

<u>No:</u>	BH2016/01879	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	73 North Road, Brighton, BN1 1YD (Land to the Rear Of 73 North Road Brighton)		
<u>Proposal:</u>	Erection of part single, part two storey building to provide 8no office units (B1) (amended plans).		
<u>Officer:</u>	Wayne Nee, tel: 292132	<u>Valid Date:</u>	27.05.2016
<u>Con Area:</u>	NORTH LAINE	<u>Expiry Date:</u>	22.07.2016
		<u>EoT/PPA Date</u>	11.11.2016
<u>Listed Building Grade:</u>			
<u>Agent:</u>	Flint Architecture 12 Shepherds Close Ringmer BN8 5LU		
<u>Applicant:</u>	John Blake C/o Flint Architecture 12 Shepherds Close Ringmer BN8 5LU		

This application was deferred from Committee on the 9 November 2016 to allow the opportunity for the Ward Councillor to address the Committee.

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 Plan	D.01		23 May 2016
Location Plan	D.02	A	23 May 2016
Block Plan	D.03	B	23 May 2016
Floor Plans Proposed	D.04	D	23 May 2016
Floor Plans Proposed	D.05	E	30 September 2016
Roof Plan Proposed	D.06	E	30 September 2016
Sections Proposed	D.07	E	30 September 2016
Sections Proposed	D.08	D	30 September 2016
Sections Proposed	D.09	D	30 September 2016

Sections Proposed	D.10	D	30 September 2016
Elevations Proposed	D.12	B	23 May 2016
Sections Proposed	D.15	D	30 September 2016

- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

- 3 The building hereby permitted shall be used as offices (Use Class B1(a)) only and for no other purpose (including any other purpose in Class B of the Schedule to 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). 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 of the area and to comply with policy QD27 of the Brighton & Hove Local Plan.

- 4 The walls to the development hereby permitted shall be smooth rendered in a cement/lime/sand render mix down to ground level and shall not have bell mouth drips above the damp proof course or above the window, door and archway openings. The render work shall not use metal or plastic expansion joints, corner or edge render beads and shall be painted in a smooth masonry paint to match the original building and shall be maintained as such thereafter.
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 City Plan Part One.

- 5 The rooflights hereby approved shall have steel or cast metal frames fitted flush with the adjoining roof surface and shall not project above the plane of the roof.
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 City Plan Part One.

- 6 No development shall commence until a method statement setting out how the existing boundary walls are to be protected, maintained and stabilised during and after demolition and construction works, has been submitted to and approved in writing by the local planning authority. Works shall be carried out in strict accordance with the approved method statement.
Reason: This pre-commencement condition is required to ensure the satisfactory preservation of the boundary walls throughout all demolition and

construction works and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.

- 7 No development shall commence until full details of existing and proposed levels (referenced as Ordinance Datum) within the site and on land and buildings adjoining the site have been submitted to and approved by the Local Planning Authority. The details shall include spot heights and cross-sections referencing the height of adjacent buildings, gardens, boundary walls (existing and proposed) and the proposed floor levels, eaves and ridge height of all new buildings. 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 CP12 of the Brighton and Hove City Plan, and policies QD27 & HE6 of the Brighton and Hove Local Plan.

- 8 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

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

Reason: As this matter is fundamental to the protection of amenity and highway safety throughout development works and to comply with policy CP8 of the Brighton & Hove City Plan Part One, and policies QD27, SU9, SU10, and TR7 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 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 hard surfacing materials
- c) Samples of the proposed window and door treatments
- 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 policy HE6 of the Brighton & Hove Local Plan.

- 10 No development above ground floor slab level shall take place until full details of all new windows and doors and their reveals, thresholds and cills including 1:10 scale elevational drawings and sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.

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

- 11 No development above ground floor slab level shall take place until full 1:10 details of the eaves and parapet roof details have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.

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

- 12 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.

- 13 Prior to the first occupation of the development hereby permitted the applicant shall reinstate the redundant vehicle crossover fronting the site on North Road back to a footway by raising the existing kerb and footway.

Reason: In the interests of highway safety and to comply with policy CP9 of the Brighton and Hove City Plan Part One, and policy TR7 of the Brighton and Hove Local Plan.

- 14 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 non-residential development built has achieved a minimum

BREEAM rating of 'Very Good' 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

- 15 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.

- 16 The development hereby approved shall not be occupied until a scheme of Travel Plan measures to promote sustainable transport to and from the site has 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:

- The provision of up to date public transport information within the building and to users of the building;
- Sustainable transport details and directions to the site provided on the company websites and sent to external parties when arranging meetings;
- Promotion of sustainable travel for staff trips including personal travel planning as part of their induction;
- Sustainable transport promotional material being readily available to staff and patients including cycle and bus routes and timetable brochures and car club information.

The above works must be implemented prior to the first occupation of the building and thereafter be maintained as such.

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 City Plan Part One

- 17 (i) 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 is 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.

(ii) 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.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under (i) (c).

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the health of future residents or occupiers of the site and to comply with policy SU11 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 is advised that the proposed highways works required by condition should be carried out in accordance with the Council's current standards and specifications and under licence from the Network Co-ordination team. The applicant should contact the Network Co-ordination Team (01273 293366).
3. The applicant is advised that the above condition 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 (i) (b) and (i) (c) of the condition.
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).

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application site comprises a rectangular parcel of land to the rear of buildings on Queens Gardens and Upper Gardener Street. The site is accessed from an undercroft beneath 73 North Road and sits within the North Laine Conservation Area.
- 2.2 The site is currently used as a flea market with fruit, vegetable and bric-a-brac stalls and a café, and includes a number of timber and steel structures. Both the structures and the use of the site do not have the benefit of planning permission.
- 2.3 The site is accessed through a coach door opening to no. 73 North Road, and is bounded by residential properties and terraces. Buildings in commercial use (such as a public house, workshops etc) are also found along Upper Garden Street which backs onto the application site.
- 2.4 Planning permission is sought for the erection of a part single, part two storey building to provide 8no office units (B1). The two storey part of the building would have a mansard roof with rooflights. The single storey element would have a flat roof. The walls are proposed to be cream render and the windows and doors would be aluminium.
- 2.5 This application follows a previously refused application on appeal (**BH2015/00445**) due to impact on amenity of neighbouring properties. In this application, the roof design has been altered from a pitched roof to a mansard roof. During the process of the application the shaped of the mansard roof was altered.

3. RELEVANT HISTORY

- 3.1 **BH2015/00445** - Erection of part single, part two storey building to provide 8no office units (B1) - Refused (20/08/2015) for the following reason:

The proposed development by reason of its height, scale, bulk and design does not enhance the positive qualities of the local neighbourhood and thereby fails to preserve the character and appearance of the conservation area.

Appeal dismissed (19/04/2016) as the Inspector determined that the proposal would significantly harm the living conditions of the occupiers of Nos 40 - 43 Queens Gardens in relation to outlook.

BH2014/00603 - Erection of part single storey, part two storey building to provide 8no office units (B1) with new entrance gates to site entrance - Refused (23/04/2014) for the following reason:

The proposed development, by virtue of the scale, materials, bulk and design of its roof form, fails to complement the general form and setting of the site and its surroundings, and would result in appreciable harm to the character and appearance of this backland site and the positive characteristics of the surrounding North Laine Conservation Area.

The proposed development, by virtue of the scale, bulk and design of its roof form, would result in a loss of amenity for occupants of Queens Gardens by way of adverse loss of light and harmful oppression of outlook.

Appeal dismissed (26/01/2016) as the Inspector determined that the use of zinc cladding would be an uncharacteristic material which would not reflect the context of the Conservation Area, and that there would be a significant increase in the sense of enclosure that would be oppressive for the occupiers of Nos 40,

BH2008/02421 - Construction of new part single storey, part two storey offices. (Resubmission). Appeal against non-determination dismissed

BH2007/01780 - Erection of three storey office building. Refused 31/08/2007

BH2004/02194/FP-Proposed development of seven residential units (comprising 3 no. 1-bed flats, 2 no. 2-bed houses, 1 no. 2-bed flat, 1 no. 3-bed house) and one office (B1) unit. Finally disposed.

BH2004/01497/CA - Conservation Area Consent for demolition of structures on site. Approved 12/07/2004.

BH2004/01332/FP- Redevelopment to provide 8 new dwellings. Approved 29/06/2004.

91/0299/FP- Demolition of existing B8 units to yard, construction of new unit, change of use of 2 storey house to shop and flat above, 2 storey rear extension. Approved 21/05/1991.

91/0300/CA- Demolition of existing B8 units to yard, construction of new unit, change of use of 2 storey house to shop and flat above, 2 storey rear extension. Approved 21/05/1991

91/0753/FP- Amendment to extend hours of operation. Approved 26/07/1991.

4. REPRESENTATIONS

4.1 **Seven (7)** letters have been received from **Queens Gardens (nos. 40, 41), Upper Gardener Street (40, GFF North of 40, Flat 4 of 40, The School House 44) and North Laine Community Association** objecting to the proposed development on the following grounds:

- Loss of market which is thriving and adds to the character and varied commerce of the North Laine area. It is unique and quirky in keeping with the Laines
- The market is an established part of the community and more important than another office building
- Loss of community facilities
- No parking provision
- Cramped overdevelopment

- Higher building will cause loss of light and loss of privacy to patios, balconies, rear gardens and windows of properties on Queens Gardens and Upper Gardner Street
- Noise and disturbance from building works

4.2 **Councillor Lizzie Deane** has objected to the application. A copy of the email is attached to this report.

5. CONSULTATIONS

5.1 **Environmental Health:** Comment

A phased potentially contaminated land condition is appropriate to ensure that any new build is not adversely impacted by legacy/historic contamination. It is noted that the application seeks to build offices in an existing void between two streets. Having examined the historic maps and trade directories, it is suggested that the site may have been a former coachbuilders in the 1908 edition of Pikes, similar to today's yellow pages. As such and with the introduction of offices, it is appropriate to consider a phased potentially contaminated land condition to ensure the integrity of the new build.

5.2 **Heritage:** Comment

There is a long planning history to this site, including three refusals for similar development (2008, 2014 and 2015), which were dismissed at appeal. This site has historically always been an open yard; this open character contributes to the conservation area, providing evidence for the former industrial character of the area and relief to the dense built form. It is however acknowledged that the principle of development at the site has previously been considered acceptable by the Local Planning Authority and by a planning inspector.

5.3 The 2015 appeal decision acknowledges that the development cannot be seen from the wider conservation area, other than potential glimpsed views through the entrance from North Road. It however does acknowledge that it would be seen in private views from the rear of adjacent properties.

5.4 Previous Heritage comments set out that whilst the principle of a modern design approach was considered to be acceptable in this location, it must respect the character of the area in terms of its materials and form. This is in line with the NPPF, which sets out that new development should respond to local character and history and reinforce and positively contribute to that character and distinctiveness. It is appreciated that there are only glimpses of the application site from the public realm when the access gates to the site are open however, the Framework does stress the importance of achieving high quality design for all development, including development within private spaces.

5.5 The main difference within this application (relative to the BH2015/00445 submission) is the roof form, and thus comments will be made on this item.

5.6 Traditional ridged, hipped and valley roofs, slate roofing, some tile roofing, painted render and some brickwork for the walls are the dominant characteristics of the North Laine area. Mansard roofs are not an overriding

characteristic of the conservation area, although it is acknowledged that there are some examples evident.

- 5.7 It would be more appropriate for the roof to be amended to a simple pitched roof with central ridge. A simple roof form would also be more appropriate in reflecting the rear 'backland' location of this site and in remaining subservient to the surrounding development. This is in-line with the reference made to the 2014 appeal decision within the D&A Statement: the inspector felt that the roofs would form an overly prominent feature in the conservation area. It would be appropriate for the pitched roof with central ridge to be set lower than that proposed in the 2015 application, e.g. at the height of the central ridge of the currently proposed mansard.
- 5.8 If a mansard roof were considered acceptable by the case officer, guidance set out in SPD12 appendix B should be applied to ensure the mansard is traditionally laid out. The current proposal is not a true mansard.
- 5.9 Ridgeline rooflights are not generally used in combination with a mansard roof, and leads to a somewhat confused roofscape. The number of rooflights should be kept to a minimum; the reflective quality of the rooflights is uncharacteristic of the area, as indicated in the Appeal decision (2009).
- 5.10 **Sustainable Transport:** No objection
Pedestrian access to the building is retained from North Road and the Highway Authority has no objections to this arrangement.
- 5.11 The applicant is intending to provide 5 cycle parking spaces at the front of the property. This level of provision is deemed acceptable and welcomed by the Highway Authority. The nature of the cycle stands is not apparent from the submission. Therefore the Highway Authority would recommend further details are secured via condition. In order to be in line with Policy TR14 of the Brighton & Hove Local Plan cycle parking must be secure, convenient, well lit, well signed and wherever practical, sheltered. The Highway Authority's preference is for the use of Sheffield type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22.
- 5.12 There is forecast to be more deliveries associated with the current use of a market or the permitted use of a B8 storage unit, than that of an office. There will be some deliveries associated with the office development for example for office supplies. These deliveries could take place from the existing loading bay on North Road.
- 5.13 The applicant is not proposing any on-site car parking spaces therefore the existing vehicular access on North Road is now redundant. The Highway Authority would recommend that the existing crossover is reinstated back to footway via the inclusion of the suggested condition and informative (detailed below). The reinstatement of footway will ensure the development will be in accordance with policy CP9 of the Brighton & Hove City Plan Part One and TR7 of the Brighton & Hove Local Plan, by providing short, safe, attractive and direct routes for walking. This will ensure short, safe and attractive walking routes are

provided from the site and also help prevent drivers from parking on the footway which could pose road safety issues.

- 5.14 The applicant is not proposing any on-site car parking provision. The proposed level of car parking is deemed acceptable given the central and sustainable nature of the site.
- 5.15 The proposals are not considered to significantly increase total person trips to and from the site when comparing the proposed use of an office with the existing permitted use of a B8 storage unit. There will be a change in the nature of the trips associated with the site however with more trips occurring within the traditional highway peak hours. While the development is not of a size to warrant a full Travel Plan the Highway Authority would look for travel plan type measures to be adopted to encourage sustainable travel to and from the site. It is recommended that further details be secured via 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
CP3 Employment land
CP7 Infrastructure and developer contributions
CP8 Sustainable buildings
CP9 Sustainable transport
CP12 Urban design
CP15 Heritage
SA2 Central Brighton

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
QD14 Extensions and alterations
QD15 Landscape design
QD27 Protection of amenity
HO20 Retention of community facilities
EM4 New business and industrial uses on unidentified sites
EM10 North Laine Area - mixed uses
SR4 Regional shopping centre
SR8 Individual shops
HE1 Listed buildings
HE6 Development within or affecting the setting of conservation areas
HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste
SPD12 Design Guide for Extensions and Alterations
SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to the principle of change of use, the impact of the proposed building on the appearance of the site and North Laine Conservation Area, its impacts on neighbouring amenity, and transport and sustainability impacts.

8.2 Planning Policy:

The site as existing forms a flea market with bric-a-brac stalls and a café set just outside the western boundary of the Regional Shopping Centre. It is understood that this A1 use has been intermittent over a considerable period of time, with the last period of inactivity between 2004 and 2008 when the site was cleared of all structures. The current mixed A1 and A3 uses on the site and associated informal structures are unauthorised. Notwithstanding this the use of the site contributes positively to the character and vibrancy of the North Laine Conservation Area, albeit the fact that the structures are of a disjointed and harmful appearance.

8.3 There is very little other history on the use of this site. On the assumption that the lawful use of the site is predominantly A1 (with the A3 use ancillary), policy SR8 (individual shops) applies as the site forms a retail use adjacent to the boundary of the Regional Shopping Centre, not within. Policy SR8 resists the loss of individual A1 uses unless the use is within easy walking distance of a designated shopping area; is not economically viable; and any new use would not be harmful to neighbouring amenity. In this instance the nature of the market

use, the proximity of the site to the Regional Shopping Centre and the retention of employment floorspace within the development is such that policy SR8 would not be materially conflicted.

8.4 In terms of providing 299sqm of new B1 office accommodation, Policy EM4 of the Local Plan sets out the criteria for when planning permission for such uses on unidentified sites will be granted:

- a) There is a demonstrable need for such a use, given the availability of existing land or premises identified in the plan or on the market or with outstanding planning permission;
- b) The site is readily accessible by public transport, walking and cycling;
- c) The development would not result in the net loss of residential accommodation;
- d) The development would not result in the loss of an important open space, an identified Greenway or a nature conservation site as specified in the Plan.
- e) The development would not have a demonstrably adverse environmental impact because of increased traffic and noise;
- f) The development would not be detrimental to the amenities of occupiers of nearby properties or the general character of the area; and
- g) There is adequate landscaped amenity open space.

8.5 It is considered that the proposal would meet criteria a - e by virtue of its city centre location and the identified need for modern office accommodation within the Employment Land Study update 2012. The council's Economic Development Team has indicated on the previous application that the proposal would provide good sized units for start-up and embryonic businesses. Whilst some vacant office units are present in the area, their size, location and quality is mixed. As such this does not necessarily mean that there is no demand for new modern units suitable for business growth such as those proposed.

8.6 Matters relating to criteria f are addressed below. Although there is limited amenity space to meet criteria g, given the constraints of the site, and the location of the site within close proximity to city centre amenities, it is considered that in this case the level of outdoor amenity space is acceptable. This accords with the views previously taken by the Appeal Inspectors.

8.7 **Design and Appearance:**

As with the previous submissions, the application proposes eight office units set in a single building through the length of the site to replace the existing agglomeration of unauthorised structures. Access would again be via the existing undercroft fronting North Road, with each unit accessed via a 1.2m wide passageway along the eastern boundary. Two central offices would be single storey with a flat roof to protect the amenities of 40 Upper Gardener Street, with the remainder two storey to accommodate a mezzanine floor within. The building would be completed in painted render with aluminium windows and doors.

8.8 The site coverage of the building, its position within the site, its access, and use of render has been established by previous Appeal Inspector decisions.

Previous appealed schemes however have been refused on the grounds of either the design/appearance of the roof form, or the impact on amenity of the roof form on neighbouring properties. The 2008 scheme included a corrugated metal barrel roof form over the two storey elements, and the 2015 scheme included a more traditional simple pitched roof. The principle of a these roof designs were accepted by the Inspector given the variety of roof forms in the area and its relative lack of visibility in the wider realm. Although it was acknowledged that it would be seen in private views from the rear of adjacent properties.

- 8.9 The current submission proposes a mansard roof which is lower in height than the previously proposed roof forms. The Heritage officer raised concerns to this design approach on the grounds that a mansard is not an overriding characteristic of the conservation area, and that the mansard design presented did not have a traditional mansard form that is set out within SPD12. Further concern was raised at the number of rooflights proposed. Amended plans have been received showing a more traditional mansard form with a widened parapet gutter on the west elevation bank of conservation style rooflights along the ridge with some rooflights dropped to this level to reduce the coverage further up the roof slope. This is in line with the Heritage consultation comments. The height of the roof is lower than the previously proposed barrel roof and traditional pitched roof. Given the constraints of the site and the requirement to reduce the impact on neighbouring properties, it is considered that this is the most appropriate historically appropriate design solution in this instance. Further details would be required of materials, to ensure the use of natural slate roof tiles and conservation rooflights. The plans detail that the building would sit within the remaining flint walls that form the western side boundary, thereby ensuring the preservation of these historic boundary treatments.
- 8.10 For these reasons, on balance, the proposed development is now considered to be of an appropriate design that would not harm the character or appearance of the surrounding North Laine Conservation Area in accordance with local plan policies.
- 8.11 To the front, the existing undercroft timber gates are to be retained with a side door adjacent removed and infilled to match the adjacent wall. No harm is identified with this element of the proposal. Likewise the provision of cycle and refuse stores within the undercroft are not considered to be of harm to the area.
- 8.12 **Impact on Amenity:**
The site is directly abutted by a number of residential and commercial properties. As previous, the greatest impact would be on nos. 40- 43 & 46 Queens Gardens which as existing have small courtyard gardens on a lower level to the site and bounded by tall walls. These properties currently face onto original flint boundary walls topped by the various unauthorised structures of the market. The Inspector considered the eaves and ridge heights of the 2015 traditional pitched roof form to result in significant impact on the amenity of the neighbouring properties of nos. 40-43 Queens Gardens in particular, by way of a loss of outlook to their ground and first floor rear windows. It was considered that the height of the proposed roof would not be significantly perceptible from

the existing neighbouring basement courtyards, and the roof terraces were at of a sufficient height to not be significantly affected. The amenities of properties on 46 Queens Gardens and on Upper Gardner Street, although still affected, would be relieved to a significant extent by the single storey element of the proposal.

- 8.13 The plans detail that the flint walls rear of Queens Gardens are to be retained. The current scheme would include a pitched roof of a reduced ridge height by approximately 1m, and the eaves height would be set away from the existing boundary wall to Queens Gardens by approximately 0.7m. It is considered that this would be sufficient to ensure it would not have an unduly enclosing impact on the outlook of the rear windows of these neighbouring properties, especially relieving the previous significant impact to the rear windows of nos. 40-43 & 46 Queens Gardens. Objections have also been received from occupiers of the flats and nursery/community uses at nos. 40 & 44 Upper Gardner Street. It is considered that the lowered eaves and ridge heights as a result of the proposed mansard roof would also relieve the impact on rear windows of no's 40-44 Upper Gardner Street.
- 8.14 For the avoidance of doubt, and to ensure the building relates appropriately to the existing boundary treatments, a condition is recommended requiring existing and proposed spot heights relative to the ground levels to Queens Gardens.
- 8.15 The proposed rooflights facing Queens Gardens would be high level to the ground and first floor rooms and would not introduce overlooking potential. Although some light spillage may occur, this would not be out of keeping given the compact backland nature of the site with numerous facing windows.
- 8.16 To the east, the proposed facing rooflights within the development are set low relative to first floor level and, although there would be facing rooflights towards 40 Upper Gardner Street, this would not introduce significant overlooking given the use of both buildings.
- 8.17 The southernmost roof section would face rooflights and dormers within 41 Upper Gardner Street however given the scale of the roof, its separation and the low position of the proposed rooflights, no significant amenity harm would arise. This section of roof would also not significantly harm adjacent rear windows and amenity spaces to 72 North Road to the west side given its scale and form.
- 8.18 For these reasons the proposed building would not result in significant loss of amenity to adjacent occupiers, in accordance with policy QD27 of the Brighton & Hove Local Plan.
- 8.19 The proposed office use would result in no significant increase in potential noise and odour disturbance to that of the existing use. A condition is attached to ensure the site can only be used as offices to avoid potential for other permitted uses to impact on the amenities of adjacent occupiers. A further condition is attached to require a Construction Environment Management Plan to help reduce disturbance to adjacent occupiers during construction works.

8.20 Sustainable Transport:

The site is located in a sustainable town centre location within a Controlled Parking Zone (zone Y), and would provide no onsite vehicle parking. Secure covered bicycle storage for 5 bicycles is proposed which is considered acceptable in this instance and final details are secured by condition. A further condition is sought to restore the dropped kerb outside the site back to footway, alongside the provision of a travel plan. No contribution towards sustainable transport infrastructure is being sought in this instance by Sustainable Transport officers.

8.21 Residents have raised concern at potential impact on parking capacity in the area, which is already strained. It is not considered that eight small office units would have a significant impact on daytime parking levels in the area and neither Sustainable Transport officers nor previous appeal inspectors have raised objection on these grounds.

8.22 Sustainability:

The site forms previously developed land. Policy CP8 of the Submission City Plan requires development of this scale to meet BREEAM 'Very Good'. A condition is attached to ensure the development meets this standard. Provision for refuse and recycling facilities is shown to the front of the site within the undercroft and is also secured by condition.

8.23 Other Considerations:

The site has been identified by the Environmental Health Team as having been a former coach builders. Given the proposed office use, it is appropriate for a potentially contaminated land condition to be required in this instance.

9. EQUALITIES

9.1 The development would have a level access.