

## Appendix 4 - Evidence Supporting the Article 4 Direction

### Context

In September 2020, the Government amended the Use Classes Order with the aim of providing greater flexibility for the diversification of high streets and town centres. This introduced a new Class E (commercial, business and service uses) which captured a number of uses previously considered separately – including offices, retail, restaurants and cafes, gyms and health centres. Uses within the new Class E are interchangeable without the need for planning permission as the change no longer constitutes ‘development’ because they fall within the same use class.

Under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), some changes of use between different use classes are deemed permitted development. This means that planning permission is not normally required, and the change of use can occur if relevant ‘prior approval’ criteria are met. Successive reforms to the planning system have substantially increased the scope of permitted development rights, for example in May 2013 national permitted development rights were amended to allow the change of use from an office use (former Class B1(a)) to residential (Class C3) through the ‘prior approval’ process rather than through the normal planning application process.

On 31st March 2021, the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 took effect and introduced, from 1 August 2021, a new Class MA permitted development right from Class E to residential (Class C3), on the basis that this can help increase housing supply. A number of conditions have been included within this legislation, including:

- a size limit whereby the right only applies to sites that would result in the loss of no more than 1500sqm of class E floorspace;
- that existing Article 4 Directions (including the council’s A4D protecting office floorspace), will continue to have effect until 31st July 2022;
- a vacancy test, meaning that the right only applies to premises that have been vacant for 3 months before the application;
- that the right does not apply to listed buildings; and
- that the building must have been in Class E use for at least 2 years before benefitting from the right.

Where the new right does apply, proposals will be subject to a prior approval application, where the following matters can be considered:

- transport impacts of the proposal;
- contamination risks to the building;
- flooding risks to the building;
- impacts of noise from commercial premises on intended occupiers of the development;
- provision of adequate natural light to all habitable rooms;

- in Conservation Areas only – consideration of the impact of the loss of the ground floor Commercial, Business and Service use on the area’s character and sustainability
- impact on intended occupiers of introducing residential use to an area important for industrial and waste uses; and
- impact of the loss of health centres and registered nurseries on the provision of such local services.

## Article 4 Directions

Local planning authorities have powers to make an Article 4 Direction (A4D) to remove permitted development rights in part or all of their area, thereby requiring planning permission for a change of use that would otherwise be permitted development. The introduction of an A4D does not mean that all planning applications for the relevant change of use will be refused. It requires the submission of a planning application for the change of use for consideration by the Local Planning Authority, with applications determined on their merits having regard to the policies in the development plan and any other material considerations.

With regard to A4Ds, the National Planning Policy Framework (NPPF) states that: *“The use of Article 4 Directions to remove national permitted development rights should where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)”*, as well as being *“based on robust evidence, and apply[ing] to the smallest geographical area possible”*<sup>1</sup>.

Paragraph 38 of the Planning Practice Guidance (Reference ID: 13-038-20190722) adds that: *“The potential harm that the direction is intended to address will need to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to...a wide area... and...cases where prior approval powers are available to control permitted development...”*.

The harm that could result from unplanned changes of use from Class E to residential in part of Brighton & Hove is considered to meet these criteria, and an A4D is therefore proposed to remove this permitted development right in the areas described in Part 3 below.

Two types of Article 4 Direction can remove permitted development rights. Firstly, an immediate Article 4 direction which must be confirmed by the local planning authority following consultation within six months or it will lapse.

Secondly, a non-immediate Article 4 Direction with a prior notice period of 12 months may be made which results in development rights being withdrawn only upon confirmation of the Direction following local consultation.

In this instance, the breadth of uses now captured under new Class E (commercial, business and service uses), and the highly commercialised nature of central Brighton

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<sup>1</sup> National Planning Policy Framework (2021), para. 53.

& Hove, means that an immediate Article 4 could make the City Council vulnerable to a high number of costly compensation claims. A non-immediate direction also allows the results of local consultation to be fully considered and taken into account in advance of the Council deciding to confirm the direction and remove permitted development rights.

A decision to confirm the Direction will be taken by Tourism, Development and Culture Committee in 2022 following consideration of consultation responses on the proposed A4D.

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## Proposed exemption area

The exemption area proposed has a number of components which have been selected as their inclusion can be justified by robust evidence. It is considered that the adverse impacts of maintaining the permitted development right would be wholly unacceptable. The areas are described below, illustrated in Map 1 and put together form the area within which the Article 4 Direction will apply.

### *Existing Article 4 Direction Area*

This area covers:

- the Central Brighton, New England Quarter and London Road Area
- Edward Street Quarter, Edward Street, Brighton
- City Park, The Droveaway, Hove

The area was considered and modified by the Secretary of State before being confirmed and coming into force in July 2014. It was considered appropriate following this scrutiny and is considered to have functioned effectively and been accepted as a proportionate policy response, and will continue to have effect as part of transitional arrangements until 31 July 2022.

A small amendment to include the east side of the Valley Gardens area has also been included for reasons set out in paragraphs XX below, which also includes the Circus Street development, a new mixed-use neighbourhood which is bringing forward approximately 4,000m<sup>2</sup> of new office floorspace.

### *Primary Retail Frontages*

The primary retail frontages of the following centres:

- Brighton Regional Centre
- Hove Town Centre
- London Road Town Centre
- St James Street District Centre
- Lewes Road District Centre
- Boundary Road / Station Road District Centre

These centres are identified through policy CP4 in the adopted City Plan Part One, along with some minor amendments to the primary frontages as identified in the emerging CPP2.

### *Local Centres and Important Local Parades*

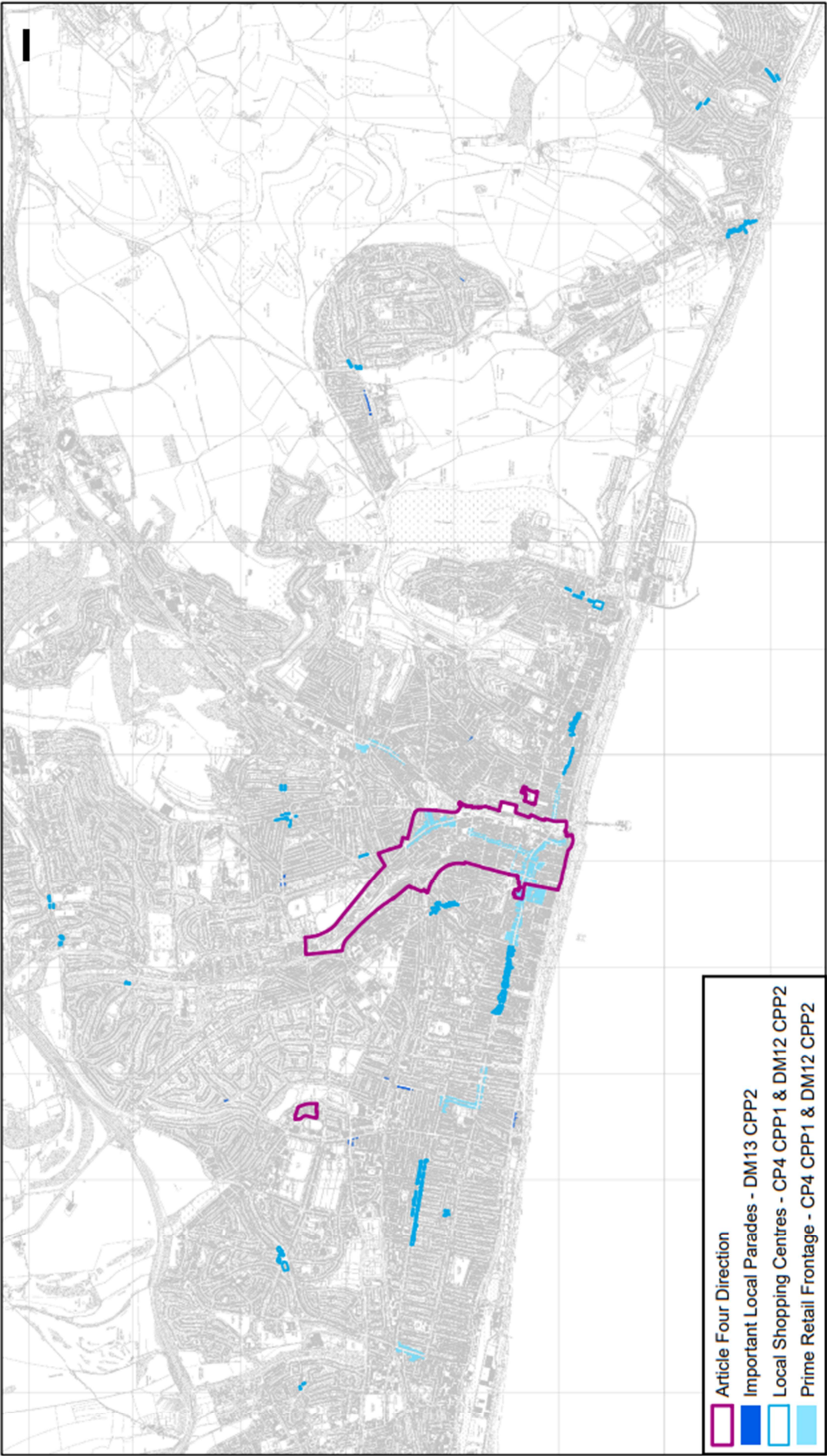
Local centres identified through Policy CP4 of CPP1. These are:

- Mill Lane, Portslade
- Portland Road, Hove
- 'The Grenadier', Hangleton Road
- Richardson Road, Hove
- Eldred Avenue, Withdean
- Old London Road, Patcham

- Ladies Mile Road, Patcham
- Seven Dials
- Fiveways
- Hollingbury Place, Hollingdean
- Beaconsfield Road, Preston Park
- St George's Road, Kemptown
- Warren Way, Woodingdean
- Whitehawk Road, Whitehawk
- High Street, Rottingdean
- Lustrell's Vale, Saltdean
- Longridge Avenue, Saltdean

Important Local Parades that are proposed to be designated through Policy DM13 of the City Plan Part Two, which is currently unadopted but at late stage of preparation, are also included. These are:

- Cowley Drive, Woodingdean
- Goldstone Villas, Hove
- Hove Park Villas, Hove
- Islingword Road, Brighton
- Old Shoreham Road/Sackville Road, Hove
- Valley Road, Portslade
- Victoria Terrace, Hove
- Warren Road, Woodingdean
- Woodland Parade, Hove
- Preston Drove, Preston Park



Scale: 1:47,440

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## Justification for the Article 4 Direction

Brighton & Hove City Council's A4D is made on the basis that the introduction of the new Class MA permitted development rights within the proposed exemption areas would result in wholly unacceptable adverse social and economic consequences which are not offset by any positive benefits that the new rights may bring. The A4D is therefore justified under the revised NPPF wording set out in **paragraph XX above**.

### Economic Characteristics of Brighton & Hove

Brighton & Hove is recognised as a hub for business and commercial activities, a retail destination of sub-regional importance, and a popular visitor destination with strong accommodation, food and drink services and cultural offer. In 2018, economic activity in Brighton & Hove generated an estimated £8,112 million in Gross Value Added (GVA) to the national economy, which is the second highest contribution in the South East after Milton Keynes<sup>2</sup>.

The city is known for the strength of its small business economy. There are more registered businesses in Brighton & Hove than any other local authority in the South East, with around 14,610 businesses in the city being 'micro' in size, employing fewer than 10 people<sup>3</sup>. This represents 92% of all businesses in the city with the strength of the small business economy partly reflecting the fact that the city's reputation for enterprise and entrepreneurialism. Outside London, Brighton & Hove ranks second for business start-up rates relative to its population<sup>4</sup>.

In terms of the role of Brighton & Hove as a centre of employment, there are 15,920 registered businesses and 18,220 local units in the city<sup>5</sup>. Excluding London, Brighton & Hove ranked third for the number of businesses per 10,000 population with 453, close behind Reading (474) and Milton Keynes (463). In addition, Brighton & Hove has a total of 142,370 jobs across the city which is the second highest number in the South East after Milton Keynes (ONS, Business Register and Employment Survey 2019).

Figure 1 provides a breakdown of registered businesses and local units by sector in Brighton & Hove. Retail is the largest sector, which accounts for around 20% of businesses in the city, the highest amount in the South East, with nearly 4,000 local units. Professional, scientific, and technical business are also the highest in Brighton & Hove compared to the rest of the South East. The city has the second highest concentration of businesses administration and support services after Milton Keynes, and the third highest in information and communication businesses after Milton Keynes and Wokingham.

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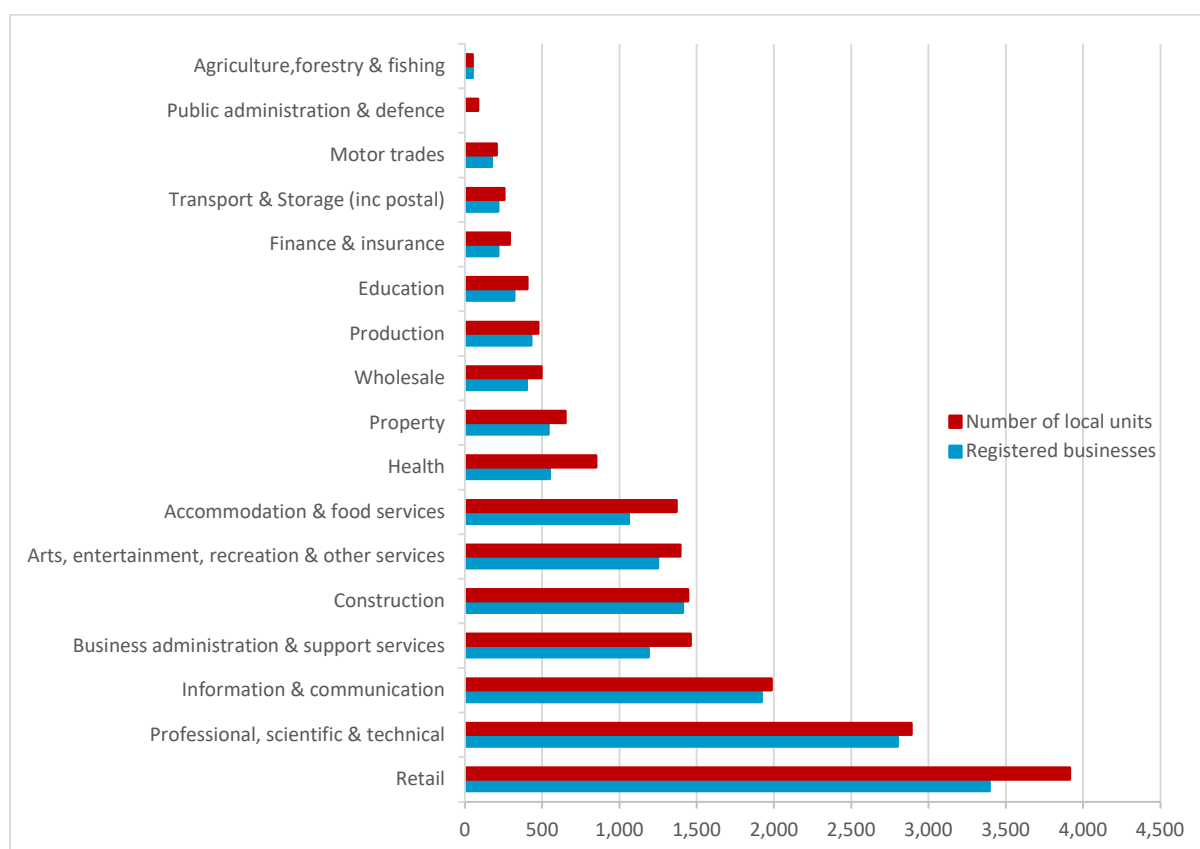
<sup>2</sup> ONS, Regional gross value added by local authority in the UK

<sup>3</sup> ONS, UK Business count 2020

<sup>4</sup> Centre for Cities data, 2019

<sup>5</sup> ONS, UK Business count 2020

**Figure 1: Profile of businesses by sector in Brighton & Hove**



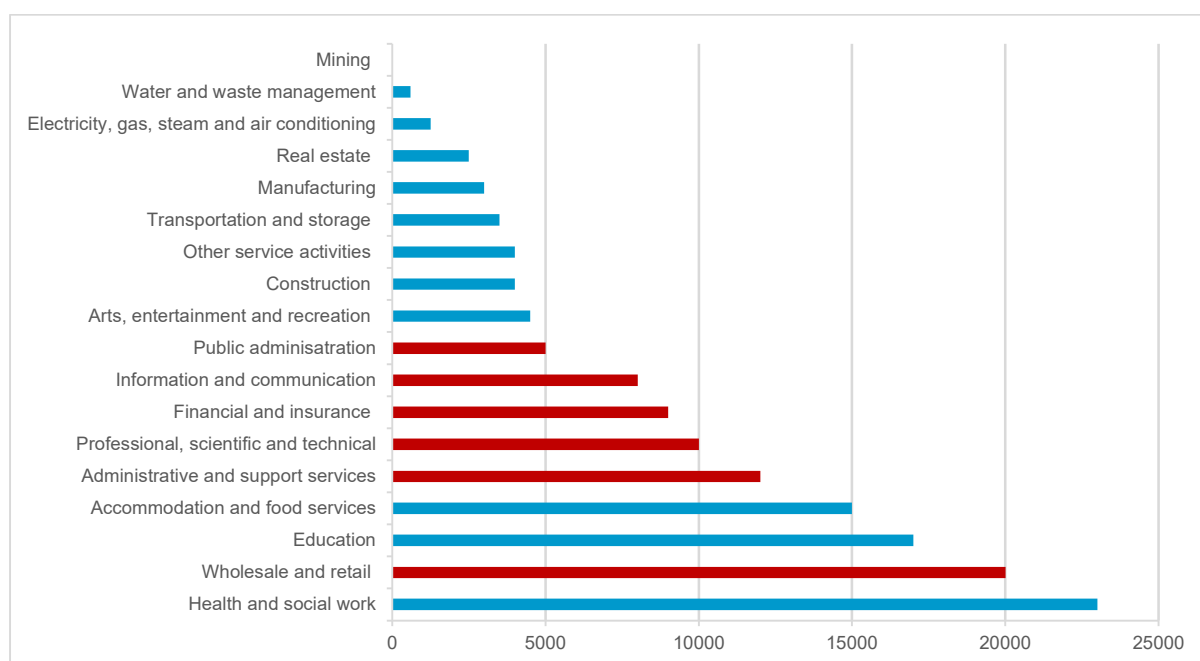
Source: ONS, UK business: activity, size and location, data to 29 September 2020. UK Business: activity, size and location are an annual publication recording the number of businesses, in the UK, that have registered for Value Added Tax (VAT) and/or Pay As You Earn (PAYE). Local units are the individual sites that belong to a registered business.

Office and retail-based sectors are a key driver of employment growth in the city, particularly so because Brighton & Hove did not develop an historic industrial base to any significant extent. ONS data from the Business Register and Employment Survey shows that out of the total 142,370 jobs in the city across all sectors, around 45% account for office and retail-based sectors (those highlighted red in Figure 2 below). For wholesale and retail trade, Brighton & Hove has the second highest number of jobs in the South East after Milton Keynes. The city has similarly higher levels of office-based sectors compared to the rest of the South East.

These non-industrial sectors of employment are likely to be concentrated in premises falling under the E use class, and are therefore vulnerable to unplanned change of use through the Class MA PDR. The potential impact of the PDR is therefore a wholly unacceptable, unplanned reduction in the supply of the types of premises which are particularly important for the sustainability of the Brighton & Hove economy.



**Figure 2: Profile of employment by sector in Brighton & Hove**



Source: ONS, Business Register and Employment Survey 2019

### Office Supply in Brighton & Hove

Based on published 2021 Valuation Office Agency data, Brighton & Hove contains the fifth largest concentration of office floorspace in the South East region with approximately 391,000m<sup>2</sup> of office floorspace. However, monitoring shows that there has been

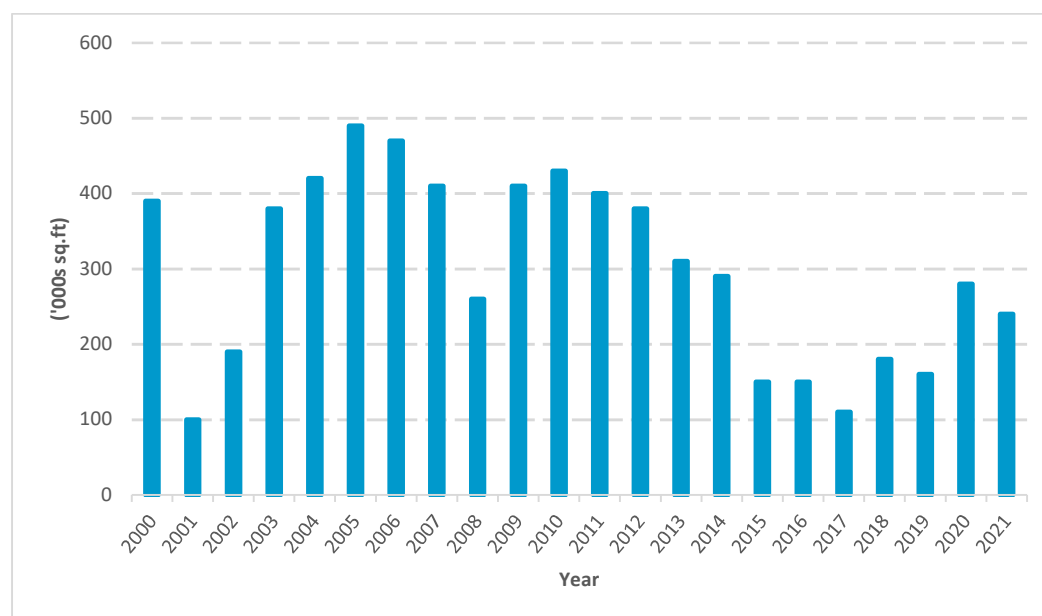
The City's prime office market is principally focused within Central Brighton, located on the east and southern side of Brighton Station, within the New England Quarter and along Preston Road and interspersed within the city centre. This area constitutes the primary office area for Brighton & Hove. It is a location where high-quality premises are demanded from a variety of occupiers such as media, creative, financial, business and professional services, and is the focal point for the City's internationally-renowned digital and media economy.

Much of the existing office stock is within older purpose-built buildings or converted period buildings and offices above shops, many of which would represent prime residential conversion opportunities. The scope for significant new office floorspace within Central Brighton is very limited.

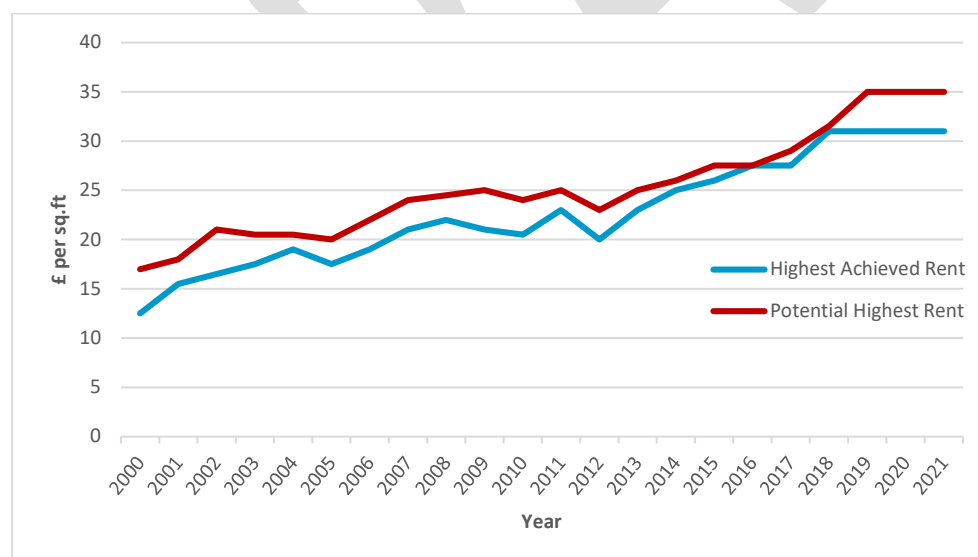
Relatively limited new office space has been delivered in Brighton & Hove since 2000, and as such the overall availability levels consistently very low (see Figure 5) meaning commercial space in the city is very constrained. Availability of offices has been worsening since 2015, although there was a slightly improvement in the situation in 2020 and 2021 which can largely be attributed to the pandemic. Current office vacancy levels in the City stand at a very low level - an estimated 5.5%. The lack of adequate supply has led to consistently rising rent levels as illustrated in Figure 4, with sharper

increase in rents achieved in more recent years from 2012 onwards until a flatlining with the advent of the covid-19 pandemic. The impact of the pandemic on the office market in the city in future is considered in more detail below in Section XX.

**Figure 3: Office Availability in Brighton & Hove, 2000-2021** Source: Stiles Harold Williams



**Figure 4: Office rent levels in Brighton & Hove (Source: Stiles Harold Williams)**

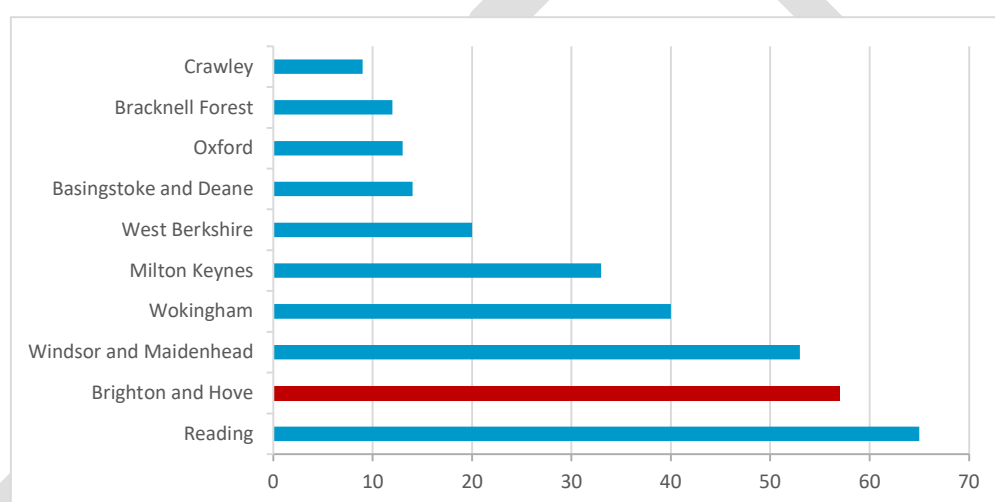


Constraints on commercial space in Brighton & Hove have already been exacerbated in recent years by a decrease of approximately 10,440m<sup>2</sup> of floorspace falling under the former B1 use class in the nine-year period from 2010/11 – 2019/20, of which approximately 6,000m<sup>2</sup> was B1a office floorspace. A further 14,784m<sup>2</sup> of office space is likely to be lost from consented developments that are incomplete, predominantly

from the approval of the Kings House development (11,868m<sup>2</sup>) in Hove, which falls outside of the proposed Article 4 Direction area, and prior approval applications for the change of use from office to residential<sup>6</sup>.

The impact of existing permitted development rights for commercial to residential uses is clear - over the period January 2018 to March 2021, there were 57 commercial (i.e. office and retail) to residential permitted development applications granted, the second highest across the top 10 South East office locations (see Figure 5). This figure would be substantially higher without the protection afforded by the existing Class O permitted development rights and highlights the importance of maintaining protection through the proposed new A4D relating to Class MA when the existing Direction lapses in July 2022.

**Figure 5: Permitted Developments Number (commercial to residential), from January 2018 - March 2021**



Source: MHCLG, Live tables on planning application statistics: applications for prior approvals for permitted developments, by local planning authority, data to March 2021.

Despite the development of some new office floorspace outside of the central area, Central Brighton will remain a location where high-quality offices will be demanded for a variety of occupiers such as media, creative, financial, business and professional services and information communication industries.

### Planning policy

For the reasons set out above, a commensurate supply of high quality, modern and sustainable office accommodation is therefore required to meet the needs of the City's commercial occupiers both now and in the future. Of the three overarching objectives of sustainable development set out in the NPPF, the economic objective is to: *"help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth,*

<sup>6</sup> Brighton & Hove Authority Monitoring Report 2019/20

*innovation and improved productivity*<sup>7</sup>. This is reflected in City Plan Part One, which states in Policy CP3 that “sufficient employment sites and premises will be safeguarded in order to meet the needs of the city to 2030 to support job creation, the needs of modern business and the attractiveness of the city as a business location.

The office space needs in the city which underpin the adopted City Plan Part One were assessed to be 112,000m<sup>2</sup> of office space over the Plan period to 2030 which represents an uplift of 26% on the supply of office space in the City at the time of adoption in 2016 and took account of trends in more efficient use of office space. The city is ambitious in terms of its strategic growth objectives and commitment to ensure sufficient quantities of high-quality modern premises to meet economic output and jobs targets (Employment Land Study 2012).

The City Plan has identified potential capacity to accommodate up to 96,000 m<sup>2</sup>, but this represents only 85% of the identified office floorspace requirement with a shortfall of 16,240 m<sup>2</sup>. The implication is clear: evidence indicates that the City cannot fully meet its future office needs through new development, and therefore must rely upon on the renewal and upgrading of existing office space to meet some future needs. CPP1 therefore also safeguards existing office accommodation through Policy CP3 and encourages improvements in quality to meet future business needs.

However, as discussed above there has in fact been continuing net losses of office floorspace in the city in recent years, exacerbating the gap between supply and the identified needs.

The A4D would allow for greater local policy direction and decision-making than would be possible if permitted development rights were to be applied. The Council is committed to only protecting the existing and potential office supply that is able to meet the needs of businesses. City Plan Part One policies CP3 and SA2 already offer flexibility through the “redundancy test” for outmoded space to be redeveloped for other uses through the application of a criteria-based approach. Annual average losses of 3,000 m<sup>2</sup> of office space to other uses indicates that the Council does not operate a ‘blanket’ protection on office space where it is not justified, but rather seeks to retain the ability to consider individual change of use applications on their merits having regard to other City Plan objectives and the constrained supply of development land available. This also applies within the existing office to residential A4D area, where eight planning applications on sites have been approved since the A4D came into effect in July 2014, resulting in a potential loss of 1,402m<sup>2</sup> office floorspace which had been demonstrated to be redundant, in order to provide 30 dwellings.

This policy and evidence-based approach would not be effective if the permitted development rights took effect; these would allow significant unplanned changes of use from office space to residential. In the context of an already tight market and a requirement for additional office space to secure economic growth outcomes, this would give rise to wholly unacceptable adverse local economic effects.

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<sup>7</sup> National Planning Policy Framework (2021), para. 8

These could include the loss or displacement of jobs to other areas outside the city. It would significantly undermine the ability of the city to safeguard employment land. The city's economic vitality would be harmed, and it could increasingly retrench to becoming a dormitory settlement for other economic centres, particularly London.

Where the need for renewal of office locations outside of the core of the city centre has been identified within the Central Brighton area (e.g., along Preston Road), the City Plan provides policy support for mixed-use redevelopment of outdated office stock including to mixed-uses where appropriate to residential and modern office accommodation.

### Covid-19 Pandemic

With the Covid-19 pandemic and economic recovery, it can be expected that there will be a continued need for local offices/workspace including serviced/flexible co-working arrangements. Companies may choose to have more local and smaller offices, closer to where people live, in order to reduce commuting particularly to London. Companies may split operations between several locations, benefiting regional centres such as Brighton & Hove. Smaller, local offices would reduce commuting and promote more resilient workplaces.

Research published in July 2020 from Hatch estimated that the Greater Brighton City Region is likely to have a 26% loss of GVA in 2020 due to the effects of the covid-19 pandemic. In order to return on the same growth trajectory pre-pandemic by 2030, the region would need to double the historic growth rate of GVA by 2026.

However future demand for office floorspace is likely to remain strong. A September 2021 Hatch report found the net reduction of workforce jobs of 1.4% across the Greater Brighton City Region as a result of the pandemic compares favourably against the equivalent figure of 3% loss for the UK.

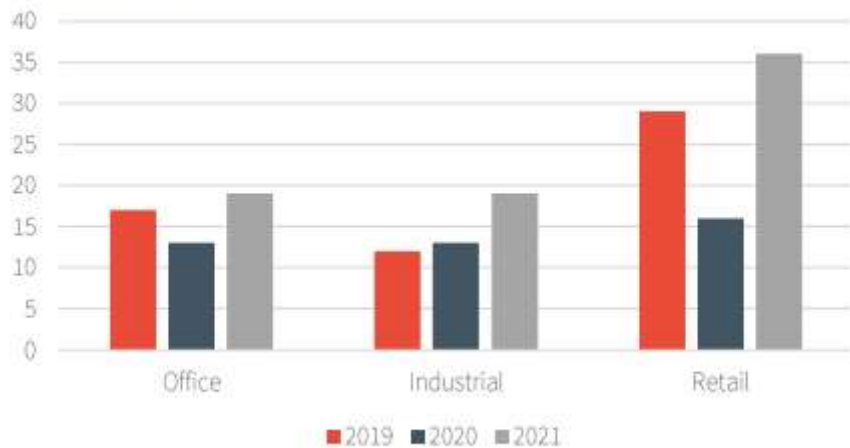
Demand for office premises in Brighton & Hove is increasing in 2021 after a significant fall in 2020 due to the covid-19 pandemic<sup>8</sup>. The first half of 2021 saw a higher number of enquires and viewings for office space than the whole of 2020, as many companies looked at returning to offices as lockdown restrictions eased. Companies looking to move are seeking to improve their offices with a greater focus on agile working environments with nearby amenities. Brighton & Hove continues to be an attractive location for office occupiers, with evidence of more enquiries coming from London companies seeking a more flexible approach to work by creating an additional workplace in Brighton to minimise commuting<sup>9</sup>.

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<sup>8</sup> Stiles Harold Williams

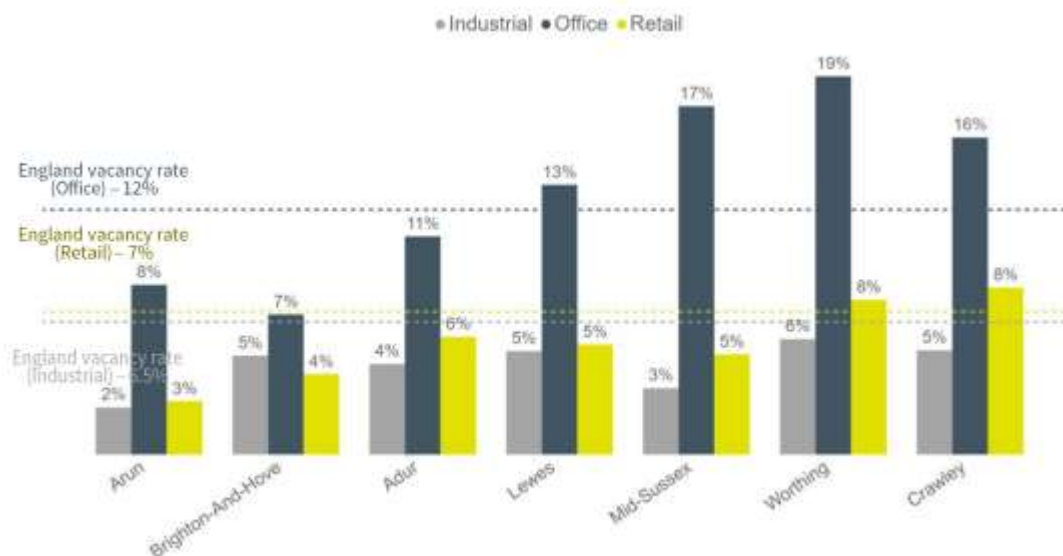
<sup>9</sup> Minutes of the Brighton & Hove Economic Partnership meeting, 23/04/21

Volume of commercial lease transactions, full year 2019 + 2020, 6-months for 2021



Source: Co-Star data, transaction counts, Hatch analysis

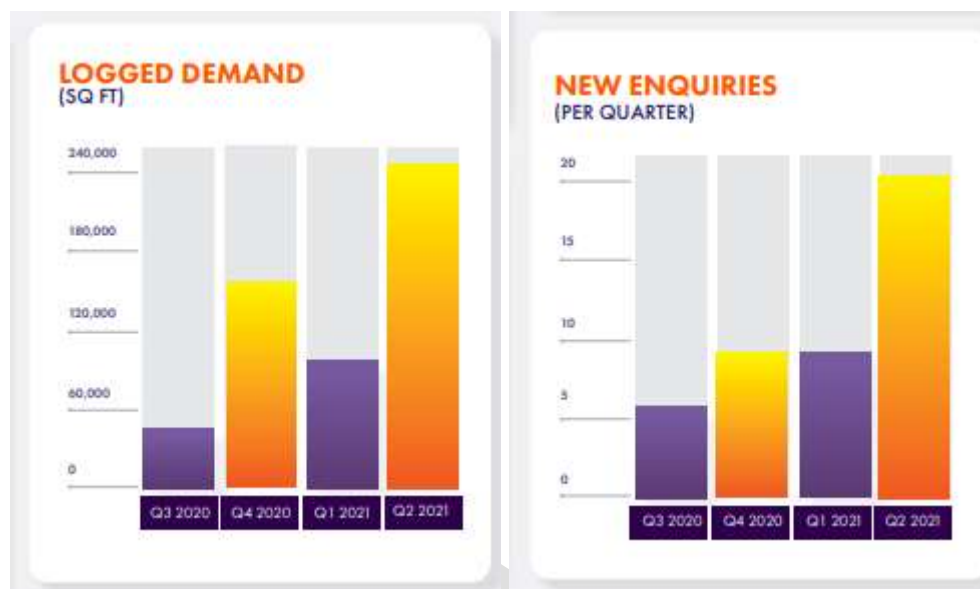
A report the Greater Brighton Economic Board found that in the Greater Brighton area as a whole there has been a growth in workforce jobs across several largely office-based sectors between March 2020 and March 2021, despite the damaging effect on the economy of the lockdowns associated with the pandemic. This is reflected by the number of commercial property transactions in the first six months of 2021 outstripping the full-year volume for 2019 (i.e. before the pandemic) as illustrated in Figure 6 above. Brighton & Hove, as an attractively located medium-sized city with good transport links to London, can be expected to continue to benefit from these changes in the structure of the employment market.



Source: Squire Data, vacancy counts, Hatch analysis



The analysis of the figures indicates that higher vacancy rates in Crawley, Mid Sussex and Worthing partly reflect a reduction in lease take-up by small professional firms where staff can work from home. It is notable that this is not reflected in Brighton & Hove which lends supports the view that the city will remain a strong centre for office based employment in the future.



### Scale of impact

The impact of the uniform introduction of permitted development rights would be to place an estimated 32% of the City's current office stock (that are within Central Brighton) at risk of conversion. The office stock at risk not only meets current needs, but is relied upon to meet future requirements through refurbishment and upgrade due to the lack of sites for new office development in the city, particularly in the central Brighton area.

In turn, this would have the potential to impact or displace up to 1,500 businesses, or 20% of the City's business base. The profile and characteristics of the location mean that a significant proportion would be in high growth, high value sectors of the economy. The impact would therefore be significant in the context of modest corresponding benefits in terms of delivery of new housing.

The impact of permitted development rights for conversion of office space in Central Brighton would disproportionately impact the highest growth, highest value sectors of the City economy that are key drivers of private sector job creation.

Brighton & Hove also has some of the highest housing affordability pressures of any local authority in the South East, and on average has lost 3,000 m<sup>2</sup> office space per annum to residential and other uses over recent years. Land value differentials continue to provide strong incentive to landlords to seek to transfer even occupied office space to residential use.

If delivery of new office space was not forthcoming on the identified Strategic Allocations and Other Significant Sites, and existing occupiers were to become displaced from existing premises, it would increase the shortfall of supply to meet future office requirements. The impact of this would be far ranging: office-based businesses would be increasingly priced out of the City, growing businesses would move elsewhere and inward investment inquiries would be diverted. It would significantly destabilise the ability of the City to provide new jobs in line with future housing growth, with the consequence that the City's economic vitality would be harmed and it would increasingly retrench to becoming a dormitory settlement for London.

Beyond the local level, the economic health of Brighton & Hove is fundamental to the wider sub-region as a major focus for jobs and investment that, in turn, help sustain neighbouring economies.

There would have major long-term impacts in terms of supporting the City's jobs, business base and economic output. The city has limited industrial heritage and few areas that can support employment through heavy industry. Office and service-based employment sectors will therefore continue to be the bedrock for the city's economy.

## Retail centres

### *Primary Retail Frontages*

The proposed A4D area includes the primary retail frontages of the defined regional and town centres as set out in the Proposed Submission City Plan Part Two. The character and purpose of established urban centres is currently in a state of flux with covid-19 hastening a move away from a broadly retail focus towards a wider range of leisure and business uses, as reflected and supported by the introduction of the 'E' use class.

The government's stated intention for the E use class is for it to allow high streets and town centres the best chance of adapting and thriving. The Class MA PDR could undermine this by facilitating premature and unmanaged loss of a range of commercial uses which bring footfall and clustered activities to these areas. This is a strong concern for Brighton & Hove given the city's unique character and the diversity of uses that cluster in the city centre to support not only the local community, but the large number of visitors to the city.

The wide-ranging PDR, could result in large scale changes from recently vacated retail units to residential, without allowing time for a more natural evolution and repurposing of sites to other uses within class 'E' shaped by planning policy. Buildings converted to residential are highly unlikely to revert back to class 'E' the end result could be pepper-potting of residential sites within areas traditional associated with business, leisure and retail, and a hollowing out of urban centres. the introduction of new homes will have upon the function of these centres. The creation of dead frontage and the removal of uses which attract visitors and create footfall will initiate the decline of these centres.

This would be contrary to City Plan Part 1 Policy CP4 which encourages a range of facilities and uses, consistent with the scale and function of the centre, to meet people's day-to-day needs, which supports the role of town centres in meeting the needs of retail, leisure, office and other main town centre uses. Larger centres have wider roles than just shopping destinations, functioning also as places to work, live, visit, and spend leisure time.

It is also inconsistent with national policy set out in the NPPF<sup>10</sup> which requires Local Planning Authorities to define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.

The Article 4 Direction will protect the vitality and viability of town centres across the city, preventing the loss of 'main town centres' which continue to underpin the health and diversity of each centre.

This approach is supported by the Written Ministerial Statement made on 1 July 2021 which states that "*In respect of historic high streets and town centres... the irreducible core of a primary shopping area*" is likely to be where A4Ds are necessary to avoid

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<sup>10</sup> NPPF (2021), para. 86

wholly unacceptable adverse impacts. In Brighton & Hove the identified primary frontages are equivalent to the 'irreducible core' and it is considered appropriate to protect them through the A4D.

There is a particularly high demand for retail space in Brighton despite the success of online shopping during the pandemic<sup>11</sup>. Vacancy rates for retail units in Brighton & Hove remains considerably lower than other areas, with all the areas of primary frontage included in the Article 4 Direction having lower proportion of empty units than the Great Britain average (see Table 1 below). This indicates that there is not an over-supply of retail floorspace in the city, and that the existing level of provision is meeting demand and should be protected for commercial uses.

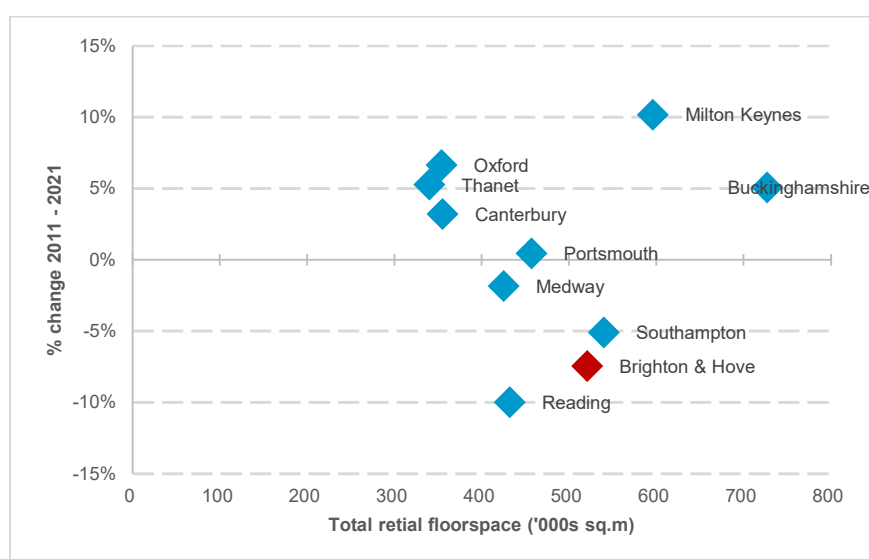
| <b>Primary Frontage</b>      | <b>Estimated Retail vacancy rate (October 2021)</b> |
|------------------------------|---|
| Brighton Regional Centre     | 12.3%   |
| Hove                         | 9.4%  |
| London Road                  | 9%  |
| St. James's Street           | 10%   |
| Lewes Road                   | 14.8%   |
| Boundary Road/Station Road   | 10.5%   |
| <i>Great Britain average</i> | <i>15.8%</i>  |

*Table 1: Estimated Retail vacancy rates in Brighton & Hove primary frontages October 2021 (source: Local Data Online)*

In addition, Brighton & Hove contains approximately 521,000 sqm of retail floorspace, the fourth largest concentration in the South East. However, the city has seen a decrease in retail floorspace compared to the other top ten South East retail locations, with a loss of 7% since 2011 (see Figure 4 below). This, together with the relatively low vacancy rate, highlights the importance of a planned approach to managing future provision of retail units to avoid the loss of units to residential which would otherwise be in demand for continued commercial use.

<sup>11</sup> Covid-19 Impact Assessment (Hatch for Greater Brighton Economic Broad, 2021)

Figure 4: Comparison of Top 10 South East Retail Centres



Source: VOA, Non-domestic rating: stock of properties including business floorspace, data to 31 March 2021

### Local Centres and Important Local Parades

Brighton and Hove has numerous small local retail centres and parades located in residential communities providing access to day-to-day necessities such as a newsagent, convenience store off-licence, pharmacies and post offices, within walking distance from home. It is important that these shopping facilities remain vibrant, attractive and accessible. Providing local shopping and related facilities within walking distance enables the less mobile, including the elderly and low-income groups, access to food and services close to where they live, and is important in achieving equality of opportunity and sustainable neighbourhoods.

These often serve more isolated residential areas in towns and cities and provide important local services such as local food shopping, post office services, hairdressers and so on. There is particular concern as to the impact of the proposals on these smaller neighbourhood parades which are often on quieter roads where premises can be more suited to conversion to residential. The PDR will facilitate the gradual erosion of business premises in these areas and particularly in areas of high residential land values. Such parades are often outside of conservation areas; therefore there will often be no ability to consider the loss of the ground floor to residential through prior approval.

The importance of such facilities being available locally has been very apparent during the period of covid-19 restrictions. If these premises are lost, a more centralised distribution will increase the distances that users are required to travel to access these uses with associated negative effects such as increasing the need for residents to travel to access local services. This reduced accessibility is likely to be a particular issue for those who are less mobile, particularly given the hilly nature of much of Brighton & Hove including the suburban areas which rely to a greater extent on local parades for the provision of local services. This could lead to undesirable increases in

traffic movements and congestion, and negative effects on air quality and would be inconsistent with national and local carbon reduction targets.

The importance of maintaining the vitality of local centres and important local parades has been highlighted by the COVID-19 pandemic, which has highlighted the importance of the liveability of local neighbourhoods, with people spending more time locally, working at home if possible, using public green social space, walking and cycling rather than using cars and connecting with neighbours. The Council has also supported the emerging 20-minute neighbourhood concept as an effective way of creating healthier more engaged communities.

The Local Centres are identified in Policy CP4 of CPP1 and form an important part of the established retail hierarchy in the city.

An assessment was undertaken during Spring 2017 of 35 parades across the city to identify those considered suitable for designation as Important Retail Parades in City Plan Part 2. The assessment of the parades considered the number of units, whether the units provided a service to the immediate locality and whether at least 51% of the units were occupied at the time of the survey. Out of the 35 parades assessed it was concluded that 10 could be designated as Important Retail Parades in City Plan Part 2<sup>12</sup>. Inclusion of these 10 parades in the A4D area is considered appropriate as they the assessment has concluded they are performing an important function in servicing their local communities. The impact of the loss of these parades would be wholly unacceptable.

Limiting the A4D area to these local parades and not including the other 25 parades that formed part of the assessment process, as well as tightly drawing the A4D boundary line around the retail units, aligns with the requirement for A4Ds to be based on robust evidence, and apply to the smallest geographical area possible.

### Tourism

A broad-brush national approach does not allow for the planning process to respond to particular local circumstances. In Brighton & Hove the tourism sector is a key driver of the local economy. The character of the city centre and its associated retail and leisure industries is an important facet of the city's tourism offer. For example, the independent shops in the Lanes and the North Laine areas are respectively the #2 and #5 rated best 'things to do' in Brighton on TripAdvisor and attract large numbers of tourists to the city every year. The potential loss of these retail premises and hollowing out of these areas with residential properties through the PDR risks undermining their unique character and vibrancy. This could have a consequential negative effect on the city's economy through diminished appeal to tourists.

Both Valley Gardens (including event spaces at St Peters Square and Victoria Gardens, and the Old Steine hold Premises Licences permitting various regulated entertainment and the sale of alcohol until 2300hrs. In addition, there is a special condition which permits regulated entertainment and the sale of alcohol until 0030 Sundays to Wednesdays and until 0200hrs Thursdays to Saturdays on both sites

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<sup>12</sup> Full details of the assessment process is set out in [Retail Policies Topic Paper](#), May 2021



during the Brighton Festival and Fringe. The Festival and Fringe are key cultural arts events of national significance that are vitally important to the city's economy and tourist offer.

Across Valley Gardens there were over 200 days of event use in 2021, despite restrictions associated with covid-19. It can be anticipated that there will be over 300 days use across all three venues (St Peters, Victoria Gardens and Old Steine) in 2022. The income from the venues on these sites made up over 50% of Brighton Fringe's income in 2021, with the income generated across these venues during Brighton Fringe was £13 million. The venues supported the employment of over 300 people in 2021.

The increasing proliferation of residential uses in close proximity to these key year-round event spaces is considered to represent a risk to their ability to effectively operate in line with their approved licenses due to the increased probability of disturbance to residents and the inability of 'agent of change' considerations to be fully considered in the determination of prior approval applications. Should such issues manifest themselves and the use of the Valley Gardens area for outside events be affected, this could result in a significant negative impact on the Brighton Festival and Fringe.

## Conclusions

This report sets out the justification for the purpose and extent of an Article 4 Direction in Brighton & Hove relating to changes of use from class E to residential. In summary these are:

- The vulnerability of small office premises to change of use through the PDR which are of particular importance to the Brighton & Hove economy due to the strength of the city's small business sector
- The importance of office and retail sectors as a key employment providers and drivers of employment growth in the city
- The limited scope for significant new office floorspace in the city, and particularly within Central Brighton, to replace floorspace lost through permitted development right
- The constrained market and low vacancy rate of office space in Brighton & Hove, which has been exacerbated by employment floorspace losses in recent years, partly due to the former office to residential PDR
- The PDR would undermine the commitment of the council to protecting existing and potential office supply that is able to meet the needs of businesses through City Plan Part One policies CP3 and SA2
- The strong recovery from covid-19 that is being observed in Brighton & Hove with significant increases in demand for office space, and the city being well-positioned to benefit from structural changes to working patterns resulting from the pandemic
- Land value differentials and high residential values providing strong incentives to landlords to seek to transfer even occupied office space to residential use.

- Low vacancy rates for retail units in the Brighton regional centre and other town centres which mean that the introduction of residential is not required to maintain occupancy levels and minimise vacant premises
- The importance of small local retail centres and parades located in residential communities in maintaining sustainable residential communities by providing access to day-to-day necessities within walking distance from home
- The need to protect the effective operation of the key Valley Gardens event space.

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