

<b><u>No:</u></b>	<b>BH2022/00487</b>	<b><u>Ward:</u></b>	<b>Central Hove Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning and Demolition in CA</b>		
<b><u>Address:</u></b>	<b>48 St Aubyns Hove BN3 2TE</b>		
<b><u>Proposal:</u></b>	<b>Demolition of garages at rear of site and erection of terrace of 2no two storey dwellings (C3) with associated landscaping</b>		
<b><u>Officer:</u></b>	Matthew Gest, tel: 292525	<b><u>Valid Date:</u></b>	11.02.2022
<b><u>Con Area:</u></b>	OLD HOVE	<b><u>Expiry Date:</u></b>	08.04.2022
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	F and W Nonoo C/O Lewis and Co Planning 2 Port Hall Road Brighton BN1 5PD		

## 1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	TA 1386-01	D	5 June 2023
Proposed Drawing	TA 1386-10	E	5 June 2023
Proposed Drawing	TA 1386-11	D	5 June 2023
Proposed Drawing	TA 1386-12	D	5 June 2023
Proposed Drawing	TA 1386-13	D	5 June 2023
Proposed Drawing	TA 1386-14	D	5 June 2023
Proposed Drawing	TA 1386-15	C	5 June 2023
Proposed Drawing	TA 1386-16	C	5 June 2023
Proposed Drawing	TA 1386-17	C	5 June 2023
Proposed Drawing	TA 1386-18	B	5 June 2023

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. Notwithstanding any details shown on the approved plans, no development above ground floor slab level of any part of the development hereby permitted shall take place until details 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/details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) samples/details of all hard surfacing materials
- d) samples/details of the proposed window, door and balcony treatments
- e) samples/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 DM21 and DM26 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton & Hove City Plan Part One.

4. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Above Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with Policy DM20 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.

5. The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling 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 DM21 of Brighton & Hove City Plan Part 2, 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.

6. No extension, enlargement, alteration of the dwellinghouse(s) or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the of the dwellinghouse(s) as provided for within Schedule 2, Part 1, Class[es A - E] of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies DM20, DM21 and DM26 of Brighton & Hove City Plan Part 2, and CP12 and CP15 of the Brighton & Hove City Plan Part One.

7. Access to the flat roofs over the dwellings 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 DM20 and DM21 of Brighton & Hove City Plan Part 2.
8. The development hereby permitted shall not be occupied until a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to occupation of the development and shall thereafter be retained at all times.  
**Reason:** To enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies DM21 and DM26 of Brighton & Hove City Plan Part 2, and CP12 and CP15 of the Brighton & Hove City Plan Part One.
9. The first floor bathroom windows in the west facing elevation and the bedroom windows in the east facing elevation 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 policy DM20 of the Brighton & Hove City Plan Part 2.
10. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.  
**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One.
11. 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 the 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 food-bearing plants, and 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;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 DM22 of Brighton & Hove City Plan Part 2, and CP12 and CP13 of the Brighton & Hove City Plan Part One.

12. 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 DM22 of Brighton & Hove City Plan Part 2, and CP12/CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

13. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.

14. The development hereby permitted shall not be occupied until the dwelling(s) 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 DM1 of Brighton & Hove City Plan Part 2.

15. None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.

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

16. Prior to first occupation of the development hereby approved, details of the photovoltaic array referred to upon the roof in the plans hereby approved in shall be submitted to and approved in writing by the Local Planning Authority. The photovoltaic array shall then be installed in accordance with the approved details.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One

17. 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 scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
  - (iii) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
  - (iv) Details of hours of construction including all associated vehicular movements
  - (v) Details of the construction compound
  - (vi) A plan showing construction traffic routes

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 DM20, DM33 and DM40 of Brighton & Hove City Plan Part 2, 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.

- 18.
1. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:
- (a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice;  
And if notified in writing by the local planning authority that the desk top study identifies potentially contaminant linkages that require further investigation then,
  - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A1:2013;  
And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,
  - (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

2. The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report by a competent person approved under the provisions of condition (1)c that any remediation scheme required and approved under the provisions of condition (1)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:
- a) built drawings of the implemented scheme;
  - b) photographs of the remediation works in progress;
  - c) certificates demonstrating that imported and/or material left in situ is free from contamination.

**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy DM41 of Brighton & Hove City Plan Part 2.

19. Other than demolition works the development hereby permitted shall not be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policies DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.

20. The development hereby permitted shall not be first occupied until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall be implemented in full prior to the first occupation of the development hereby approved and thereafter retained.

**Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

21. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the construction of the green roofs have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme. The roofs shall then be constructed in accordance with the approved details and shall be retained as such thereafter.

**Reason:** To ensure that the development contributes to ecological enhancement on the site and in accordance with Policy DM37 of Brighton & Hove City Plan

Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

22. At least one bee brick shall be incorporated within the external walls of each house of the development hereby approved and shall be retained thereafter.  
**Reason:** To enhance the biodiversity of the site and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
23. Prior to first occupation of the development hereby permitted, a footpath layout plan shall have been submitted to and approved in writing by the Local Planning Authority. This should include details of materials, dimensions, methods of construction, location, levels, gradients, length of gradients, lighting, handrails and provision for the mobility and visually impaired (for example turning circles, radius dimensions and tactile paving). The layout plan should also include justification for any steps proposed. The approved scheme shall be fully implemented and made available for use prior to construction of the development and shall thereafter be retained for use at all times.  
**Reason:** To ensure the development provides for the needs of construction workers and all occupants and visitors to the site and to ensure the provision of satisfactory facilities for pedestrians and the mobility and visually impaired to comply with policies CP9 and CP12 of the City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. Hardsurfaces  
The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'.
3. The water efficiency standard required under condition 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 the above condition on land contamination has been imposed because the site is known to be or suspected to be contaminated.

Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

To satisfy the condition a desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of part (b) and part (c) of condition above.

It is strongly recommended that in submitting details in accordance with this condition the applicant has reference to Contaminated Land Report 11, Model Procedures for the Management of Land Contamination. This is available on both the DEFRA website ([www.defra.gov.uk](http://www.defra.gov.uk)) and the Environment Agency website ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)).

5. The applicant is advised to consult with the sewerage undertaker to agree a drainage strategy including the proposed means of foul water disposal and an implementation timetable. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or [www.southernwater.co.uk](http://www.southernwater.co.uk)
6. The applicant is advised that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or [www.southernwater.co.uk](http://www.southernwater.co.uk)
7. **Energy Efficient Standard**  
The applicant is advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.
8. The water efficiency standard required by condition 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.
9. The applicant is advised that the above condition on land contamination has been imposed because the site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

To satisfy the condition a desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of part (b) and part (c) of condition (18) above.



It is strongly recommended that in submitting details in accordance with this condition the applicant has reference to Contaminated Land Report 11, Model Procedures for the Management of Land Contamination. This is available on both the DEFRA website ([www.defra.gov.uk](http://www.defra.gov.uk)) and the Environment Agency website ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)).

10. The applicant should be aware that the site may be in a radon affected area. If the probability of exceeding the Action level is 3% or more in England and Wales, basic preventative measures are required in new houses, extensions, conversions and refurbishments (BRE2011). Radon protection requirements should be agreed with Building Control. More information on radon levels is available at <https://www.ukradon.org/information/ukmaps>
11. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
12. In order to be in line with Policy CP9 Sustainable Transport of City Plan Part One footpaths must be safe, convenient (minimum of 1.2m wide), have gradients in preference to steps for the impaired and waste disposal operatives (the steeper the gradient the shorter its length should be), have handrails where appropriate (average height 900mm to 1000mm and a lower rail if necessary set at 550mm to 650mm to aid and stop children and anyone else from falling through), be made of appropriate materials to appropriate methods and standards, well-lit and where appropriate well signed. It should also be noted that if steps are proposed then the 'going' should preferably be 300mm and the 'rising' should preferably be 100mm. For further information consult the Department for Transport Inclusive Mobility and Manual for Streets documents. Also, if footways are proposed to be adopted, to adoptable standards and/or are on the adopted (public) highway then they will need to be designed and constructed to a licence from the Highway Authority. The applicant must contact the Council's Streetworks Team ([permit.admin@brighton-hove.gov.uk](mailto:permit.admin@brighton-hove.gov.uk) 01273 290729) at their earliest convenience to avoid any delay and prior to any works commencing on the adopted (public) highway.

## **2. SITE LOCATION**

- 2.1. The application site is located on the western side of St Aubyns and comprises an area of hardstanding and blocks of garages at the rear of a two storey period villa, formerly the Cinderalla Hotel which is now in use as flats and bedsit accommodation.
- 2.2. The site is not readily visible from St Aubyns given its position at the rear of the building but is partially visible from Vallance Road to the north west due to the largely low scale of development at the rear of St Aubyns. The site is situated within the Old Hove Conservation Area.

## **3. RELEVANT HISTORY**

- 3.1. **BH2014/02230** Demolition of 12no garages to rear and erection of three storey residential block comprising of 2no one bedroom flats and 5no two bedroom flats incorporating revised access and associated works \_ application withdrawn

#### **4. APPLICATION DESCRIPTION**

- 4.1. Planning permission is sought for the demolition of garages at rear of the site and erection of 2no two storey dwellings (C3) with associated landscaping. The 2no two storey dwellings would provide three bedroom houses set below the existing ground level (approximately 1.5m) and be a modern design with green flat roofs and canted rear bay windows. The houses would have south facing rear gardens with patio areas and surrounding landscaping with cycle and refuse storage sited at the front of the dwellings and feature a mix of render, metal cladding and timber.
- 4.2. Access to the site would be along the existing vehicular access point along the northern side of 48 St Aubyns with a dedicated pedestrian access from the southern side of the property.
- 4.3. During the course of the application the plans have been amended twice to reduce the amount of development from the initially proposed 4 units down to 2 units which is now the subject of the current proposal. Amendments have also included reducing the scale of the development by setting it lower into the site and to create further separation from the main property at 48 St Aubyns.

#### **5. REPRESENTATIONS**

- 5.1. **Three (3)** letters have been received from one (1) individual supporting the proposed development for the following reasons:
- Good design
  - Much needed family homes in a good location
- 5.2. **Twelve (12)** letters from **six (6)** individuals have been received objecting to the proposed development for the following reasons:
- Traffic and parking
  - Overdevelopment
  - Loss of privacy
  - Loss of light and overshadowing
  - Excessive height
  - Too close to boundary
  - Access for emergency vehicles
  - Noise and disturbance
  - Waste issues
  - Impact on property values
  - Harm to trees
  - Hotel does not need additional rooms
  - Harm to the Conservation Area

- Dust and noise from construction

## 6. CONSULTATIONS

### Internal

#### 6.1. **Environmental Health:** No objection subject to condition

The area for development has previous use as garages. A pre-commencement land contamination condition is recommended.

#### 6.2. **Heritage:** No objection

Further amendments have been made to the scheme and the site level has now been lowered such that only the upper floor would be visible above the eastern boundary to 6 Vallance Road. As a result the development would have an apparent street presence in Vallance Road at ground floor level only.

6.3. Whilst the breadth of the western elevation has not been reduced or further enlivened, the extent to which it is now visible means that it presents less of a featureless façade. Coupled with the set-back achieved in the first set of amendments it is now considered that the heritage objections have been sufficiently dealt with.

6.4. The heritage team therefore has no objection.

6.5. **Sustainable Transport:** No objection, subject to the inclusion of the requested conditions and informatives .

Conditions recommended relating to footpath layout, cycle provision and recommended a joint demolition and construction management plan.

### External:

#### 6.6. **Conservation Advisory Group**

The proposed development would obscure several valuable views of the conservation area from Vallance Road including the particularly attractive outrigger of the host building and the rear gardens of houses to the south.

6.7. The proposed two storey building would be a distracting element in the view of St Andrew's Church from the south (in Vallance Road).

6.8. It should be noted that the development in the adjacent rear garden is of one storey, partially sunk below ground level.

## 7. MATERIAL CONSIDERATIONS

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

- Brighton & Hove City Plan Part One (adopted March 2016)

- Brighton & Hove City Plan Part Two (adopted October 2022)
- 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).

## 8. RELEVANT POLICIES & GUIDANCE

### 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  
 CP7 Infrastructure and developer contributions  
 CP8 Sustainable buildings  
 CP9 Sustainable transport  
 CP10 Biodiversity  
 CP11 Flood risk  
 CP12 Urban design  
 CP14 Housing density  
 CP15 Heritage  
 CP19 Housing mix

#### Brighton & Hove City Plan Part Two:

DM1 Housing Quality, Choice and Mix  
 DM2 Retaining Housing and residential accommodation (C3)  
 DM3 Residential conversions and the retention of smaller dwellings  
 DM18 High quality design and places  
 DM20 Protection of Amenity  
 DM21 Extensions and alterations  
 DM22 Landscape Design and Trees  
 DM26 Conservation Areas  
 DM33 Safe, sustainable and active travel  
 DM36 Parking and servicing  
 DM37 Green Infrastructure and Nature Conservation  
 DM43 Sustainable Drainage  
 DM44 Energy Efficiency and Renewables

#### Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
 SPD06 Trees & Development Sites  
 SPD09 Architectural Features  
 SPD11 Nature Conservation & Development  
 SPD12 Design Guide for Extensions and Alterations  
 SPD14 Parking Standards

## 9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, the impact of the works on the surrounding area including the heritage assets of the conservation area, the standard of accommodation proposed, impact on neighbouring occupiers, and issues relating to sustainability and traffic and transport.

**Principle of the Development:**

- 9.2. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement.
- 9.3. The local housing need figure for Brighton & Hove using the standard method is 2,328 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally. The council's most recent housing land supply position is published in the SHLAA Update 2022 which shows a five-year housing supply shortfall of 7,711 (equivalent to 1.8 years of housing supply).
- 9.4. 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).
- 9.5. The provision of 2 additional units of accommodation makes a small contribution to the city's housing target and this is given due weight in the consideration of this proposal.
- 9.6. The development involves the demolition of the existing garages which are located in the Old Hove Conservation Area. The garages do not make a positive contribution to the historic character of the conservation area so there is no objection to the principle of the demolition of these features. The full impact of the works on the conservation area is assessed in a subsequent section of the report.
- 9.7. Subject to other material considerations the development can be supported in principle.

**Housing Mix and Density:**

- 9.8. The development proposes two dwellings suitable for family accommodation within a central location which is welcomed. The site is well served with sustainable transport links and is sited close to the seafront and a short walk from Hove Station. The development would provide a maximum density of 20 dwellings per hectare which is short of the minimum expected density of 50 dwellings per hectare in accordance with CP14. Given that the development is a backland brownfield site in a Conservation Area, it is considered that the application proposes an acceptable scale of development, and a higher density

is not considered to be appropriate in this instance due to the fact that the proposal is situated within the Old Hove Conservation Area where a larger scale of development would be difficult to accommodate in this individual context. The mix of units, providing two family dwellings is considered acceptable and it is acknowledged that it would be difficult to achieve a varied mix of units given the site constraints and the limited number of units proposed.

- 9.9. The proposal is considered to be in accordance with policies CP14 and CP19 of the Brighton and Hove City Plan Part One and DM1 of the Brighton and Hove City Plan Part Two.

**Design, Appearance and Heritage:**

- 9.10. Policy CP12 (Urban Design) and SPD17 (The Urban Design Framework (UDF)) states that development should provide high quality design, create a sense of place, conserve and enhance the city's built archaeological heritage and settings and achieve excellence in sustainable building design and construction.
- 9.11. In this case, the existing garages have little architectural or historic value and their demolition and replacement is considered to be acceptable.
- 9.12. The proposed buildings would feature a relatively simple two storey design with a green flat roof. The north facing front elevation would include full length doors with covered entrance at ground floor with first floor fenestration. The rear (south) facing elevation would include an angled canted bay at ground and first floor serving the kitchen/dining area at ground floor and a bedroom at first floor providing some visual interest to the southern elevation. Due to the topography of the site and the setting down of the scheme the green roof and rear canted bays would provide sufficient visual interest for the development when seen from surrounding developments to the south, east and west of the site. The proposed materials would be for a mix of buff coloured brick, metal cladding and render with metal windows and timber door to the front elevation. Further and full details can be secured by condition in order to ensure an acceptable and appropriate appearance to the dwellings.
- 9.13. The new houses at 5.5m would be taller than the existing garages, however they would be set approximately 1.5m into the ground and therefore the increase in height in relation to the surroundings and existing structures would be an overall height increase of approximately 2m. The proposed site layout would include sufficient separation to all neighbouring boundaries with the bulk of the form being separated approximately 4.4m to its southern and northern boundaries and 3.2m to the western boundary with Vallance Road. The main form would also be separated by a distance of 4.5-5m from the rear principal building at 48 St Aubyns. The development would be only partly visible from the vehicle access on the northern side of the main building from St Aubyns and viewed from Vallance Road amongst the context of the rear elevations of the mansion properties on St Aubyns, but also in the context of other flat roof structures, garages and another flat roof modern residential property on the adjacent plot at 4A Vallance Road. These separation distances together with the modest increase in height of the built form are considered to be acceptable in terms of its scale and character.

- 9.14. Although the dwellings are considered to be well sited within the plot and in relation to the topography of the locality, it is considered that removal of 'permitted development rights' would be justified in this instance as any enlargements and alterations of the proposals could potentially result in harm to the character of the area or potentially neighbouring amenity. Therefore, a condition is recommended removing such rights to extend or alter the dwellings including the provision of outbuildings.
- 9.15. The resulting scheme is considered to be positive in terms of its design and appearance, providing a high quality development to replace the existing garages on site which are not considered to contribute to the street-scene or surrounding area therefore, subject to the conditions noted above, the proposed new dwellings are considered acceptable in terms of their design and appearance and would be in accordance with polices CP12 of the City Plan Part One and polices DM18 of the City Plan Part Two and SPD12 guidance.
- 9.16. Policy CP15 specifically relates to protection and enhancement of heritage assets and the city's aim to conserve and enhance the historic environment will be in accordance with its identified significance, giving the greatest weight to designated heritage assets and their setting.
- 9.17. The site lies within the Old Hove Conservation Area. When considering whether to grant planning permission for development in a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Case law has held that the desirability of preserving the character or appearance of a conservation area must be given "considerable importance and weight".
- 9.18. The proposed development would sit within and respect the character of the conservation area and its heritage. Although modern, the proposed landscaping, design and materiality are considered to be an improvement over the existing garages. The western side elevation of the development would front Vallance Road and be seen from the public highway behind the existing street trees from the northern end of Vallance Road and between 4 and 6 Vallance Road where a gap exists in built form at first floor level. The low lying nature of the proposal would mean that the western elevation would be visible as largely a development at ground floor. The simple detailing to this elevation would, however, be a relatively bland elevation with little visual interest. Since this would be largely set behind the flat roof garage structure of 6 Vallance Road, it is considered acceptable. Due to the setting down of the form both the height and its comparable height to the flat roofs of the garage at 6 Vallance road and the modern house at 4a Vallance Road together with the set back from the Vallance Road ensures that the visual impact upon the Conservation Area is considered acceptable.
- 9.19. The proposal would not harm the character and appearance of the Conservation Area and the development would be in accordance with policies CP15 of the Brighton and Hove City Plan Part One and DM26 of the Brighton and Hove City Plan Part Two.

### **Standard of Accommodation**

- 9.20. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. They form a useful guide in assessing the standard of new residential accommodation. These space standards have been formally adopted into the Brighton and Hove City Plan Part Two through Policy DM1.
- 9.21. The proposed development would provide 2 dwellings set over two storeys. Both units would comply with the minimum standards, and the size and layout of each units are generally considered acceptable. The units are dual aspect which would provide a suitable amount of light and ventilation to the proposed properties. The outlook from the dwellings would be largely open aspect to the south, and whilst the proposal is set into the ground no concerns are otherwise held in regard to the standard of accommodation.
- 9.22. In regard to accessibility standards, 12v supplies are proposed to the communal pathways to allow for future provision of a chair lift allowing access to all residential units proposed. A condition to secure the development would otherwise comply with M4 (2) of the Building Regulations is recommended.
- 9.23. Policy DM1 also states that all new residential development will be required to provide useable private outdoor amenity space appropriate to the scale and character of the development. The proposal would include a sufficient quality of external amenity space for each dwelling with a south facing rear garden and patio area with associated landscaping around the properties towards the boundaries of the site. The quality and provision of the external amenity space proposed is considered acceptable.

### **Landscaping:**

- 9.24. The site is currently unattractive hard surfacing and garages and there is scope for the scheme to contribute positively to the landscaping of the site. There are areas of lawn proposed around the dwellings and the contribution of the green roofs proposed would result in an overall improvement on the landscaping of the site and net gain in biodiversity over and above the existing situation.
- 9.25. There is, however limited information submitted for the hard landscaping, soft landscaping or boundary treatments submitted and therefore a condition to secure acceptable detailing in these regards is recommended.

### **Impact on Amenity:**

- 9.26. The properties most affected by the proposal would be the main property at 48 St Aubyns itself to the east of the site, the dwelling at 4A Vallance Road to the north of the site, 46 St Aubyns to the south east of the site and 6 Vallance Road to the west of the site.
- 9.27. 48 St Aubyns is currently in use as flats. The amendments to the proposal have resulted in the setting down of the development such that the flat roof of the buildings would be no higher than the lower part of the rear first floor bay window



of the rear projection which ameliorates concerns in regards to loss of outlook or overshadowing of this window. The first floor eastern elevation windows would function as a secondary window to the proposed bedroom and a condition to obscure glaze this window is recommended to overcome any concerns in regards to overlooking.

- 9.28. The separation distance at ground floor is proposed to be 5m from the east facing ground floor at 48 St Aubyns. A visit to the site has confirmed that there are no windows at ground floor in the rear projection facing the site and only a single door which faces east from the parent property. Secondary windows serve this rear kitchen space and no significant impacts are considered to be likely from the proposal.
- 9.29. 4A Vallance Road is a relatively new build single storey dwelling sited on land north of the site. The proposals would be set 4m from the northern boundary of the site and given their relatively modest projection above ground it is not anticipated that it would have a significant impact upon this dwelling with regards to overshadowing or loss of light given this separation distance. There would be some overlooking from the first floor windows of the development to the external patio areas of 4A Vallance Road, however this would be at an oblique angle and given the boundary treatment and sunken nature of the patio areas together with the central location (where some degree of mutual overlooking can be anticipated) it is not considered that this would be sufficiently harmful to warrant refusal of the application.
- 9.30. The new dwellings would introduce some overlooking from the rear first floor bedrooms into the rear garden amenity spaces associated with 46 St Aubyns. It is noted, however, that there is already mutual overlooking of these spaces from the property of 6 Vallance Road and from other flats within 46 St Aubyns and no demonstrable harm is considered to result in this regard over and above the existing situation. It is also noted that part of the rear land associated with 46 St Aubyns is utilised as car parking and hardstanding which raises no concerns. Due to the orientation of the site and proposed distances from the boundaries of the site, no concerns are raised in regard to loss of enclosure, loss of privacy, overshadowing or loss of light.
- 9.31. There would be some views from the first floor rear windows towards the rear and side windows of flats within 46 St Aubyns, however again, due to the distances and the oblique angles of views no significant impacts are expected with regards to overlooking or loss of light or overshadowing.
- 9.32. 6 Vallance Road sited to the direct west of the site would not be overlooked by the proposal. The side western facing proposed windows would serve bathrooms and a condition is recommended to secure obscure glazing and fixing shut of these windows (above 1.7m from floor level). The rear first floor bedrooms would not offer a direct view towards 6 Vallance Road and therefore no harmful overlooking would result. Due to the separation distances, orientation and modest height resulting from the new build no significant overshadowing or loss of light would likely result from the development in this respect.

### **Sustainable Transport:**

- 9.33. The site benefits from a highly sustainable location being within easy walking distance of shops, restaurants and bus services on Church Road to the north, and the seafront to the south. The seafront provides a dedicated cycle lane extending towards the City's east and west boundaries.
- 9.34. The scheme will result in the loss of 12 garages. This is acceptable as the site is located in a controlled parking zone, and the issuing of new parking permits can be controlled by the local highway authority. The new houses will each have secure covered bike stores - accommodating two bikes for each house.
- 9.35. Concerns have been raised by the Sustainable Transport team in regards to ensuring that an appropriate pedestrian access is provided and secured and whilst this is indicated to the southern side of 48 St Aubyns on the submitted plans a condition is recommended to ensure that sufficient and appropriate details are secured.
- 9.36. Given the proposal is for two dwellings no severe impact upon the Local Highways network is expected to occur and it is noted that an existing vehicle access along the northern side of 48 St Aubyns would remain unaltered. Accordingly subject to the recommended conditions, the proposal is in accordance with policy CP9 of the City Plan Part One and policies DM33 and DM36 of the City Plan Part Two and the SPD14 Parking Standards.

### **Sustainability:**

- 9.37. The site is currently covered by hardstanding or buildings and the redevelopment would introduce garden areas as well as green roofs. This would assist in improving biodiversity habitats and increase the amount of permeable surface area within the site subject to sufficient detail being secured by condition.
- 9.38. In regard to sustainability, the applicant confirms that the scheme will be able to accord with the water and energy requirements of City Plan Policy CP8 and this can be secured by conditions and informatives. The scheme is inherently sustainable as it involves the reuse of previously developed land in a sustainable location. The scheme includes provision for green roofs, garden areas, and the provision of solar thermal and photovoltaic cells on the roof of each dwelling.
- 9.39. Energy and water efficiency standards in accordance with Policy CP8 of the City Plan Part One and Policy DM44 of the City Plan Part Two can be secured by condition along with further detail in regards to the microgeneration proposed.

### **Sustainable Drainage**

- 9.40. The site is located in an area with very low risk of flooding from ground water and a low risk from surface water. Nonetheless a condition is recommended to ensure that sustainable drainage measures are incorporated into the development and to ensure that surface water run-off is directed to facility on-site. Subject to these conditions the development raises no concerns in this respect.

### **Other Considerations:**

- 9.41. The proposed development works would be taking place on something of a constrained site, and with the amended plans relying on a significant amount of excavation. Issues relating to construction disturbance have been raised by some neighbouring occupiers and although noise and disturbance through construction is not a material planning consideration a Construction and Environmental Management Plan is recommended to ensure the development is appropriately managed given the specific nature of the site.
- 9.42. Concerns have been raised in representations with regards to ensuring appropriate access for emergency vehicles. Whilst there is a vehicle access to the northern side of St Aubyns which would bring such vehicles in close proximity to the development it is also noted that Fire Safety would be an issue covered by Part B of the Building Regulations and therefore is not a material planning consideration in this context.
- 9.43. Some representations have raised ensuring that appropriate storage is provided for refuse. St Aubyns features on-street communal refuse storage, however, other areas have been indicated within the proposal for storage of refuse and recycling, most notably at the frontage of the two proposed dwellings and alongside the pedestrian access route. These measures shall be secured by condition.
- 9.44. Representations have been made that the development would have a detrimental impact upon property value which is not a material planning consideration.
- 9.45. A number of received representations also consider and raise the possibility of asbestos within the existing garages. Whilst the safe removal of asbestos is a considered part of Health and Safety legislation an informative is recommended to ensure the applicant is reminded of their responsibilities in this regard.

## **10. EQUALITIES**

- 10.1. As noted above a 12v supply is proposed to the communal pathways to allow for future provision of a chair lift allowing access to all residential units is proposed which is recommended to be secured by condition.

## **11. CLIMATE CHANGE/BIODIVERSITY**

- 11.1. As noted earlier in this report the development includes the provision of green roofs and would otherwise present a significant improvement in terms of biodiversity on the site. Conditions are recommended to ensure that the landscaping, green roofs and other sustainability benefits, including the proposed solar arrays are sufficiently detailed and implemented prior to occupation of the development. A bee brick is also recommended by condition.

## **12. COMMUNITY INFRASTRUCTURE LEVY**

- 12.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. It is estimated that the amount of CIL liability for this application is £24,527.25. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.