardens slope upwards with the properties beyond set at a higher level.
6. The Town and Country Planning (Use Classes) Order 1987 (as amended) defines Class C4 as the use of a dwellinghouse by 3-6 residents as a house in multiple occupation. The residents would likely be unrelated individuals who share basic amenities such as a kitchen or bathroom. Commonly referred to as small HMOs they are categorised separately from properties known as large HMOs which are those with more than six persons sharing. Further, HMOs falling into the latter category are unclassified by the Use Classes Order, and are therefore considered to be sui generis.
7. In contrast to the Class C4 use Class C3 'Dwellinghouses' can include not more than six residents living together as a single household, where no care is provided to residents. The Use Classes Order allows for a permitted change between Classes C3 and C4 and planning permission is only necessary in this instance due to a prohibitive local Article 4 Direction being in place.
8. Paragraph 55 of the National Planning Policy Framework says that planning conditions should only be imposed where they are, amongst other things, necessary and reasonable. The Planning Practice Guidance (PPG) says that conditions restricting the future use of PD rights will rarely pass the test of necessity and should only be used in exceptional circumstances. It comments that blanket removal of freedoms to carry out small scale domestic alterations

- that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
9. PD rights are development which is considered to be acceptable in the normal course of events. All are subject to certain limitations, with Class A covering the enlargement or improvement of a dwellinghouse, Classes B and C concerned with additions or alterations to a dwelling's roof, Class D covering the erection of entrance porches outside a dwelling's external door and Class E involving outbuildings that might be erected in the property's rear garden.
 10. In its case report relating to the application by which planning permission was granted, despite recommending that the condition at issue be imposed, the Council makes no mention of the need for the condition in granting planning permission, nor why exceptional circumstances exist that would justify the removal of PD rights across the whole spectrum of Classes A-E.
 11. In assessing the proposal to remove the condition the Council says that the removal of permitted development rights is considered necessary to ensure that the development is retained, unless planning permission is granted for further additions/alterations. It continues, commenting that the condition is necessary to ensure the acceptability of the scheme. It is not clear to me what is meant by these points, as it implies that PD rights carried out on Class C4 dwellings would be potentially harmful, at least more so than alterations or extensions to those within Class C3.
 12. Control over the form of householder extensions permissible under PD rights is unrelated to the fact that the creation of additional bedrooms with an associated increase in occupancy would take the use outside the parameters of Class C4. Further, it would also be contrary to the condition imposed on permission ref BH2018/00095 which restricts the occupancy to a maximum of six persons. Accordingly, planning permission for such would thereby be required.
 13. The Council, in support of its case, has cited three recent appeal decisions concerning HMO uses whereby, in allowing the appeals and permitting the properties' use for such, the respective Inspectors all imposed a condition which restricted householder PD rights. However, all these cases concerned the larger sui generis HMOs for which, unlike a Class C4 use, there is no defined restriction on the number of occupants.
 14. I find that even when considering the full scope of householder PD rights there are no compelling reasons why, in this particular case, a distinction should be drawn. Given the scope of Class C3 the number of comings and goings, as referred to by the Council, would be potentially equal to that arising from a C4 use. The effects on neighbours' living conditions and also on the character of the area would be the same in either case. I have therefore seen nothing persuasive in this particular instance to suggest that the property's use for C4 purposes would have any different effect on nearby occupiers than if it was in use as a single household which falls within Class C3.
 15. Accordingly, I find that there are no exceptional circumstances to justify the imposition of Condition no 5. Further, in the circumstances, removing this condition would not conflict with the objectives of either policy QD14 or QD27 of the Brighton & Hove Local Plan, both of which were cited in the reason for imposing the condition on the original decision notice.

16. I have had regard to the representations received from interested parties who object to the proposal. The comments made largely relate to the HMO use itself and an indication that there are a number of such properties in the local area. However, in this case, planning permission has already been granted for the Class C4 use, and the actual change of use is not the issue involved. References are made that extensions would allow for increased occupation, but I have already mentioned that should this occur and the degree of occupancy exceeds six persons this would amount to a breach of planning control for which the Council holds remedial enforcement powers.
17. I therefore conclude that Condition no 5 does not serve a particular planning purpose and that removing Classes A-E PD rights is neither reasonable nor necessary in serving the interests of protecting the living conditions of neighbouring occupiers, or in safeguarding the character of the area.
18. In the interests of certainty I have imposed a condition requiring that the development be carried out in accordance with the approved plans. In addition, to ensure a satisfactory standard of accommodation, a condition is imposed requiring that the section of the ground floor proposed as a kitchen/dining/living area shall be retained as such and shall not be used as an additional bedroom. The condition relating to the maximum number of occupants is re-imposed, and I have also adjusted the time limit period to accord with that of the original planning permission as is required in instances of S73 applications.
19. A condition was previously imposed relating to the submission of details as to cycle storage facilities. I acknowledge the need for such facilities at the site in order to encourage travel by means other than private motor vehicles and include a concisely worded condition to this effect.
20. For the above reasons, and having had regard to all matters raised, the appeal succeeds.

Timothy C King

INSPECTOR



Appeal Decision

Site visit made on 11 December 2018

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

an Inspector appointed by the Secretary of State

Decision date: 10 January 2019

Appeal Ref: APP/Q1445/C/17/3190555

22c Silwood Street, Brighton BN1 2PS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr J W Standing against an enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice was issued on 5 October 2017.
 - The breach of planning control as alleged in the notice is on the 17 August 2016 planning permission BH2016/02093 was granted for a change of use from six bedroom small house in multiple occupation (C4) to eight bedroom house in multiple occupation (sue generis), subject to 4 conditions. Condition 1 states the development shall be carried out in accordance with the approved drawings. One of those approved drawings is entitled 'proposed plans and elevations – 3559.PL.10B-7 June 2016'. It appears to the Council that the condition is not being complied with as the first floor front bedroom and bathroom have been altered to create two bedrooms and a shower room and the front second floor front bedroom and bathroom have been altered to create two bedrooms and a shower room. These alterations do not comply with the drawing. Condition 2 states the approved development shall only be occupied by a maximum of eight (8) persons. It appears to the Council that the property is occupied by nine (9) persons.
 - The requirements of the notice are to return the internal layout of the land to that shown on the drawing 'proposed plans and elevations – 3559.PL.10B-7 June 2016' approved in connection with planning permission reference BH2016/02093 and to occupy the land with no more than eight (8) persons.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.

Reasons

Ground (b)

3. The appellant argues that the alteration works were carried out after completion of the works in the planning permission. However, there is no argument that the alterations have occurred which is what ground (b) covers, so I will consider this matter under ground (c).

4. The appellant argues that at the time the notice was served, and this continues to date, there were only 8 persons occupying the premises in accordance with the condition of the relevant planning permission.
5. The appellant has applied for and been refused planning permission for use of the premises as a nine person HMO, but he notes that the occupation has continued as an 8 person HMO in the meantime. The Council has confirmed that a check with Council Tax shows that there are 8 persons living in the property thus complying with this part of the notice. The submission of a planning application does not itself indicate that development has already occurred, unless it is noted as being retrospective. While I appreciate that it has been the intention of the appellant to create a 9 person HMO, the evidence does not, on the balance of probability, support that this has already occurred and such use is currently prevented by the condition on the planning permission.
6. The appeal on ground (b) succeeds in this respect.

Ground (c)

7. The ground of appeal is that the matter alleged does not constitute a breach of planning control.
8. The appellant notes that the work comprising the planning permission was completed and it was only afterwards that the further alterations were undertaken. The conditions attached to the permission do not require the internal layout of this part to remain unchanged in the same way condition 2 requires the number of persons to remain at eight.
9. Condition 1 of the planning permission does require that the development be carried out in accordance with the approved plans. At the time the appellant noted that application was part retrospective, and the work had already been completed in accordance with the approved plans, only occupancy by 8 persons was left to be implemented. The condition did not have a requirement for permanent retention of that layout and therefore further internal alterations are not prevented, and the works undertaken are not a breach of planning control and do not require planning permission. Condition 3 required the lounge, kitchen and dining rooms to be retained, but no others.
10. The Council argues the layout associated with approval BH2016/02093 was fundamental to the suitability of the property to be used as an 8 bedroom HMO in order to ensure a satisfactory standard of accommodation for present and future occupiers. It is that layout that was applied for and that the decision was based on. The Council say that even though the permission does not explicitly state this, the layout should remain in perpetuity, and any other layout means the permission is not valid and use for an 8 person HMO is unauthorised.
11. However, there is no support for this in planning law and the definition of what is development. If the Council had wanted the whole internal layout to be retained as it did other rooms, that should have been added to condition 3 or included in another condition. The works are internal only and do not affect the external appearance of the building and therefore did not require planning permission.
12. The appeal on ground (c) succeeds.

13. As the appeal has succeeded on grounds (b) and (c) the notice will be quashed and there is no need to consider the other grounds of appeal.

Graham Dudley

Inspector



Costs Decisions

Site visit made on 11 December 2018

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

an Inspector appointed by the Secretary of State

Decision date: 10 January 2019

Costs application in relation to Appeal Ref: APP/Y9507/C/18/3195731 22c Silwood Street, Brighton BN1 2PS

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Standing for a full award of costs against Brighton and Hove Borough Council.
 - The appeal was against an enforcement notice alleging on the 17 August 2016 planning permission BH2016/02093 was granted for a change of use from six bedroom small house in multiple occupation (C4) to eight bedroom house in multiple occupation (*sui generis*), subject to 4 conditions. Condition 1 states the development shall be carried out in accordance with the approved drawings. One of those approved drawings is entitled 'proposed plans and elevations – 3559.PL.10B-7 June 2016'. It appears to the Council that the condition is not being complied with as the first floor front bedroom and bathroom have been altered to create two bedrooms and a shower room and the front second floor front bedroom and bathroom have been altered to create two bedrooms and a shower room. These alterations do not comply with the drawing. Condition 2 states the approved development shall only be occupied by a maximum of eight (8) persons. It appears to the Council that the property is occupied by nine (9) persons.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The allegation notes that it appeared to the Council that the condition is not being complied with as the first floor front bedroom and bathroom have been altered to create two bedrooms and a shower room and the front second floor front bedroom and bathroom have been altered to create two bedrooms and a shower room. These alterations do not comply with the drawing.
4. The alterations were an important part of the enforcement action and the permission would not have been implemented had the layout shown in the previous planning application not been implemented as required by condition 1. The Council say that at the time of serving the notice it had no evidence that the internal layout as approved by condition 1 of the permission had ever been implemented. However, as enforcement action is a serious matter the Council has a responsibility to make reasonable enquiries. The appellant says none were made. If there is any questions the Council needs answers to prior to

enforcement action a Planning Contravention Notice [PCN] can be issued. As noted in the main decision, condition 1 does not control subsequent alterations.

5. The Council does not explain in any detail what its evidence is for considering the use of the property with 9 persons, although having increased the number of bedrooms there is reason to consider that could well be the case, but does not necessarily mean that it is so. Again this is a matter that could reasonably have been picked up in a PCN or by accessing the property. While I acknowledge that tax records are not conclusive of occupation, having subsequently seen these show 8 persons in occupation, it should lead to questions being asked about the extent of occupation. I do not consider that the Council has undertaken sufficient investigation prior to enforcement action being taken and this has led to expense for the appellant in defending the action.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Brighton and Hove Borough Council shall pay to Mr Standing the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Brighton and Hove Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Graham Dudley

Inspector



Appeal Decision

Site visit made on 14 December 2018

by **G Ellis BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 February 2019

Appeal Ref: APP/Q1445/W/18/3203983

27 Prestonville Road, Brighton, BN1 3TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for full planning permission.
 - The appeal is made by Mr and Mrs Glass against Brighton and Hove City Council.
 - The application Ref BH2018/00866 is dated 16 March 2018.
 - The development proposed is rear extensions to 1st and 2nd floor levels of existing residential 2 bedroomed maisonette dwelling, including a rear dormer to existing loft space to create an additional bathroom and external terrace, with concurrent internal alterations.
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Decision

1. The appeal is dismissed and planning permission is refused.

Main Issues

2. The main issues are the effect of the development on i) the character and appearance of the area, and ii) the living conditions of the neighbouring residents, with regards to privacy, noise and disturbance.

Reasons

Character and Appearance

3. The property comprises the upper floors of No 27 Prestonville Road which is the mid-terrace of a row of three properties. All three of the properties have rear projections. No 26 Prestonville Road has a large rear roof extension which extends above the shared ridge line and is a prominent feature.
4. The proposed extension would raise the height of the existing rear projection to slightly above the eaves line with a terrace on top accessed via doors from the new dormer. The 1.5m screen wall to the terrace would extend above the eaves and would be visible above the existing rear outrigger to No 26 from York Villas. Due to the topography, there are also wider views of the rear of the terrace from Howard Terrace and the bridge over the railway line. In my view the terrace and screen wall would appear as a bulky and incongruous feature which would break the rhythm of the roofscape. I therefore agree with the Council that this element would be out of keeping and harmful to the character and appearance of the area.

5. The appellant points to the presence of other terraces/balconies in the area which are noted. However, from what I have seen, and specifically 20, 21 and 25 Prestonville Road to which I was referred, the terrace and balustrades are at a lower level below the eaves line. They do not therefore result in a comparable impact to that which is before me. In any case, I have treated the appeal proposal on its own merits.
6. The changes to the fenestration and materials established with the amended plans result in a design which, in my view, would be in keeping with the existing building. The dormer is not as wide as the rear extension, below the ridge line and positioned against the large roof extension at No 26. I therefore consider that this part of the proposal would not be an overly dominant addition and is generally reflective of the guidance set out in *Brighton and Hove City Council Supplementary Planning Document – design guide for extensions and alterations, June 2013 (SPD12)*.
7. Nevertheless, for the above explained reasons I conclude that the proposal would result in unacceptable harm to the character and appearance of the area, contrary to Policy QD14 of the Brighton and Hove Local Plan 2005, which requires alterations to be well designed, sited and detailed in relation to the property, adjoining properties and to the surrounding area.

Living conditions

8. The depth and height of the proposed terrace would give an elevated outlook over the neighbouring properties. Such outcomes are referred to in the design guidance SPD 12 (page 19), which indicates that balconies on terraced properties will generally be considered unacceptable, and that the use of screening will generally not be considered sufficient mitigation as it would result in increased visual bulk.
9. The 1.5m high screen wall would in part provide mitigation but standing would allow for direct overlooking into the upper floor of neighbouring property, No 26. The appellant indicates that the nearest window serves a communal stairwell, however I have not been provided with any evidence to support this and as the top floor of accommodation I am not convinced that this would be the case. Given the proximity of the terrace to the window I consider that the close relationship would result in an unacceptable loss of privacy to that neighbour.
10. With regard to the other neighbouring properties, 14 York Villas and 28 Prestonville Road, these are located further away from the proposed terrace and there are already several windows overlooking the side and rear of these properties. As such, I do not consider there would be an unacceptable loss of privacy. Similarly, given the busy urban context, the additional noise generated from the balcony would not be to an extent which would warrant withholding planning permission.
11. I therefore conclude that the proposal would result in unacceptable harm to the living conditions of neighbouring occupants at No 26, contrary to design guidance SPD12 and to Brighton and Hove Local Plan Policy QD27 which seek to protect the amenity of adjoining residents.

Other Matters

12. I acknowledge that the proposal would provide external living space and improved internal living accommodation. I also note that residents of the neighbouring properties have supported the scheme. However, the benefits to the appellant would not outweigh the above stated harm to the character and appearance of the area and to the living conditions of occupiers of the neighbouring property.
13. I appreciate that the appellant has sought to address the initial concerns raised by the Council and has found the delays to the process frustrating. However, whether a refund of the planning application fee is warranted is not a matter for me to consider within the context of an appeal made under section 78 of the above Act.

Conclusion

14. For the reasons explained, and taking all other matters into consideration, I conclude that the appeal should be dismissed and planning permission refused.

G Ellis

INSPECTOR



Appeal Decision

Site visit made on 18 December 2018

by **Timothy C King BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 February 2019

Appeal Ref: **APP/Q1445/W/18/3206340** **87-89 Cowper Street, Hove BN3 5BN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Steve Leung against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/01150 was refused by notice dated 7 June 2018.
 - The application sought planning permission for the removal of condition 4 of BH2017/04200 (Conversion of existing six bedroom House in Multiple Occupation (C4) to form 2no dwellings (C3) with associated alterations) relating to the removal of permitted development rights), dated 22 March 2018.
 - The condition in dispute is No 4 which states that: *'No extension, enlargement, alteration or provision within the curtilage of the dwellinghouse(s) as provided for within Schedule 2, Part 1, Classes A-E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.'*
 - The reason given for the condition is: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of condition 4 of application BH2017/04200 'Conversion of existing six bedroom House in Multiple Occupation (C4) to form 2no dwellings (C3) with associated alterations', dated 22 March 2018, at 87-89 Cowper Street, Hove BN3 5BN, in accordance with application Ref BH2018/01150, but subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 22 March 2021.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 1738/10 Rev A, 1738/11 Rev B and Location Plan.
 - 3) The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.

- 4) No extension, enlargement, alteration or provision within the curtilage of the dwellinghouses as provided for within Schedule 2, Part 1, Classes A, B and E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the local planning authority.
- 5) The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
- 6) Prior to first occupation of the development hereby permitted a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments shall have been submitted to and approved in writing by the local planning authority. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.
- 7) Prior to first occupation of the development hereby permitted details of secure cycle storage facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the local planning authority. The approved facilities shall be fully implemented and made available for use prior to first occupation of the development and shall thereafter be retained for use at all times.

Background and Main Issue

2. The planning permission granted for the change of use to from a House in Multiple Occupation (HMO), Class C4 to two dwellings (Class C3) includes a condition removing the permitted development (PD) rights for extensions, roof alterations and outbuildings, namely Classes A-E, at the site.
3. Taking the above background into account the main issue is whether the removal of Classes A-E PD rights is reasonable and necessary in the interests of protecting the living conditions of neighbouring occupiers and in safeguarding the character of the area.

Reasons

4. The appeal site comprises a terraced property, recently in use as a small HMO, with a maximum occupancy of six persons. The planning permission granted in 2018 (ref BH2017/04200) approved its conversion to two separate two-storey dwellings; one with three bedrooms and the other with one bedroom. At my site visit I viewed the property's rear and it did not appear that the approved external works have yet been carried out. Neither had the intended sub-division of the rear garden area, whereby the larger approved dwelling would be allotted the majority of a rather restricted, paved rear yard area. As such, although I did not consider it necessary to view the existing schedule of accommodation, it did not appear that the conversion has been implemented. Nonetheless, the planning permission remains extant.
5. The terraced dwellings on the north side of Cowper Street are, like those beyond the rear boundary on the south side of Wordsworth Street, set within small, shallow curtilages. As such, the respective facing rear elevations are at

- a close distance and the back garden space available is limited. Indeed, the case report relating to the approved conversion indicates that the external amenity space area is slightly below the standards applied.
6. PD rights are development which is considered to be acceptable in the normal course of events. All are subject to certain limitations, with Class A covering the enlargement or improvement of a dwellinghouse, Classes B and C are concerned with additions or alterations to a dwelling's roof, Class D covering the erection of entrance porches outside a dwelling's external door and Class E involving outbuildings that might be erected in a property's rear garden.
 7. Paragraph 55 of the National Planning Policy Framework says that planning conditions should only be imposed where they are, amongst other things, necessary and reasonable. The Planning Practice Guidance (PPG) says that conditions restricting the future use of PD rights will rarely pass the test of necessity and should only be used in exceptional circumstances. It comments that blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
 8. I accept the appellant's point that a dwelling in C4 use would enjoy householder permitted development rights, and thereby a fallback position exists. However, the approved sub-division of the property into two separate dwellings, if implemented, would represent a significant material change in planning terms. In the event that permitted development rights under Class A or E were then exercised, this could impact significantly on the already very limited external open space at the rear, and could potentially adversely affect both the new dwellings and the future occupiers' enjoyment of such. This would affect the character of the area, and could also have implications for the amenities or living conditions of neighbouring occupiers. In addition, given the proximity, roof extensions under Class B could give rise to potential overlooking and loss of privacy to neighbours.
 9. The appellant, in support of his case, has referred to a previous planning appeal decision letter (*APP/P5870/W/15/3004224*) relating to a residential property in Sutton, Surrey. Here, in granting planning permission for a 2-bed semi-detached dwelling, the Council imposed a condition removing PD rights under Classes A and B. The appointed Inspector allowed the appeal and deleted the condition at issue commenting, in paragraph 6 of his decision letter, that he could not deduce any clear harm that might be caused to the amenity of future or existing occupiers, or harm to the character of the area, through development undertaken by way of either of these PD Classes. Further, he makes reference to the size of the plot and that the relationship of the new house with neighbouring properties would seem to allow for works under such rights. This suggests a clear distinction between the appeal property cited and the current case where the dwellings are more closely packed together, and an additional dwelling would be created through sub-division.
 10. My findings do not necessarily mean that should any future householder development proposals at the site arise they would be considered unacceptable in planning terms. Instead, it merely means that the Council would retain control to assess the impact of such given the contextual setting. This would also ensure that any such development could be measured against the relevant

local planning policies referred to by the Council. The fact that other neighbouring properties might still enjoy PD rights in this regard does not mean that controls should not be exercised in instances such as this where planning permission has been granted for development. It was evident from my site visit that the physical form of the surrounding properties has been altered over time. Neither does the location outside any conservation area have a bearing on such.

11. I therefore conclude that Condition No 4 serves a planning purpose, at least in part. However, I see no reason why the occupiers should be debarred from the entitlement available under Classes C or D. Neither of these would potentially have the implications discussed above. Nonetheless, removing Classes A, B and E PD rights is both reasonable and necessary in serving the interests of protecting the living conditions of neighbouring occupiers and in safeguarding the character of the area. Accordingly, I have deleted the original condition and replaced it with an amended version, accordingly.
12. In the interests of certainty I have imposed a condition requiring that the development be carried out in accordance with the approved plans. In addition, to ensure a satisfactory form of development conditions are imposed requiring that details of boundary treatments be submitted to, and approved by, the local planning authority, and that the external finishes used shall match those of the existing building. I have also adjusted the time limit period to accord with that of the original planning permission as is required in instances of S73 applications.
13. Conditions were previously also imposed relating to the submission of details as to refuse/recycling and cycle storage facilities. I acknowledge the need for such facilities at the site to ensure a good standard of development and in order to encourage travel by means other than private motor vehicles and include a condition to this effect.
14. For the above reasons, and having had regard to all matters raised, the appeal succeeds, albeit in part.

Timothy C King

INSPECTOR



Appeal Decision

Site visit made on 25 February 2019

by Sukie Tamplin DipTP PgDip Arch Cons IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2019

Appeal Ref: APP/Q1445/C/17/3191836

The Hames, Ovingdean Road, Ovingdean, Brighton BN2 7BB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Chris Phillips against an enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice was issued on 6 December 2017.
 - The breach of planning control as alleged in the notice is: Without planning permission a material change of use from a residential garage (Use Class C3) to hot food takeaway (Use Class A5) with food preparation.
 - The requirements of the notice are to cease the use of the property as a hot food takeaway (Use Class A5) with food preparation.
 - The period for compliance with the requirements is 4 weeks.
 - The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
-

Decision: The appeal is dismissed, and the enforcement notice upheld.

Background and procedural issues

1. Planning permission for the same development was refused by the Council and subsequently dismissed at appeal¹. That decision is a material consideration, but I have determined the enforcement appeal in the light of its own merits.
2. On the day of my visit I saw that the use had ceased, and according to a notice on the site, it has been relocated elsewhere. However, this does not alter the requirement to determine this appeal as the Enforcement Notice remains extant.
3. The appeal site is within Ovingdean Conservation Area (the CA) and I have a duty under S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) to consider the effect of the development on the character and appearance of that area.

The appeal on ground (a) and the deemed application for planning permission.

Main Issue

4. The main issues in this ground of appeal are the effect of the use of the garage as a hot food takeaway with food preparation on development on:

¹ APP/Q1445/W/17/3187835 decision dated 9 March 2018

- the character of Ovingdean Conservation Area by reason of the introduction of commercial activity.
- the effect on the amenity of neighbours by reason of traffic, noise, loss of privacy and cooking smells.

Reasons

Character

5. The subject of the enforcement action is the operation of a Pizza takeaway business (Class A5 hot-food take-away). The appellant prepared the food on site and the business was open on 3 nights a week. The business operated from what appears to have been a domestic garage, close to the appellant's property, but the lean-to garage is attached to a locally listed barn occupied by neighbours. The business also spilled onto the hardstanding outside the garage and photographs have been submitted showing a 'mobile' pizza oven and its attendant flue on the forecourt. Two 'A' boards are also visible on the submitted photograph and these appear to show opening hours and the available menu.
6. As I have noted above the use appears to have ceased and it appears that there is common ground that there were no permanent physical alterations to the garage building in association with the use.
7. Ovingdean Conservation Area is a tranquil rural enclave characterised by residential properties and former agricultural buildings. Whilst I appreciate my visit was just one snap shot in time I found that it is a peaceful calm backwater which has escaped the commercialisation and activity of the surrounding coastal towns and villages. I saw little or no evidence that the narrow road in the village core is used as a rat-run by traffic.
8. The appellant says that there are commercial uses in the general area, but from what I saw these are unlikely to create any discernible activity and, in any event, any such effects would be likely to be in the daytime only. Whilst the village hall may be used on occasion in the evenings, this building has a community rather than a commercial function and its carpark is set back from the village street and would be unlikely to generate disturbance regularly through the evening. Accordingly, it is likely that evenings hereabouts would be calm and undisturbed by commercial activity.
9. Accordingly, given the reported popularity of the take-away business the effect on the rural residential character, by reason of increased activity would be harmful and would fail to preserve or enhance the CA. Thus, this first issue weighs against permission.

Amenity

10. Residents have objected to the operation of the take-away on the appeal site because of the alleged noise, cooking smells, loss of privacy and increased traffic. I do not find the argument that the operation of a commercial business is similar to domestic activity to be cogent because the nature of a commercial use is different from occasional domestic barbecues and social events. This is because it is regular and visitors to the premises would be unlikely to have the same attitudes to neighbours as residents.

11. Moreover, because cooking appeared to take place in the open conditions limiting noise and emissions would be unlikely to be effective. Even if some cooking occurred inside the garage there appears to be little or no method of suppressing smells and I saw that above the garage there are domestic windows in the neighbouring property which are said to be bedrooms. Consequently, there would be harm to amenity resulting from noise, cooking smells and commercial activity which also weighs against permission.

Conclusions on Ground (a) and the deemed application for planning permission

12. I have found that the effect of the Class A5 pizza business is harmful to the residential and rural character of the Conservation Area because of the incongruous and alien activity it would generate. Consequently, it fails to accord with the aims of saved heritage policies HE6 and QD27 of the Brighton and Hove Local Plan (BHLP) and Policy CP15 of the Brighton and Hove City Plan Part One. These policies seek, amongst other matters, to conserve and enhance the historic environment, including conservation areas, and to ensure that development likely to have an adverse impact is not permitted.
13. Although there is harm to the character of the Conservation Area that harm is less than substantial. In such circumstances the NPPF² says that the harm should be weighed against the public benefits of the proposal³. However, whilst the business has provided a service to customers these benefits could equally accrue in other less vulnerable locations outside the CA. Therefore, the benefits of the development do not outweigh the harm and conflict with the heritage objectives of the NPPF.
14. I also find conflict with the aims of saved BHLP policies QD27 and SU10 which seek to minimise harm to living conditions of existing and future occupants by way of noise, smells and disturbance. Consequently, the use does not accord with the adopted development plan and other material considerations do not outweigh my findings. Accordingly, the appeal will not succeed.

Decision

Appeal APP/Q1445/C/17/3191836

15. The appeal is dismissed, the notice is upheld, and planning permission is refused for the application deemed to have been made under S177(5) of the 1990 Act for a material change of use from a residential garage (Use Class C3) to hot food takeaway (Use Class A5) with food preparation.

Sukie Tamplin
INSPECTOR

² National Planning Policy Framework

³ Paragraph 196 of the NPPF



Appeal Decision

Site visit made on 26 February 2019

by Sukie Tamplin DipTP PgDip Arch Cons IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2019

Appeal Ref: APP/Q1445/X/18/3209802

20 Leighton Road, Hove, BN3 7AD

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mrs Katerina Sherbourne against the decision of Brighton & Hove City Council.
- The application Ref BH2018/01876, dated 8 June 2018, was refused by notice dated 2 August 2018.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is loft conversion with rear dormer.

Summary of Decision: The appeal is dismissed.

Reasons

1. Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) says that, subject to various limitations, certain alterations and extensions to dwellinghouses have deemed consent. This deemed consent is often described as 'permitted development'. Class B of Part 1 sets out the limitations and conditions that apply in respect of the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Class A similarly says that the enlargement, improvement or other alteration of a dwellinghouse is permitted development subject to specified limitations.
2. The application was made under S192 of the Town and Country Planning Act 1990 as amended (the Act) and sought to establish whether the proposed loft conversion with rear dormers is development permitted by the GPDO and thus does not require an express grant of planning permission.
3. I find the description of the development on the application form imprecise and prefer the description used by both parties in their submissions. This describes the development as an 'L-shaped dormer' and I shall use this in my decision.
4. The semi-detached house has a main roof slope parallel to the road and what is probably an original 2-storey 'outrigger' or rear wing. The height of the outrigger is less than the main roof and correspondingly its eaves are also lower. The plans show the proposed flat roofed L-shaped dormer extending across the rear of the main roof and onto the outrigger at the same floor level. The issue between the parties is whether the L-shaped dormer is solely an

addition to the roof and thus falls within Class B or must also be considered under Class A of the GPDO.

5. The Council says that the outrigger element of the extension is not an addition or alteration to its roof because it relies partly on an upward extension of the main rear elevation of the house and extends beyond the outer face of a wall of the original house. Accordingly, it says it must also be considered under Class A; the appellant disagrees.
6. The publication *Permitted development for householders: Technical Guidance* as amended April 2017 (PDTG)¹, provides guidance on the interpretation of the GPDO and anticipates, in the context of Class B, that where the enlarged part of the roof joins the original roof of a rear or side extension (generally referred to as an L-shaped dormer) it is permitted under that Class. But in the circumstances of this appeal the construction of the anticipated works necessitate works other than to the roof. The PDTG also says that certain extensions, such as proposals to extend at the rear of a house, may need to be considered under the provisions of more than one Class of the GPDO. In this appeal the proposed L-shaped dormer also includes other works, in particular the upward extension of the rear wall and development beyond its outer face and cannot simply be described as an extension or alteration to the roof.
7. Consequently, the L-shaped dormer is also subject to the limitations of Class A of the GPDO. In coming to this conclusion, I have taken account of the argument that such dormers at other dwellings have been previously classed as GPDO Class B development by the Council. But I do not know the full circumstances of the examples relied upon by the appellant and this appeal must turn on its own facts.
8. Class A permitted development is limited as set out in the GPDO. These limitations include:
 - A.1 (i) the enlarged part of the dwelling house would be within 2 metres of the boundary of the curtilage of the dwellinghouse and the height of the eaves of the enlarged part would exceed 3 metres.
9. In the appeal before me the rear wall would be extended to support the L-shaped dormer, and this is firstly within 2 m of the boundary and secondly the height of the eaves would be more than 3m. Thus, the proposed works to the dwelling would exceed the limitations of Class A and thus cannot benefit from the deemed consent conferred by the GPDO.

Decision

10. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed dormer was well-founded and the appeal should fail. I will exercise accordingly the powers transferred to me by section 195(3) of the 1990 Act as amended and uphold that decision.

Sukie Tamplin

INSPECTOR

¹ *Permitted development for householders: Technical Guidance* Department for Communities and Local Government: Updated April 2017: