

<u>No:</u>	BH2020/00239	<u>Ward:</u>	Hanover And Elm Grove Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	186 - 187 Lewes Road Brighton BN2 3LD		
<u>Proposal:</u>	Demolition of existing 3no. storey commercial and residential building. Erection of a 4no. storey mixed use development consisting of 9no. two bed flats (C3) over the four floors and 1no. commercial unit with A1-A5 use on the ground floor, with associated works.		
<u>Officer:</u>	Mark Thomas, tel: 292336	<u>Valid Date:</u>	06.03.2020
<u>Con Area:</u>		<u>Expiry Date:</u>	01.05.2020
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	LCE Architects 164/165 Western Road Brighton And Hove BN1 2BB		
<u>Applicant:</u>	Mr John Blankson 186 Lewes Road Brighton BN2 3LD		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement on the Heads of Terms set out below and the following Conditions and Informatives as set out hereunder, SAVE THAT should the s106 Planning Obligation not be completed on or before 2 October 2020 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 9.1 of this report:

Head of Terms:

- 1.2. In view of the considerations outlined above, a legal agreement with the following heads of terms will be sought.

Affordable Housing Contribution:

- 1.3. £364,500 commuted sum towards affordable housing.

Sustainable Transport Contribution:

- 1.4. £10,000 sum towards on-street improvements in the form of footway improvements, provision of a loading bay and on-street cycle parking.

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
Proposed Drawing	19998/PA/005		24 January 2020

Proposed Drawing	19998/PA/006		24 January 2020
Proposed Drawing	19998/PA/007		24 January 2020
Proposed Drawing	19998/PA/008		24 January 2020
Proposed Drawing	19998/PA/009		24 January 2020
Proposed Drawing	19998/PA/010		24 January 2020
Proposed Drawing	19998/PA/011		24 January 2020
Location and block plan	19998/PA/001		24 January 2020
Report/Statement	J2858 dated 16/01/2020	Noise Assessment	24 January 2020
Report/Statement	9409 dated January 2020	Air Quality Assessment	24 January 2020
Report/Statement	LS 4576 dated 14/10/19	Land Science	24 January 2020

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. No development above ground floor slab level 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) All brick, render and tiling (including details of the colour proposed)
- b) All cladding to be used, including details of their treatment to protect against weathering
- c) All hard surfacing materials
- d) The proposed window, door and balcony treatments
- e) All other materials to be used externally

The development shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the building and the visual amenities of the area and to comply with policy of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

4. Notwithstanding the submitted details, prior to the first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times for the life of the development.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.

5. Prior to the first occupation of the development hereby permitted 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:
- Free membership for 2 years to City Car Club
 - A free bus pass for a period of 3 months for each new tenant after first occupation.
 - Provision of walking, cycling and public transport information.

Reason: To ensure the development maintains a sustainable transport strategy and to comply with policies TR1, TR4, and TR8 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12, CP13 and CP15 of the City Plan Part One.

6. Prior to the first occupation of the residential element of the development hereby permitted the refuse and recycling storage facilities indicated on the approved plans shall be fully implemented and made available for use. These facilities shall thereafter be retained for use at all times for the life of the development.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

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

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

8. None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard of using not more than 110 litres per person per day maximum indoor water consumption and the implemented measures shall remain operational for the lifetime of the development, unless agreed in writing by the local planning authority.

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

9. Prior to the first occupation of the non-residential development, a BREEAM Building Research Establishment issued Post Construction Review

Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good', or a detailed report as to why this has not been technically possible, shall be submitted to and approved in writing by the local planning authority.

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

10. Prior to occupation of the development hereby permitted and as per the recommendations and approved details contained within the document produced by Acoustics Associates Ltd, titled: "Planning Application Noise Assessment (2020)", dated: 16 January 2020, Project Ref: J2858, alternative ventilation that does not require the opening of windows to provide fresh airflow, does not compromise the facade insulation or increase internal noise levels shall be installed, in order to provide background ventilation. Each specified unit shall utilise a whole-house powered and attenuated assisted ventilation system - i.e. Mechanical Ventilation with Heat Recovery (MVHR) (or equivalent). The alternative ventilation arrangements shall not compromise the need to provide the required cooling of the dwellings under Approved Document L and the removal of pollutants such as moisture and CO₂ under Approved Document F. Regard should also be had to CISSE TM59 Design Methodology for the Assessment of Overheating Risk in Homes.

Reason: To protect the amenity of future residents and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

11. Prior to occupation of the development hereby permitted and as per the specification of glazing found on page 12 of the Acoustics Associates Ltd document titled: "Planning Application Noise Assessment (2020)", dated: 16 January 2020, Project Ref: J2858, glazing shall be installed as per the requirements provided in "Table 6: BS8233 Calculation Summary" in order to achieve levels equal to or greater than those specified in section 5.4 - Glazing:

- 4/12/4mm $R_w = 31\text{dB}$
- 10/12/6mm $R_w = 38\text{dB}$
- 10/200/6mm $R_w = 49\text{dB}$

Reason: To protect the amenity of future residents and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

- 12.

1. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:

- (a) A further site investigation and report as per the recommendations contained within the Phase I and Phase II Geo-Environmental Investigation, dated 14th October 2019, Reference: LS 4576, produced by Land Science and in accordance with BS10175: 2011:2013 + A1 Guidelines for the Code of Practice for Contaminated Land and CLR Report No. 4 Sampling Strategies.

And if notified in writing by the local planning authority that the results of the further site investigation are such that site remediation is required then:

- (b) 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 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)b that any remediation scheme required and approved under the provisions of condition (1)b has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation).
Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:
- a) Built drawings of the implemented scheme;
 - b) Photographs of the remediation works in progress;
 - c) Certificates demonstrating that imported and/or material left in situ is free from contamination.

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

13. The non-residential use in the development hereby approved shall not be open to customers except between the hours of 09:00 and 23:30 on Sundays to Thursdays and between the hours of 09:00 to midnight on Fridays and Saturdays.

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

14. Deliveries and waste collections associated with the non-residential use in the development hereby approved shall only be taken at or despatched from the site between 08.00 and 18.00 on Mondays to Saturdays, and not at any time on Sundays or on Bank or Public Holidays.

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

15. Prior to first occupation of each part of the non-residential development by a use that requires the fitting of odour control equipment, a detailed scheme of such equipment shall be submitted to and approved in writing by the local planning authority. The scheme shall include measures to control the odour emitted from the use together with sound insulation of the equipment. The approved details shall be implemented in full prior to the commencement of the use and shall be retained as such thereafter.

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

16. A bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

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 accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
3. The water efficiency standard required under condition 8 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A
4. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites (www.breeam.org).
5. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application concerns a site located on the east side of Lewes Road. The site recently contained a single storey building in use as a garage and storage use and a three-storey building containing a take away and vacant retail unit on the ground floor with 2 flats above. Partial demolition of the site has occurred following approval on appeal of BH2015/01736.

- 2.2. The area is of mixed use, however, immediately adjoining the site to the south is a terrace of three storey residential properties. To the north of the site there is a pedestrian alley way and then a terrace of further residential properties. The site lies outside of the Lewes Road District Shopping Centre.
- 2.3. The proposal is to develop the site with a four-storey building, attached to no. 19 Gladstone Terrace. The building would house a commercial (A1-A5) unit at ground floor as well as 1no two-bedroom flat. A further 8no two-bedroom flats would be provided on the upper floors.

3. RELEVANT HISTORY

- 3.1. **BH2015/01736** Demolition of existing building and erection of four storey building with 2no commercial units comprising retail, financial and professional services or take-away (A1/A2/A5) on ground floor and 8no two bedroom flats on upper floors with associated works. Refused 21/07/2016- Appeal Allowed 22/06/2017
- 3.2. **BH2013/00892** Change of Use from car sale and garage to garage and storage use (B8). (Retrospective) Approved 16/05/2013
- 3.3. **BH2012/02887** Demolition of existing building and erection of four storey building comprising of retail, financial and professional services and take-away (A1/A2/A5) on ground floor and 8no two bedroom flats on upper floors with associated works. Refused 18/02/2013
- 3.4. **BH1997/00724/FP** Change of use from vehicle sales business to vehicle rental business (Retrospective). Approved 28/11/1997

4. REPRESENTATIONS

- 4.1. **Seven (7)** letters have been received, objecting the proposed development for the following reasons:
- The rear building line is not in keeping with existing buildings.
 - The development would be overbearing.
 - Overlooking.
 - The properties from 108-185 would be boxed in by the development.
 - The proposed brickwork is not in keeping.
 - The building is too large and bulky.
 - Incongruous design.
 - Noise.
 - Stress on drainage.
 - Pressure on parking spaces.
 - Increased rubbish.
 - Overshadowing.
 - Loss of sunlight.

- The building would look too modern.

5. CONSULTATIONS

5.1. **Sussex Police:** Comment:

Various recommendations provided for the applicant's benefit with regards security at the proposed building.

5.2. **Environmental Health:** Comment:

This application is located in close proximity to a main road, residential and other various commercial premises. As such, it is reasonable to assume that occupiers of the proposed flats could potentially be exposed to frequent, prolonged, and varying levels of noise that could be associated with the general activities that may occur around the area.

5.3. Therefore, I have fully examined the document submitted with the application produced by Acoustics Associates Ltd, titled: "Planning Application Noise Assessment (2020)", written by Peter Attwood BSc MSc MCIOB MIOA MIDiagE, date: 16 January 2020, with a Project Ref: J2858. The assessment has made detailed reference to applicable standards and guidelines. The methodology used, and calculations made in the noise assessment are recognised techniques in predicting noise levels and the impact of them. All the noise monitoring data has been captured at appropriate days and times in order to make an assessment based on a worst-case scenario.

5.4. Crucially it is stated:

"5.3 Noise Mitigation - Rear Facing Plots The noise model demonstrates that for rear facing plots on first and second floors the worst case noise level will be 46 dB(A) during the daytime and 45 dB(A) during the night time. Based on these levels, it is recommended that normal thermal glazing and standard trickle vents are fitted. Unless required for non-acoustic issues it is considered that mechanical ventilation systems will not be required. The night time noise levels mean that the BS8233 criteria can be achieved even with windows open. For third floor rear windows, the noise level is higher at 51dB(A) during the daytime and 50dB(A) at night. For these windows, the recommendations for attenuated ventilation in section 5.5 below apply."

5.5. Section 5.5 states:

"5.5 Mechanical Ventilation It is recommended that a "whole flat" Mechanical Ventilation Heat Recovery System (MVHR or similar) be installed within all plots where external noise levels do not permit the achievement of satisfactory background ventilation via openable windows. This means that appropriate levels of background ventilation can be supplied without the need for opening windows, though this remains an option for residents if they so choose in order to achieve rapid 'purge' ventilation or on high external temperature days."

5.6. This includes:

- Ground Floor flat 1
 - 1st Floor flats - 2 & 4
 - 2nd Floor flats - 5 & 7
 - 3rd Floor flats - 8 & 9
- 5.7. Such a system would feed air in to bedrooms and lounges and extract warm air (and recover heat) from kitchens and wet areas. The system would continuously provide background ventilation and would also have a boost function. The supply and extract terminals would be situated away from Lewes Road on the roof or the rear façade. An alternative to the MVHR system would be a Mechanical Extract Ventilation system (MEV), coupled with sound attenuating trickle vents. This may be appropriate if the air quality standards on the Lewes Road at this point permit."
- 5.8. Appropriate glazing standards are detailed in Section 5.4 of the assessment to also ensure that the adopted noise criteria are achieved.
- 5.9. The exact ventilation system ultimately falls to the developer and from an acoustics perspective, needs to ensure that fresh airflow can be achieved without the need for opening windows.
- 5.10. For each dwelling, the atmospheric side supply and extract points should be positioned, where practicably possible, on façades shielded from the roads by the building itself. Sound attenuation provided by this type of system is typically in the order of 40dB(A). The use of MVHR system will provide high-quality filtered air within each unit and will enable windows to be closed, vastly reducing internal noise levels and at the same time, improving thermal comfort and internal air quality.
- 5.11. The above can be secured by attaching an appropriately worded condition to any permission to develop.
- 5.12. I have examined the Phase I and Phase II Geo-Environmental Investigation, dated 14th October 2019, Reference: LS 4576, produced by Land Science and submitted as part of the application. The investigation concludes that further investigation will be required once the buildings have been demolished and removed. At present, no remediation is required but this is subject to the further site investigation. I have no reason to disagree with the recommendations of the investigation. The methods used and proposed are scientifically robust, are recognised techniques in addressing potentially contaminated land and adhere to the appropriate British Standards and codes of practise. As such, the recommendation can be secured by attaching an appropriately worded condition to any permission to develop.
- 5.13. **Arboriculture:** Comment
This application is an amendment to the original approved application, with no material changes of an arboricultural nature.
- 5.14. **Housing:** Comment

The layout of Flat 1, 2 & 5 are not ideal from a fire safety view as the bedrooms are inner rooms entered from the open plan kitchen/living room space.

5.15. Planning Policy: Comment

There is an extant planning consent for this site (BH2015/01736), approved on appeal (APL2017/00054) for 4no. storey building providing 238sqm of A1/A2/A5 within 2no. commercial units at ground floor, and 8no. 2 bedroomed flats above. The original reason for refusal related to the applicant's initial refusal to pay an affordable housing contribution, and therefore was in conflict with CP20. There were no other reasons for refusal. The appeal was allowed as the applicant agreed to pay a S106 contribution towards affordable housing as required by the planning inspector. The principle of development to provide a mixed-use scheme on this site has therefore been established under BH2015/01736.

- 5.16. The application seeks to revise the extant application. Key changes with the current proposal include provision of 9 dwellings rather than 8; and provision of 168sqm of A1/A2/A5 floorspace in 1 unit rather than 238sqm within 2 units.
- 5.17. The proposal would result in 9 new dwellings, with a net gain of 7, therefore contributing to the city' housing target, identified under policy CP1. The council's most recent housing land supply position published in the SHLAA Update 2019 shows a five-year housing supply shortfall of 1,200 (equivalent to 4.0 years of housing supply). As the council is currently unable to demonstrate a five-year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 5.18. The site is adjacent to existing residential development and is well located in terms of access to facilities, being within Lewes Road District Centre, and has good bus links to other parts of the city.
- 5.19. As a windfall site, policy CP19 requires proposals to have considered housing mix and local assessments. All dwellings provided would be 2-bed. Local assessments indicate that the greatest demand for market housing is for 2-bed units (34%). There are therefore no concerns with the housing mix proposed.
- 5.20. The need for affordable housing in the city is high, as set out in the Assessment of Affordable Housing Need, 2012. Policy CP20 requires 20% affordable housing as an equivalent financial contribution on sites of between 5 and 9 (net) dwellings. The proposed scheme would provide 7 net units therefore an affordable housing contribution should be sought. The applicant has provided an affordable housing statement which states that a contribution of £182,250 will be provided. This is equivalent to 1no 2bed affordable dwelling and is in accordance with the Developer Contributions Technical Guidance.

- 5.21. The proposed dwellings range from between 65sqm and 75sqm. All therefore meet minimum nationally described space standards for 2 bedroomed/3 person dwellings; some meet the NDSS for 2 bedroomed/4 person dwellings.
- 5.22. All dwellings have private outdoor amenity space. No issue raised with HO5. In addition, approximately 70sqm of outdoor communal private amenity space is provided on site.
- 5.23. The proposal will result in a reduction of c.122sqm A1/A2/A5 floorspace compared to the extant permission, and c.184sqm less A1 floorspace from current provision. The site is located within the Lewes Road District Centre, however is not within the defined primary or secondary frontage. Loss of A1 is therefore permitted in accordance with SR5, provided that the proposed use still attracts pedestrian activity. The mix of A1/A2/A5 is considered appropriate in this location, subject to any potential amenity issues being addressed. The site is considered to be edge-of-centre, however no concerns are raised as the amount of floorspace proposed is less than existing provision.
- 5.24. The site is situated within the DA3 Lewes Road Area. Provision of residential development, and development that meets the needs of local communities is supported in accordance with DA3.3. The scheme would result in a dwelling density of c.180dph, therefore meeting the requirements of policy CP14 for development areas.
- 5.25. The site's location on Lewes Road may raise issues around occupier amenity, particularly in relation to noise and air quality. DA3.7 requires new development to take into account the impact on local air quality and SU9 and SU10 seeks protection of occupiers from air and noise pollution. It is noted that Air Quality and Noise Impact Assessments have been submitted. Environmental Health should be consulted in this regard.
- 5.26. No Sustainability Checklist has been submitted for this application and should be requested. Both residential and non-residential development will be required to meet the standards as set out in CP8.1. The amount of floorspace proposed under the commercial element of the scheme falls within the threshold of "non-major" in relation to policy CP8; this element of the scheme should therefore be required to meet BREEAM Very Good.
- 5.27. The proposed scheme incorporates a communal courtyard area. The Planning Statement says this offers limited opportunities for landscaping. If suitable, consideration could be given to incorporate edible landscaping (fruit/nut-tree), to help meet requirements of CP8.2(p). Landscaping could also help to achieve a net gain in biodiversity, as required by CP10.2(c) if consideration is given to species as outlined in the Nature Conservation & Development SPD11.

- 5.28. The site incorporates trees which are protected by a TPO. QD16 allows development only where the amenity value and health of the tree are not damaged. The applicant has submitted an arboricultural assessment and tree protection plan. Comments from the arboriculturalist should be sought in this respect.
- 5.29. A Transport Assessment has been provided. The Planning Statement states that no parking for cars will be provided. 14 spaces for cycle parking will be provided which meets the requirements for parking standards as set out in SPD14. The Planning Statement refers to measures to promote sustainable travel, including car-club membership. This seems appropriate given the site's location on a sustainable transport corridor, however sustainable transport comments should be sought.
- 5.30. Waste Policy WMP3d of the Waste and Minerals Plan requires development proposals to minimise and manage waste produced during construction demolition and excavation. Paragraph 49 of the National Planning Practice Guidance provides guidance on what could be covered in order to meet the requirements of the policy. A Waste Minimisation Statement has been submitted.
- 5.31. Policy WMP3e of the WMP requires proposals for new development to identify the location and provision of facilities intended to allow for the efficient management of waste, e.g. location of bin stores and recycling facilities. The location of bins is shown on the plans and there is no issue with this.
- 5.32. **Sustainable Transport:** Comment
The existing pedestrian access is from Lewes Road. The new primary pedestrian accesses to the proposed development will be directly from Lewes Road. There are separate accesses to the commercial units and the residential units. We on behalf of the Highway Authority raise no objections.
- 5.33. Cyclist access will be from the Lewes Road and no objections are raised. Delivery and service vehicle access Servicing this commercial unit would be via Lewes Road, using the existing service bay, and no objections are raised.
- 5.34. The site has no existing vehicular access, and this is to remain as part of this proposal. We have no objections.
- 5.35. Parking Cycle parking SPD14 requires for A1 use 1 space plus 1 space per 150m² for short stay, and 1 space per 5 staff for long stay. There will be 158m² for A1 use, and 9 employees. Therefore, it is required for 3 cycle parking spaces to be provided for the A1 use. SPD14 requires for C3 use 1 cycle parking space per unit for long stay and, from a threshold of 5 units, 1 cycle parking space per 3 units for short stay. Therefore, it is required for 12 cycle parking spaces to be provided for the C3 use.

- 5.36. 14 cycle parking spaces are proposed. Therefore, the number of cycle parking spaces is in accordance with SPD14 guidance; however, we require further details of and amendments to the design. Sheffield stands are to be provided, which is acceptable. However, there is only 0.46m behind the racks, which is not sufficient clearance space to manoeuvre the bicycles in and out of the racks. Aisle widths should be 2.42m wide. This can be reduced to 1.8m for small stores and for parts of larger stores that serve only a few stands and where no through access is required. Therefore, it is requested the plans are revised to provide at least a minimum of 1.8m of clearance behind the racks.
- 5.37. The cycle store appears to be located on the first floor. It is unclear if the cycle stands will be accessed by a set of stairs. It is requested this information is clarified. In addition, the cycle store is accessed by passing the bins. It is requested the plans are revised such that the cycle store is not accessed by passing the bins first. It should be noted that cycle parking should be located in a safe, covered and convenient location in accordance with TR14 of Brighton & Hove Local Plan. We therefore request further details are provided on this prior to determination.
- 5.38. No disabled parking is to be provided. There are opportunities, if some what limited, in the form of on-street parking opportunities for disabled staff and visitors to park when visiting the site by car. Blue Badge holders are also able to park, where it is safe to do so, on double yellow lines for 3 hours. Therefore in this instance the Highway Authority would not consider the lack on off-site disabled car parking to be a reason for refusal.
- 5.39. In accordance with SPD14, the maximum parking allowed for A1 shops in Key Public Transport Corridors is 1 space per 40m², and for C3 residential units is 0.5 spaces per dwelling plus 1 space per 2 dwellings for visitors. There is no provision for car parking spaces. The proposal is therefore compliant in respect of general car parking, with further consideration of the operational impacts provided below.
- 5.40. The proposed development would result nine additional dwellings, in addition to 158sqm of A1 shops use. It is not considered the additional dwelling and reduced shop space would result in a significant uplift in person and vehicle trips compared to the extant permission and therefore we would not consider the development to have a severe impact on the highway and surrounding transport network.
- 5.41. In accordance with SPD14, the maximum parking allowed for A1 shop space located in Key Public Transport Corridors is one space per 40sqm, and for C3 residential units is 0.5 spaces per dwelling plus 1 space per 2 dwellings for visitors. However, these are maximums and lower levels are permitted subject to an assessment of overspill parking. Therefore, the provision of no car parking is in accordance with SPD14 in principle.
- 5.42. The commercial element of the site will reduce in size. Therefore, on-street parking associated with this use would be expected to decrease, although it

is noted that this is likely to be daytime demand and not night-time when residential demand is typically highest.

- 5.43. The proposed residential dwellings would be expected to increase demand for on-street parking. Based on the 2011 Census, car ownership levels of approximately 0.76 per household could be expected for the Hanover And Elm Grove ward and therefore the proposal has the potential to generate a demand of approximately seven vehicles. However, the site is located within the Controlled Parking Zone (CPZ) V which will ensure any additional on-street parking in the immediate vicinity is managed.
- 5.44. SPD14 outlines how restrictions in access to on-street parking permits will be considered for developments where the impact of overspill parking is considered unacceptable. These impacts may include localised increases in demand which can have a negative impact upon the amenity of existing residents in the vicinity of the site, as competition for on-street spaces in a particular area may increase.
- 5.45. Where there is potential for overspill parking, a parking survey is normally utilised to determine whether there is capacity on-street for the additional demand within close proximity to the development.
- 5.46. In lieu of a parking survey, the Highway Authority utilises permit uptake data to assess parking occupancy levels within CPZs. Given the potential variance in uptake across a CPZ, where permit uptake is over 85% over the previous 12 months, no additional overspill parking is permitted without a supporting parking survey. Recent permit uptake within Zone V indicates high demand for parking as 99%. Therefore, it is recommended that all of the residential development is made car free and that this is secured by condition. Should the applicant wish to undertake a parking survey demonstrating there is sufficient capacity, or a parking demand assessment demonstrating there is no increase in demand compared to the existing use then we may reconsider.
- 5.47. The Equality Act 2010 places a range of duties on the Council. Amongst others these require decision makers to be aware of the potential impacts of its decisions, at the point when they take them, on people with characteristics that are protected by the Act. There must be a reasonable evidence base for this. If there are likely to be any negative impacts then, amongst other things, the decision maker must be satisfied that there is a reasonable 'objective justification' for these.
- 5.48. For the benefit of decision makers, we set out below those aspects of the proposals that are likely to have negative impacts in respect to transport. We also consider if there is a reasonable objective justification for these in transport terms. Where there is not then decision makers will need to be satisfied that a suitable objective justification exists for non-transport reasons. Note that we do not consider planning policy in this section.

- 5.49. In this case, our only concern is the absence of provision for disabled parking. However, it is noted that there are some opportunities for this demand to be met on-street. Additionally, cycle parking is currently located on the upper floor which is not considered accessible to all. Further details have been requested with regard to cycle parking
- 5.50. As previously requested for BH2015/01736 a contribution of £10,000 is sought towards on-street improvements in the form of footway improvements, provision of a loading bay and on-street cycle parking. This is in order to provide for sustainable and safe access to the site and cater for the increase in trips in accordance with Brighton & Hove City Plan Part One policy CP7.
- 5.51. Due to the nature of the development, there would be expected to be a uplift in person trips. Measures to promote sustainable travel to and from the development should be proposed, through the provision of travel packs to all new households. This can be secured by condition. Measures and offers to include in the packs are referenced in the condition. Additional Comments It is highlighted that doors of the commercial unit should not open outwards on to the public highway in order to comply with Section 153 of the Highways Act 1980. The applicant is therefore advised to amend this aspect of the proposals.

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);
 - Shoreham Harbour JAAP (adopted October 2019).
- 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 Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment land
CP4	Retail provision
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP14	Housing density
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

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
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 the proposed development, the suitability of the site to

accommodate the proposed development having regard to the amenity requirements for the dwellings, affordable housing, the affect upon the character of the area and neighbouring residential amenity, traffic impact and sustainability.

Provision of Housing:

- 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 published in the SHLAA Update 2019 shows a five-year housing supply shortfall of 1,200 (equivalent to 4.0 years of housing supply). As the council is currently unable to demonstrate a five-year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

Background:

- 8.4. The application is an amendment to BH2015/01736. Whilst that application was granted on appeal in June 2017 with a three-year period to begin development, the government announced on 22nd June 2020 that any planning permissions due to expire between the beginning of lockdown and the end of 2020 would be automatically extended until 1 April 2021. BH2015/01736 remains extant, and the ability to implement that consent is given significant weight in the determination of the current application.

Amendments to BH2015/01736:

- 8.5. The key differences between BH2015/01736 and the current application are as follows:
- The building footprint is reduced at the front. BH2015/01736 permits a single storey front projection to the southern end of the building to house a commercial unit. This projection is removed from the scheme, and the number of commercial units proposed overall is reduced from 2 to 1.
 - The northern commercial unit is enlarged, to take in part of the floor space previously allocated to the second unit.
 - One additional 2-bedroom flat is proposed at ground floor. This is positioned in what would have been the rear section of the removed second commercial unit.
 - Minor increase in overall height of 0.3m.
- 8.6. The key similarities are as follows:
- The overall positioning, building lines, footprint, bulk and form remains largely the same, other than the modest increase in height and the removed single storey front projection.
 - The design, materials and detailing are the same.
 - The shopfront design for the retained commercial unit is the same.

- The flats proposed at first, second and third floors are the same size and layout, other than a minor reduction in the floor area of the southern flat at first floor (<1m²) to facilitate a revised terrace detail.
- Bin and cycle storage retained in position at the rear of the building.

Principle of Development:

- 8.7. Policy CP3 seeks to resist the loss of employment uses unless the site can be shown to be redundant in some way. The existing uses on the site are a car showroom and sales (sui generis) and take away (A5) at ground floor with 2 flats above. The proposals would retain commercial use at ground floor comprising 168sqm of A1/A2/A5 (subject to occupation).
- 8.8. The proposed mixed use of residential and retail is considered acceptable in this location, where there are also other nearby examples of existing development with commercial uses at ground floor and residential over.
- 8.9. The existing building on the site is of no particular merit and its removal is not objected to.

Affordable Housing:

- 8.10. CP20 of the City Plan Part One requires developments of between 5 and 9 (net) residential units to provide 20% affordable housing as an equivalent financial contribution. In this instance, based on the methodology set out in the Developer Contributions Technical Guidance Paper, the proposed 7 additional two-bedroom units within Zone 2 would require a contribution of £182,250 (equivalent to one two-bedroom unit). The contribution has been agreed by the applicant subject to a S106 agreement.

Design and Appearance:

- 8.11. City Plan policy CP12 requires new development to demonstrate a high standard of design and make a positive contribution to the visual quality of the environment. Unless a development proposal is within an area featuring a distinctive historic style of architecture, replication of existing styles and pastiche designs will be discouraged. Policy QD5 requires new development to pay particular attention to street frontages.
- 8.12. The application is a resubmission following grant on appeal of a similar scheme which remains extant (BH2015/01736). The key difference is the removal of the single storey front projection. There is a minor increase in height although the overall size, form, positioning, bulk and detailing of the building would remain otherwise the same. The Inspector raised no objections on design grounds, nor did the Local Planning Authority.
- 8.13. The planning officer's report for BH2015/01736 states the following (the previous application referred to is BH2012/02887):
- 8.14. *The current application has addressed the previous concerns by fully setting back the section of the proposals immediately adjacent to Gladstone Terrace, so that the 3 storey element of the scheme now closely follows the existing development on the site in terms of height and mass. The fourth*

storey has been set further back significantly by between 3.9 and 5m so that it is also now in line with Gladstone Terrace. Detailing has also been added to the side south west facing elevation which the inspector was critical of. The view is considered to be an improvement over the existing situation which consists of a blank wall with a large hoarding placed on it.

- 8.15. *The overall design remains contemporary with the use of detailed recessed brick panels on both the front and side elevations and it is noted that the inspector had no issue with the design approach itself and described the front elevation as having 'appropriate articulation and visual interest'. The changes to the design are welcomed and it is considered that changes have addressed the previous concerns of both the LPA and inspector.*

- 8.16. There have been no material changes in the council's adopted design policies or in the character and appearance of the site and surrounding area which would warrant taking a different view now, particularly whilst BH2015/01736 remains extant.

Impact on Amenity:

- 8.17. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

- 8.18. There is a small increase in overall height although the overall bulk and positioning of the building remain as per BH2015/01736 where the LPA and Inspector raised no concerns in terms of overlooking, overshadowing, loss of light or increased sense of enclosure to occupiers of neighbouring properties. For that application the officer report states that:

- 8.19. *the Local Planning Authority's concerns over the impact on Gladstone Terrace have been addressed by the set back of the upper floors and overall reduction of the scheme in general, so that the only projection in front of Gladstone Terrace closely follows the existing development on the site.*

- 8.20. The further reduction in the forward projection of the building would lessen the building's impact in these regards. The modest increase in height would not have a significant impact. The replacement of the second commercial unit with a flat is likely to reduce noise generated within the building over the extant scheme. The reduction in the size of a first-floor rear outdoor terrace would also reduce the availability of views towards neighbouring properties from outside spaces available to future occupants of the new flats.

Standard of Accommodation:

- 8.21. Brighton & Hove Local Plan policy QD27 requires new residential development to provide suitable living conditions for future occupiers.

- 8.22. The size and layout of the flats at first, second and third floor remain largely the same as BH2015/01736. The proposals make the following floorspace provisions with predicted occupation levels determined by bedroom sizes (double room 11.5m²+, single room 7.5-11.4m²):
- 8.23. Ground Floor Flat:
- Flat 1: 76m² overall; bedroom 1- 14.3m²; bedroom 2- 12.2m² (2 beds; 4 occupants)
- 8.24. First Floor Flats:
- Flat 2: 73.2m² overall; bedroom 1- 18.9m²; bedroom 2- 10.4m² (2 beds; 3 occupants)
 - Flat 3: 65.2m² overall; bedroom 1- 16.4m²; bedroom 2- 9.1m² (2 beds; 3 occupants)
 - Flat 4: 70.1m² overall; bedroom 1- 19.6m²; bedroom 2- 10.5m² (2 beds; 3 occupants)
- 8.25. Second Floor Flats:
- Flat 5: 73.7m² overall; bedroom 1- 19.3m²; bedroom 2- 10.1m² (2 beds; 3 occupants)
 - Flat 6: 71.8m² overall; bedroom 1- 20.6m²; bedroom 2- 11.7m² (2 beds; 4 occupants)
 - Flat 7: 69.7m² overall; bedroom 1- 19.3m²; bedroom 2- 10.5m² (2 beds; 3 occupants)
- 8.26. Third Floor Flats:
- Flat 8: 72.1m² overall; bedroom 1- 21.1m²; bedroom 2- 8.9m² (2 beds; 3 occupants)
 - Flat 9: 68.2m² overall; bedroom 1- 14.0m²; bedroom 2- 12.4m² (2 beds; 4 occupiers)
- 8.27. Whilst not adopted policy, DCLG: Technical housing standards - nationally described space standard (2015) provides guidelines for floorspace provision in new residential development. A single bedroom should be no less than 7.5m² and a double no less than 11.5m². It is welcomed that the proposed bedrooms would exceed these sizes. The guide also sets out that for 2-bedroom flats, 61m² should be provided for 3 occupiers (one double; one single rooms); and 70m² for 4 occupiers (two double rooms). Flats 1-8 would all exceed these sizes. Flat 9 would marginally fall short of the provision for 4 occupiers but would exceed that for 3. Notwithstanding this, all the flats are considered of reasonable size, and could comfortably accommodate required furniture and circulation spaces.
- 8.28. All bedrooms and living rooms would benefit from acceptable natural light and a reasonable outlook. It is noted that the outlook at the rear of the ground floor flat would be restricted, being subterranean and looking onto a small courtyard. The main living room, however, is double aspect, and it is considered that fenestration to the front elevation would prevent the overall standard of accommodation for this flat from feeling unacceptably gloomy. It

is noted that the standard of accommodation for flats 2-9 has previously been deemed acceptable by the LPA and the Planning Inspector.

- 8.29. The flats would all benefit from a small terrace or courtyard. Whilst these are small-scale, the provision is not below what can reasonably be expected from a flatted development in this location.
- 8.30. A noise assessment has been submitted, which assesses noise from the heavily trafficked Lewes Road. Mitigation is proposed, including Mechanical Ventilation (to prevent the frequency of windows having to be opened) and enhanced glazing. An air quality assessment has also been submitted to address vehicle emission pollution. This report also recommends mechanical ventilation, with extract away from the road (rear elevation). Subject to compliance with these recommendations, the proposals are considered to adequately address the issues of noise and pollution for future occupiers. The mitigation measures shall be secured by condition.
- 8.31. BH2015/01736 includes conditions specifying that a further submission shall be required if a use requiring odour controlling equipment intends to occupy the ground floor commercial unit. The submission should include details of odour control and sound insulation. Further conditions restrict operation hours of the commercial use to between 09:00 and 23:30 Sundays-Thursdays, and 09:00 and midnight on Fridays and Saturdays; and deliveries to the premises to only be between 08:00 and 18:00 on Mondays to Saturdays, and not at any time on Sundays and Bank Holidays. These conditions shall be reapplied to the current application.

Sustainable Transport:

- 8.32. Policy CP9 stipulates that all new development should provide for the travel demand that it creates with a particular emphasis upon promoting sustainable modes of transport.
- 8.33. 14 cycle parking spaces are proposed which is in accordance with guidance within SPD14. The cycle store is the same location and size as that for BH2015/01736. Further details of the cycle store were required by condition for that application, and the same shall be applied here.
- 8.34. In accordance with SPD14, the maximum parking allowed for A1 shops in Key Public Transport Corridors is 1 space per 40m², and for C3 residential units is 0.5 spaces per dwelling plus 1 space per 2 dwellings for visitors. There is no provision for car parking spaces. The proposal is therefore compliant in respect of general car parking.
- 8.35. It is not considered that additional dwelling and reduced shop space would result in a significant uplift in person and vehicle trips compared to the extant permission. The development is not considered to have a severe impact on the highway and surrounding transport network.
- 8.36. The proposed residential dwellings would be expected to increase demand for on-street parking. Based on the 2011 Census, car ownership levels of

approximately 0.76 per household could be expected for the Hanover And Elm Grove ward and, therefore, the proposal has the potential to generate a demand of approximately seven vehicles. The site is located within Controlled Parking Zone (CPZ) V which will ensure any additional on-street parking in the immediate vicinity is managed.

- 8.37. SPD14 outlines how restrictions in access to on-street parking permits will be considered for developments where the impact of overspill parking is considered unacceptable. These impacts may include localised increases in demand which can have a negative impact upon the amenity of existing residents in the vicinity of the site, as competition for on-street spaces in a particular area may increase. On the basis that BH2015/01736 makes no restriction on resident access to parking permits, and that the expected parking demand would be similar, it is not considered reasonable in this instance to restrict parking access beyond the extant permission.
- 8.38. As previously requested for BH2015/01736, a contribution of £10,000 is sought towards on-street improvements in the form of footway improvements, provision of a loading bay and on-street cycle parking. This is in order to provide for sustainable and safe access to the site and cater for the increase in trips in accordance with Brighton & Hove City Plan Part One policy CP7. This contribution can be secured by condition.
- 8.39. The Unilateral Undertaking submitted for BH2015/01736 also includes provision for membership of a car club and a residential travel pack (including a one bus saver ticket valid for three months, a two-year membership to a car club, and information on local public transport, cycling and walking). These details can be secured by condition.
- 8.40. In conclusion it is considered that the transport issues are acceptable subject to a condition requiring further details of the cycle parking and S106 for the Sustainable transport contribution and travel plan type measures.

Sustainability:

- 8.41. Policy CP8 requires new development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. This shall be secured by condition.
- 8.42. CP8 also requires non-residential development to achieve a BREEAM rating of at least 'Very Good'. This can also be secured by condition.

Other Considerations:

- 8.43. A land contamination assessment has been submitted with the application. The investigation concludes that further investigation will be required once the buildings have been demolished and removed. At present, no remediation is required but this is subject to the further site investigation. The recommended additional investigation can be secured by condition.
- 8.44. It is noted that the Environmental Health Officer has requested that a Construction Environment Management Plan be secured by condition. Such

a plan was not previously requested by LPA or Inspector, and the scheme is very similar in scale and scope to BH2015/01736. It is not considered reasonable to add this additional condition to this condition in the absence of relevant material differences, and given that the former consent remains extant.

- 8.45. Policy CP10 states that the council will develop programs and strategies which aim to conserve, restore and enhance biodiversity and promote access to it. One such initiative, introduced since the previous application, is the requirement for new development to incorporate bee bricks. This provision can be secured by condition.

9. SECTION 106 HEADS OF TERMS:

- 9.1. In the event that the S106 agreement has not been signed by all parties, the application shall be refused for the following reasons:
1. The proposed development fails to provide a financial contribution towards affordable housing contrary to policies CP20 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
 2. The proposed development fails to provide a financial contribution towards transport improvements contrary to policies CP7 and CP9 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.

10. EQUALITIES

- 10.1. The planning inspector made the following statement for BH2015/01736:

The Council have also requested a condition requiring compliance with optional requirement M4(2) (accessible and adaptable dwellings) of the Building Regulations. However, the adopted policy referred to does not include M4(2) or set out the proportion of new dwellings which should comply with the requirement, as advised by the PPG. Furthermore, it is unclear whether step free access could be achieved to any of the flats. In this light, I do not consider such a condition necessary.

- 10.2. Given that the permission is extant, it is not considered reasonable to take a different view in this matter at this stage. No other issues have been identified.

