

<u>No:</u>	BH2018/00732	<u>Ward:</u>	Preston Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	25 York Villas Brighton BN1 3TS		
<u>Proposal:</u>	Demolition of existing buildings and erection of a three storey mixed use development, comprising 5no commercial units (B1) at ground floor, and 1no one bedroom, 4no two bedroom and 2no three bedroom flats at first and second floor.		
<u>Officer:</u>	Luke Austin, tel: 294495	<u>Valid Date:</u>	07.03.2018
<u>Con Area:</u>		<u>Expiry Date:</u>	02.05.2018
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	ECE Planning Limited Worthing BN12 4AP	Brooklyn Chambers	11 Goring Road
<u>Applicant:</u>	John Bacon C/o ECE Planning Limited Goring Road Worthing BN12 4AP	Brooklyn Chambers	11

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, as set out hereunder, SAVE THAT should the s106 Planning Obligation not be completed on or before 26th February 2020 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 11 of this report:

S106 Heads of Terms

- Affordable Housing: a contribution of £69,927.
- A contribution of £11.533 towards sustainable transport infrastructure in the vicinity of the site.
- Travel Plan measures to secure:
 - 2 years membership to City Car Club;
 - 12 month season ticket for Brighton & Hove buses; and
 - 1 year annual membership of Brighton BikeShare

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	PL01		7 March 2018
Proposed Drawing	PL03	B	3 June 2019
Proposed Drawing	PL04	B	3 June 2019
Proposed Drawing	PL05	B	3 June 2019
Proposed Drawing	PL06	B	3 June 2019
Proposed Drawing	PL07	A	3 June 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. The premises hereby permitted shall be used as an office (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 supply of office floorspace in the city given the identified shortage, to comply with policy CP3 of Brighton & Hove City Plan Part One.

4. No works pursuant to this permission, other than demolition, shall take place within the root protection zone as identified within Tree Constraints Plan J56.57/01 until a record of trial excavation on the west side of the boundary wall within the root protection zone and details of the proposed foundations within the root protection zone required for the building have been submitted and agreed in writing by the Local Planning Authority.

The excavations shall be undertaken at 2m intervals running northwards along the western boundary from the south-east corner and shall be manually aided by a compressed air soil pick or similar (airspade) to a depth of at least 500mm or as deep as is reasonably practicable. The findings of the excavations shall be submitted to the Local Planning Authority in report format detailing the locations of any roots found and shall be supplemented by photographs.

The development shall be carried out as approved and in 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 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

5. 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 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

6. 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 roofing materials (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 QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

7. No activities associated with the non-residential uses hereby approved shall take place outside of the hours of 8am and 8pm on Mondays to Fridays and 10am and 6pm on Saturdays and Sundays, Bank or Public Holidays. No servicing and deliveries shall take place outside of the hours of 7am and 7pm.

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

8. The first floor windows to the western elevation of Apartment 1 and to the northern elevation of Apartment 3 of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the window(s) which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

9. 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

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 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.

10. No works to be undertaken as part of 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.
- (2) The development permitted shall not be occupied or brought into use until a written verification report by a competent person required and approved under the provisions of condition (1)c that any remediation scheme 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). If not 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.

11. 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.

12. Asbestos containing materials (ACM) within the building are a contaminant of concern. Any desk top study and site investigation must fully incorporate ACM into the conceptual site model with any significant risks and pollutant linkages noted and risk assessed.

- a) Prior to commencement, 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. And 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.

13. No development shall commence until a scheme for the soundproofing of the building has been submitted to and approved in writing by the Local Planning Authority. The Building Regulations apply for transmission of sound between residential premises and buildings that adjoin them. The Party Floors between the commercial use and the residential units directly should be designed to achieve a sound insulation value of 5dB better than Approved Document E performance standard, for sound insulation for floors of purpose built commercial units and flats. 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.

14. 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 polices SU10, QD27 and TR7 of the Brighton & Hove Local Plan.

15. All hard surfaces 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 and CP11 of the Brighton and Hove City Plan Part One.

16. 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.

17. Notwithstanding the plans hereby permitted, 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

18. The new/extended crossovers and accesses shall be constructed prior to the first occupation of the development hereby permitted.
Reason: In the interests of highway safety and to comply with policy TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton and Hove City Plan Part One.
19. Prior to the first occupation of the development hereby permitted the applicant shall reinstate the redundant vehicle crossover on The Droveaway in front of the existing double garage (Building D) 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 SA6, CP7, CP9, CP12, CP13 and CP15 of the Brighton and Hove City Plan Part One.
20. Within 6 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.
21. None of the new build 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 and Hove City Plan Part One.
22. 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 and Hove City Plan Part One.
23. 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 'Very Good' 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.

24. The development hereby permitted shall not be occupied until the dwellings hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement 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.

25. The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling, for the residential and non-residential uses hereby approved, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details 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, 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.

26. Other than the balconies, access to the flat roof areas of the development hereby approved shall be for maintenance or emergency purposes only and the flat roof 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 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 is advised that the scheme required to be submitted by Condition 20 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.

3. The applicant is advised to contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.
4. The planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Head of Asset and Network Management. The applicant is advised to contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a commercial site located to the north of York Villas located near to the junction with York Grove. The majority of the plot is covered by built form with a number of different buildings of various heights and forms that have evolved over a number of years. The street frontage is single storey and the building rises up to a 2 storey gable roof element to the west and a two storey flat roof section to the east. The mid-section of the site contains a 2.5 storey flat roofed section which projects above the rest of the site and the rear contains a commercial shed type building. The site contains a central courtyard area with vehicle access from the York Villas. The planning history suggests that the site has been used for a number of commercial uses since it was constructed, and it currently accommodates several commercial/light industrial uses.
- 2.2. The immediate area is predominantly residential and is comprised by 2/3 storey pairs of semi-detached and terraced properties. The site is set adjacent to a number of residential properties to the east, west and north.
- 2.3. The site does not fall within a conservation area and there are no listed buildings within the immediate vicinity. The adjacent site, no. 26 York Villas has a mature tree within its front garden that is subject to a Tree Preservation Order (TPO).
- 2.4. The application seeks permission for the demolition of the existing buildings on site and the erection of a replacement part one, part two, part three storey mixed use building comprising 7 flats and 5 office units.

- 2.5. The scheme has been revised and reduced from the original submission in order to reduce the impact on neighbouring amenity and also to address the potential roof/canopy damage to the adjacent TPO.
- 2.6. The application has been subject to two viability assessments by the District Valuer Service in order to take account of the revisions to the scheme.

3. RELEVANT HISTORY

25 York Villas

- 3.1. **BH2000/00700/FP** - Conversion of former printing works to a live/work unit. Refused 28.06.2000.
- 3.2. **72/4153** - Change of use from builders workshops to printers and storage of printer's materials. Approved 23.01.1973.

24/24A York Villas

- 3.3. **70/2454** - Proposes extension and improvements. Refused 14.01.1971.
- 3.4. **69/2092** - Change of use to printing works an offices class III light industrial using lithographic machinery. Approved 12.01.2970.
- 3.5. **68/1951** - Change of use to joinery workshop with showrooms, stores and offices. Refused 12.12.1968.
- 3.6. **62/1985** - Change of use to wholesale store for children's books and attendant offices. Approved 29.11.1962.

4. REPRESENTATIONS

- 4.1. **Nineteen (19)** letters have been received, objecting to the proposed development for the following reasons:
- Too high
 - Overlooking
 - Loss of light/overshadowing
 - Parking problems will be exacerbated
 - Additional commercial units could make noise issues worse
 - Out of keeping
 - Overbearing for the street
 - Too many flats/offices
 - Disturbance from commercial uses
 - There are no bus stops within walking distance
 - The existing road experiences high levels of through traffic
 - Impact from the retention of the existing bathroom block structure
 - Overdevelopment
- 4.2. **One (1)** letter has been received supporting the proposed development for the following reasons:

- There is a need for this type of housing
 - Parking should be restricted
- 4.3. **One (1)** letter has been received providing the following comments on the proposed development:
- Will the development include food units?
 - Industrial food extractors will be noisy in a residential area
 - The opening hours would be unreasonable in a residential area
 - There will be more large street bins for food waste and trade rubbish

5. CONSULTATIONS

5.1. **Environmental Health:** No objection

No objection subject to inclusion of conditions in any permission securing the following measures:

- Opening hours between 8:00am and 8:00pm Monday - Friday and 10:00am and 6:00pm.
- A scheme of soundproofing
- Restriction of hours of use of balconies and external amenity areas
- A construction environment management plan
- A land contamination report
- An Asbestos survey

5.2. **Sustainable Transport:** Comment

The proposed development should be subject to conditions securing the following:

- A s106 contribution of £11,533
- A travel plan
- Removal of redundant crossovers
- A new crossover
- Disabled user parking
- Cycle parking

5.3. The Highway Authority would be pleased to review details of the estimated parking demand prior to determination, however in the absence of such information, imposition of a permit free condition is therefore recommended.

5.4. **Arboriculture:** Initial Comment - Objection

There is a large Robinia tree on the adjoining site which is protected by virtue of the Tree Preservation Order 1987-2. The Arboricultural Team recommend refusal to this proposal due to issues of proximity and the direct impact on the tree and the likely pressure from future occupants of the dwellings jeopardising the trees retention.

Second Comment

5.5. The first and second floors have been amended to take account of the overhanging false acacia canopy, and this reduces the impact of the scheme in relation to ongoing occupier pressure. However, it is proposed to re-reduce

the canopy on the west side only to those previously established during the last round of cyclic pruning. Whilst this would not be significantly detrimental to the health of the tree, it is advised that the entire canopy is re-reduced to maintain balance.

- 5.6. Following demolition, and to provide a definitive solution, the arboriculture department would like to see the results of trial excavations undertaken on the west side of the existing boundary wall prior to the foundation design being finalised. Such excavations should be undertaken in the south-east corner of the site, and at 2m intervals running northwards along the wall until outside of the nominal RPA. Excavations should be undertaken manually aided by a compressed air soil pick or similar (airspade) to a depth of at least 500mm or as deep as is reasonably practicable. The findings of the excavations should be forwarded in report format supplemented by photographs to the LPA as additional supporting information for the application.

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
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment land
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity

CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
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
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
EM4	New business and industrial uses on unidentified sites

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD14	Parking Standards

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 commercial uses, the impact of the design on the character and appearance of the street scene, neighbouring amenity, sustainable transport impacts including parking demand, landscaping, ecology/biodiversity and contribution to other objectives of the development plan.
- 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 application seeks permission for a complete redevelopment of the site involving the demolition of the existing commercial buildings and the erection of a replacement building comprising 7 residential flats and 5 office units.
- 8.5. City Plan Part One Policy CP3 states that proposals resulting in a loss of non-allocated employment (B1-B8) floorspace will only be acceptable where it has been demonstrated that the site is redundant or incapable of meeting the needs of alternative employment generating uses. Policy CP3 states that documented evidence of a marketing strategy is required in order to demonstrate redundancy of employment uses.
- 8.6. The existing site is split into two separate commercial/light industrial units comprising a total of 709sqm of floorspace. The uses on site include a catering company and a van/vehicle modification workshop. Each unit has 3 employees creating a total of 6 jobs. The building is not particularly efficient in terms of use or lay-out and does not lend itself to modern employment requirements, which is in part due to the ad-hoc layout and the current condition of the building.
- 8.7. The proposed development would be mixed use including circa 375sqm of B1 floorspace and seven residential units. The proposed development would therefore result in a net loss of employment floorspace on the site. As noted above however, the current use of the site is inefficient and the form and layout of the building is in a relatively poor state.
- 8.8. The proposed development would provide 375sqm of upgraded office floorspace which would be flexible to a number of potential users and would also be more efficient in terms of number of jobs that could be accommodated within the site. According to the Homes & Communities Agency Employment Density Guide, 375sqm of B1 office space has the potential to accommodate over 40 FTE jobs on site, depending on the final nature of the occupier.
- 8.9. Although there would be a notable reduction of the amount of employment floorspace on site, as identified above, there are a number of benefits of the scheme including the provision of a significant amount of modern office space which has the potential to accommodate a higher number of jobs than the existing use. Furthermore the site would be upgraded significantly in terms of building fabric and the proposed office use would be likely to generate less disturbance to neighbours than the existing uses. Finally, the proposal would also include a small but welcome addition to the housing stock within the city. On balance therefore, it is considered that the proposed scheme can be supported in principle.

Design and Appearance:

- 8.10. The proposed development would involve the complete demolition of the existing buildings and a redevelopment of the site with a mixed use commercial/residential block. The existing buildings are not of any particular architectural merit and are generally considered to impact negatively on the appearance of the surrounding street scene. The loss of the existing building is therefore not objected to subject to the provision of a suitable replacement building.
- 8.11. The proposed block would comprise a faux terrace of two storey buildings with accommodation in the roof to the front of the site, a two storey flat roofed block within the mid-section, and a single storey section with mansard above to the rear. The front façade would include two projecting bays with inset balconies and a central under-croft access to the central courtyard. The office element would be confined to the ground floor level and the residential units would be set at first and second floor levels. The front section of the development would also include a projecting roof with a pitch to the front and side elevations and a vertical section to the rear.
- 8.12. The proposed building would be increased in height fairly significantly to the street frontage and as a result the presence of the building would be far more prominent within the streetscene. The building line would however be set back from the existing location to align with the adjacent properties (15-22 York Villas) and the increased roof height would be set appropriately between the heights of 23 York Villas to the west and 26 York Villas to the east. The faux terraced section to the front of the site would also reflect some of the characteristics of buildings within the vicinity through the introduction of architectural features such as bays and landscaping to the frontage.
- 8.13. The proposed building would cover the majority of the plot however due to the central courtyard, landscaping to the street and rear amenity area for commercial unit 3, the plot coverage would actually be reduced in comparison to the existing building.
- 8.14. The rear mid/rear elements would be similar in height to the existing buildings however the proposed flat/mansard roof would include minimal detailing or features, and would appear somewhat utilitarian in contrast. It is considered however, that the proposed building would respond to the constraints of the site whilst minimising its overall visual impact. Furthermore, the overall design of the scheme appears far more rational and unified in comparison to the ad-hoc nature of the existing buildings. On this basis the proposed development is considered an overall improvement in contrast to the existing situation and would pay respect to the scale and design of the surrounding streetscene and wider area.
- 8.15. The proposed building would be finished predominantly in off-white render with grey render to the projecting bays. The windows would be anodised aluminium and the roof would be finished in zinc standing seem. The palette of materials is relatively modern; however development plan policies support

the use of contemporary finishes where appropriate. In this context the proposed materials are considered appropriate for the area which consists mainly of painted render buildings. Full details of materials shall be secured by condition in order to ensure a satisfactory appearance will be achieved.

Proposed residential units / standard of accommodation / affordable housing / access:

- 8.16. The proposed development would include 7 residential units comprising the following mix and floor areas:
- Apartment 1 54.24 m² (1 bed)
 - Apartment 2 50.76 m² (1 bed)
 - Apartment 3 64.89 m² (2 bed)
 - Apartment 4 72.96 m² (2 bed)
 - Apartment 5 78.25 m² (3 bed)
 - Apartment 6 50.34 m² (1 bed)
 - Apartment 7 85.08 m² (3 bed)
- 8.17. It is considered that the proposal represents a good mix of accommodation; a number of units suitable for family accommodation would be provided in a sustainable location.
- 8.18. All of the proposed residential units would provide an acceptable standard of accommodation internally with suitable circulation space and outlook. All units would meet the national minimal space standards for the level of occupation proposed, other than apartment 7 which would fall short by less than 1sqm. A number of the flats would also benefit from external amenity space in the form of balconies.
- 8.19. It is noted that the residential units would be located within close proximity to the proposed commercial units. However, given the B1 intended use of the commercial premises, which is more compatible with a residential use, together with conditions restricting opening hours and requiring soundproofing, the standard of accommodation proposed is considered acceptable.
- 8.20. Policy HO13 requires all new residential dwellings to be built to accessible standards whereby they can be adapted to meet people with disabilities without major structural alterations. As it appears that a level access is feasible, the current national standards shall be secured by condition.
- 8.21. Adequate communal refuse and recycling is provided within the courtyard area. The implementation of these facilities shall be secured by condition.
- 8.22. Overall therefore it is considered that the proposed development would provide an acceptable standard of accommodation / amenity, in accordance with policy QD27 of the Brighton and Hove Local Plan.
- 8.23. For schemes of between 5 and 9 dwellings, Policy CP20 sets out that 20% affordable housing should be secured as an equivalent financial contribution. This target may be applied more flexibly where the council considers this to

be justified, as set out in the policy wording. Of particular consideration is the financial viability of developing the site (as demonstrated through the use of an approved viability model).

- 8.24. In this instance, based on the methodology set out in the Developer Contributions Technical Guidance, the representative provision of affordable housing for a net of 7 units would equate to a 2 bedroom flat, which in Zone 1 results in a total contribution of £172,250.
- 8.25. The application has been submitted with a viability assessment which indicates that the proposed development cannot viably provide the contribution as set out above due to the costs associated with carrying out the development. The viability assessment concludes that the proposed development could viably provide an affordable housing contribution of £69,927. The viability assessment has been reviewed and scrutinised by the District Valuer Service who have confirmed the sum to be accurate.
- 8.26. On this basis, it considered that a robust case has been made to accept a lower affordable housing percentage than is targeted by policy and therefore the development is considered to accord with Policy CP20.

Impact on Amenity:

- 8.27. The site is set within a predominantly residential area and adjoins a number of residential buildings and gardens. The development therefore has the potential to result in harm to number of dwellings. The dwellings directly adjacent to the site include nos. 31-39 Old Shoreham Road to the north, 26 York Villas to the east, 23 York Villas to the west and 1-5 York Villas to the south side of the street.
- 8.28. The relationship between the proposed building and the dwellings to the south of York Villas would be similar to that of the existing dwellings further to the west on the street and is therefore considered acceptable for a residential context such as this.
- 8.29. 23 York Villas adjoins the site to the west and partly abuts the existing building on site. 23 York Villas comprises a two storey detached building which has been converted into four flats and extended with a full width two storey extension to the rear. The existing building projects significantly to the rear of no. 23 and a significant section of the western wall is set adjacent the boundary of the two sites. The majority of the proposed building would be set within the envelope of the existing building other than the section to the front of the site, and the rear first floor section including apartment 5.
- 8.30. The front section would include an additional storey and would be increased in height significantly. The additional height would however be set parallel to the main building of 23 York Villas and therefore would not result in a significant impact in term of loss of light or outlook. The rear first floor section would be slightly taller than the existing building however the bulk of the building would be set away from the boundary of the two sites which is

considered acceptable when assessed in comparison to the existing scenario.

- 8.31. Nos. 31-39 Old Shoreham Road are set to the rear (north) of the site and comprise a terrace of two storey properties, several of which have been converted to flats.
- 8.32. The proposed first floor element to the rear of the application site would comprise apartment 5 which would be set in a mansard roof which would project above the height of the existing rear element of the building. The mansard element would however be set in at all sides in comparison to the existing building and therefore, although it would be taller, the main bulk of the building would be set further away from neighbouring windows. Furthermore, it is considered that the design of the building would improve the outlook and visual amenity for neighbouring occupiers. The rear element would include new rooflights to the northern elevation which would provide outlook towards the properties to the north, however the back to back distance is considered sufficient to avoid any significant loss of privacy.
- 8.33. The dwellings within closest proximity to the site fall within 26 York Villas, which comprises a two storey with basement level property that has been converted to 6 flats. No. 26 is set well back from the street with a substantial front garden and as a result the front elevation of the application building is set some 20m further forward.
- 8.34. The eastern elevation of the application building is set within close proximity to no. 26 and in some instances is separated by less than 1m. The rear section of the proposed building would however be of a similar scale and height to that of the existing building and any sections where the height is to be increased, such as the rear first floor element would be set a sufficient distance away from no. 26 to avoid significant overshadowing or loss of light.
- 8.35. In terms of general overlooking, the majority of new windows are considered to be set a sufficient distance from neighbouring dwellings in order to avoid significant overlooking and loss of privacy. The first floor window to the western elevation serving the WC within Apartment 1 and the northern elevation window serving the main bedroom within Apartment 3 would both however be set within close proximity to neighbouring windows. On this basis both windows shall be conditioned to be obscure glazed and fixed shut. The bedroom to apartment 3 would still retain sufficient outlook from the window to the western elevation facing into the courtyard.
- 8.36. The proposed building would be located within close proximity to adjacent dwellings and as a result there may be some additional overshadowing and overlooking, however the resultant scenario would be relatively similar to that of the existing building and any areas where the built form has been increased in scale would be suitably located or designed to avoid significant harm.

- 8.37. Overall it is considered that significant harm to neighbouring amenity would not be caused and that the scheme would comply with policy QD27.

Sustainable Transport:

- 8.38. The proposed development has the potential to generate additional vehicle movements and additional parking demand within the area. This matter has not been discussed within the submission and no evidence has been provided to demonstrate the likely car ownership of future residents or the potential for overspill parking demand.
- 8.39. The site is located within an area with high parking demand and as such a Controlled Parking Zone (Q) is in place. According to the Council's data for zone Q the permit uptake over the past year has been 98%. Due to the high level of permit uptake and the lack of evidence of parking availability in the area, the proposed development shall be conditioned in order to remove future resident's eligibility for parking permits.
- 8.40. The proposed commercial and residential development will result in additional trips to and from the site. In order to mitigate the additional trips a developer contribution of £11,533 shall be secured to be put to accessibility improvements within the vicinity. A travel plan shall also be secured in order to encourage the use of sustainable modes of transport.
- 8.41. Cycle parking is proposed within the courtyard area however the level of detail regarding the type of parking and security proposed is limited. A scheme of cycle parking shall therefore be secured by condition.
- 8.42. There is no disabled user parking proposed on site; however there are opportunities for disabled user parking within the vicinity which is deemed acceptable for the scale of development proposed.

Ecology/Trees:

- 8.43. Whilst there is minimal vegetation on site due to the plot coverage of the existing building, there is a substantial Robinia tree within close proximity to the site which is protected under a Tree Preservation Order. The tree is located adjacent to the western boundary of the site and as a result the root protection zone (RPZ) extends into the site and the canopy overhangs the existing building.
- 8.44. Objections were originally raised due to the close proximity of the proposed building to the tree and the lack of evidence to ensure that no damage would occur to the roots or the canopy. In response to these objections, the first floor element of the building has been scaled back and the applicant has provided an Arboricultural Implications Assessment (AIA). The AIA makes the case that due to the footings of the existing boundary wall/building, the roots are unlikely to have extended into the application site and furthermore if roots were found to be present, the foundations could be designed in such a way that would not require any further depth and thereby would ensure the roots would not be damaged. The AIA also suggests that the canopy of the

TPO should be reduced on the western side in order to avoid potential overhanging of branches.

- 8.45. The council's Arboriculturalist has reviewed this assessment and has confirmed that the discussion regarding the likely root locations is well founded. It is however considered that further investigation is required in order to establish whether any significant roots are present and that the new foundations should be designed appropriately, should any roots be found. On this basis a post-demolition pre-construction survey is required which shall be secured by condition. Tree protection methods shall also be secured in order to ensure that there would be no damage to the TPO as a result of construction works.

Environmental Health / Land contamination:

- 8.46. Due to the nature of the past uses of the site, there is potential of land contamination. On this a basis a full land contamination report and survey shall be secured by condition in addition to an asbestos survey.
- 8.47. The location and residential setting of the site means that the construction phase of the development has the potential to generate noise and general disturbance to neighbouring occupiers. Whilst some level of disturbance is inevitable in a project such as this, it is considered that a Construction Environment Management Plan should be secured by condition in order to manage the impact to a reasonable level.

Sustainability:

- 8.48. Policy CP8 of the Brighton & Hove City Plan Part One require new development to demonstrate a high level of efficiency in the use of water and energy. Policy CP8 requires new development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption.
- 8.49. Policy CP8 requires all commercial non-major development to achieve a BREAAAM rating of 'Very Good'. These standards shall therefore be secured by condition.

9. CONCLUSION

- 9.1. The proposed development would provide 7 residential units including, an affordable housing contribution and upgraded modern office space. The standard of accommodation of the proposed units is considered acceptable. The majority of the units would benefit from external amenity space, a communal courtyard area and cycle parking.
- 9.2. The proposed building and associated landscaping are considered to represent an appropriate redevelopment of the site which would introduce a contemporary building into the street scene.

- 9.3. The proposed development is acceptable in terms transport, sustainability and ecology, and conditions / s106 requirements are recommended to secure relevant contributions and mitigation.
- 9.4. The scheme would result in a net loss of employment floorspace which is regrettable, however the current site is dated and inefficient. The proposed office floorspace has the potential to generate a higher number of jobs than the existing site.
- 9.5. The proposed new buildings would cause some harm to local area, however the proposal is considered to be an improvement in comparison to the existing buildings on site. The proposed new building would have some negative impact upon neighbouring amenity, however the resultant scenario would similar to that of the existing building, and in some instances would be improved.
- 9.6. Overall, whilst the proposed scheme would result in some harm it is considered that the scheme would deliver substantial benefits including; upgraded office floorspace with improved efficiency of the usage of the site, 7 residential units and general upgrading of the visual appearance of the site. Overall, approval of planning permission is recommended subject to the conditions and s106 requirements set out in sections 1 and 11.

10. EQUALITIES
None identified

11. DEVELOPER CONTRIBUTIONS

S.106 Agreement

The contributions required would be allocated and spent as follows:

- A contribution of £69,927 to be allocated towards offsite affordable housing provision.
- A sustainable transport contribution of £11,533 to be allocated towards installing accessibility improvements, including but not limited to:
 - An accessible (raised) kerb at the York Grove bus stop adjacent on New England Road.
 - Dropped kerbs and tactile paving across New England Road outside of (1 to 11) Grove Villa.
 - Dropped kerbs and tactile paving across the junction of York Villas and York Grove.

In the event that the draft S106 agreement has not been signed by all parties, the application shall be refused for the following reasons:

1. The proposed development fails provide a provision of affordable housing which addresses the requirement of Policies CP1, CP19 and CP20 of the Brighton and Hove City Plan Part 1.
2. The proposed development fails to provide necessary sustainable transport infrastructure improvements in the vicinity of the site and therefore fails to address the requirements of Policies CP7 and CP9 of the Brighton and Hove City Plan Part One.