

<b><u>No:</u></b>	<b>BH2022/02492</b>	<b><u>Ward:</u></b>	<b>West Hill &amp; North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>47 Trafalgar Street Brighton BN1 4ED</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing car rental premises and erection of a four storey building (plus basement) comprising solely commercial floorspace (Class E). (Amended description and plans - revised design and holiday lets removed from scheme).</b>		
<b><u>Officer:</u></b>	Sonia Gillam, tel: 292265	<b><u>Valid Date:</u></b>	23.08.2022
<b><u>Con Area:</u></b>	North Laine	<b><u>Expiry Date:</u></b>	22.11.2022
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	28.04.2023
<b><u>Agent:</u></b>	Whaleback Planning & Design 91 Boundary Road Hove BN3 7GA		
<b><u>Applicant:</u></b>	Mrs Patricia Camping C/o Whaleback Planning & Design 91 Boundary Road Hove BN3 7GA		

## 1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement and the following Conditions and Informatives:

### 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	TA1185/01	B	10 February 2023
Proposed Drawing	TA1185/11	D	10 February 2023
Proposed Drawing	TA1185/12	D	10 February 2023
Proposed Drawing	TA1185/13	D	10 February 2023
Proposed Drawing	TA1185/14	F	10 February 2023
Proposed Drawing	TA1185/15	D	25 July 2023
Proposed Drawing	TA1185/16	F	25 July 2023
Proposed Drawing	TA1185/17	E	25 July 2023
Proposed Drawing	TA1185/18	E	10 February 2023
Proposed Drawing	TA1185/19	E	10 February 2023
Proposed Drawing	TA1185/20	D	10 February 2023
Proposed Drawing	TA1185/10	E	10 February 2023
Proposed Drawing	TA1185/21	C	25 July 2023
Proposed Drawing	TA1185/22	B	10 February 2023
Proposed Drawing	TA1185/24		25 July 2023
Report/Statement	Noise Assessment	Acoustic South East	8 September 2023

Report/Statement	Surface Water Management Report	Flo Consulting Engineers	6 January 2023
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2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
  
3. The use of the premises hereby permitted shall be for purposes falling within Use Class E (Commercial, Business and Service) as defined in the Town and Country Planning (Use Classes) Order 1987 (or in any provision in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification). No change of use shall occur without express planning permission being obtained from the Local Planning Authority.  
**Reason:** The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and with regard to the 'agent of change' principle, and to comply with Policies DM18, DM20 and DM40 of Brighton & Hove City Plan Part 2 and SA2, CP2 and CP3 of Brighton & Hove City Plan Part One.
  
4. The use hereby permitted shall not be carried out except between the hours of 07:00 and 20:00 on Mondays to Sundays, including Bank or Public Holidays.  
**Reason:** To safeguard the amenities of the locality and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
  
5. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies DM18 and DM26 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton & Hove City Plan Part One.
  
6. Access to the flat roofs (including the third-floor area annotated as 'terrace' and all 'green roof' areas) of the development hereby approved shall be for maintenance or emergency purposes only and the flat roofs 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 Policy DM20 of Brighton & Hove City Plan Part 2.
  
7. The three easternmost first and second floor windows in the northern elevation facing Trafalgar Street of the development hereby permitted, shall be obscure glazed and non-opening, unless the parts of the windows which can be opened

are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with Policies DM20 and DM21 of Brighton & Hove City Plan Part 2.

8. The development hereby approved should achieve a minimum Energy Performance Certificate (EPC) rating 'B' for new build non-residential development.

**Reason:** To improve the energy cost efficiency of existing and new development and help reduce energy costs to comply with policy DM44 of the Brighton & Hove City Plan Part Two.

9. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with Policies DM18 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.

10. The development hereby approved shall not be occupied until the surface water drainage system has been implemented in accordance with the approved Surface Water Management Report by Flo Consulting Engineers received on 6th January 2023, and maintained thereafter in accordance with the approved details.

**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.

11. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.

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

- 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 desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with industry best practice guidance such as BS 10175:2011+A2:2017 – Investigation of Potentially Contaminated Sites – Code of Practice and BS 5930 Code of Practice for Ground Investigations;

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+A2:2017;

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 suitable for use.

**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy DM41 of City Plan Part 2, and SU11 of the Brighton & Hove Local Plan.

- 13. 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 Policies DM18 and DM20 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.

- 14. No development, including demolition and excavation, shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

**Reason:** To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

15. No development, including demolition and excavation, shall take place until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity, to include biodiverse green roofs and the provision of 10 swift nesting cavities and 10 bee bricks, has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:
- a) purpose and conservation objectives for the proposed works;
  - b) review of site potential and constraints;
  - c) detailed design(s) and/or working method(s) to achieve stated objectives;
  - d) extent and location /area of proposed works on appropriate scale maps and plans;
  - e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
  - f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
  - g) persons responsible for implementing the works;
  - h) details of initial aftercare and long-term maintenance;
  - i) details for monitoring and remedial measures;
  - j) details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

**Reason:** To provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, as amended, paragraphs 174 and 180 of the National Planning Policy Framework, Policy CP10 of the Brighton & Hove City Council City Plan Part One and Policy DM37 of the City Plan Part Two.

16. No development hereby permitted shall take place until a BRE issued Pre-Construction Assessment, demonstrating that the development shall achieve a minimum BREEAM 'Excellent' rating in the appropriate scheme has been submitted to and approved in writing by the Local Planning Authority

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

17. No development, including demolition, shall take place until a Demolition/Construction Environmental Management Plan (DEMP/CEMP) has been submitted to and approved in writing by the Local Planning Authority. The DEMP/CEMP shall include:

- (i) The phases of the Proposed Demolition and Development including the forecasted completion date(s)
- (ii) A scheme of how the contractors will liaise with local residents and businesses to ensure that they 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 DEMP/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. 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

The 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 DM18 and DM26 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton & Hove City Plan Part One.

19. No development above ground floor slab level of any part of the development hereby permitted shall take place until full details including 1:20 scale elevational drawings and sections of the front entrance area and shopfronts have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to ensure a satisfactory appearance to the development and to comply with policies DM26 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

20. No development above ground floor slab level of any part of the development hereby permitted shall take place until a drainage strategy detailing the proposed means of foul water disposal and an implementation timetable, has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.

**Reason:** To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy DM42 of Brighton & Hove City Plan Part 2.

21. No development above ground floor slab level of any part of the development hereby permitted shall take place until an Energy and Sustainability Statement, demonstrating how the development will meet planning policy for energy efficiency, carbon emissions, renewable energy, biodiversity, and other sustainability requirements, has been submitted to and approved in writing by the Local Planning Authority

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

22. Notwithstanding the layout shown on approved plans, prior to first occupation of the development hereby permitted, details of secure cycle parking and shower/changing facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be always retained for use.

**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 and CP9 of the City Plan.

23. The development hereby permitted shall not be occupied until the redundant vehicle crossover which currently serves the existing driveway/ garage on Trafalgar Street has been converted back to a footway by raising the existing kerb and footway. The external finishes of the reinstated kerb and footway shall match in material, colour, style, bonding and texture the immediately adjacent existing kerb and footway, and retained as such thereafter.

**Reason:** In the interests of highway safety, and to ensure a satisfactory appearance to the development and to comply with policies DM26 and DM33 of Brighton & Hove City Plan Part 2, and CP9 and CP15 of the Brighton & Hove City Plan Part One.

24. No development above ground floor slab level of any part of the development hereby permitted shall take place until a scheme for the suitable treatment of all plant and machinery to minimise the transmission of sound and/or vibration has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

25. Notwithstanding the plans hereby approved, the development shall not be used/occupied until a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries servicing and refuse collection will take place and the frequency of those vehicle movements has been submitted to and

approved in writing by the Local Planning Authority. All deliveries servicing and refuse collection shall thereafter be carried out in accordance with the approved plan.

**Reason:** In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policies DM20, DM33, and DM40 of Brighton & Hove City Plan Part 2.

26. Within 6 months of first occupation of the non-residential development hereby permitted 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 'Excellent' 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.

27. Soundproofing of the party ceilings, floors and walls between the development hereby approved and the adjoining neighbouring properties including the Prince Albert Public House, and between the basement to third floors of the development, as recommended by the submitted noise report by Acoustic South East received on the 8th September 2023, shall be implemented prior to the first occupation of the development and shall thereafter be retained as such.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

28. Prior to first use/ occupation of the proposed development, a further noise assessment and test shall be carried out in order to demonstrate the successful implementation of the requirements detailed in the submitted noise report, by Acoustic South East, received on the 8th September 2023, and the achievement of the day and night guideline values for external amenity spaces and non-domestic buildings contained within the World Health Organisation (WHO) (1999): Guidelines for Community Noise and in Table 6 of the BS8233:2014: Guidance on Sound Insulation and Noise Reduction for Buildings (BS 8233:2014).

The results shall be communicated in writing to the local planning authority. If the criteria in the BS8233: 2014 and WHO (1999) guidelines are not met, a further report shall be required to demonstrate what additional measures are needed and when these will be implemented. Another post completion noise assessment and test will then also be required in order to demonstrate compliance.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

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. Where asbestos is found/suspected on site, it will fall under the Control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: <https://www.hse.gov.uk/asbestos/>
3. 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>
4. 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)
5. The applicant is advised to contact the Council's Streetworks Team ([permit.admin@brighton-hove.gov.uk](mailto:permit.admin@brighton-hove.gov.uk) 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.
6. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height of approximately 5 metres above ground level, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
7. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level and preferably adjacent to pollinator friendly plants.
8. In order to be in line with Policy DM33 of the City Plan. Cycle parking must be secure, convenient, well lit, well signed and wherever practical, sheltered. The Highway Authority's preference is for Sheffield stands. Spaces suitable for Cargo bikes should also be included for mixed used sites. All must be spaced in line with the guidance contained within the Manual for Streets section 8.2.22.
9. The applicant is advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires non-residential development to have achieved a 27% improvement on the carbon emissions against Part L 2013.

## **2. SITE LOCATION**

- 2.1. The application relates to an unlisted building, believed to date from the late 1930s / early 1940s, comprising a large, single storey industrial shed under a single-span pitched roof with a largely blank frontage to Trafalgar Street to the north. The building is bounded by Over Street to the east and Frederick Place to the west. The most recent use of the site was as a car rental business. The building is sited within the North Laine Conservation Area.
- 2.2. Adjoining the site to the immediate east is the grade II listed Prince Albert public house (c1845) in mid-Victorian classical style in stucco, set over three storeys with a roof hidden behind a tall parapet. To the north-west is the rear of the grade II\* listed Brighton Station.
- 2.3. The North Laine area has a lively mix of land-uses which contribute greatly to the character of the area. Trafalgar Street is one of the primary east-west routes through the area that follow the original 'leakways' (access paths between arable fields) and is a main commercial street.
- 2.4. The sloping topography of Trafalgar Street downwards from west to east has resulted in a gentle stepping down of building heights as the street descends. The buildings along Trafalgar Street have a largely consistent height but a varied roofline (with chimney stacks, pots and party wall upstands adding to the street scene) which overall, contributes to the rich character of the North Laine.

### **3. RELEVANT HISTORY**

- 3.1. **PRE2019/00100** Redevelopment of car rental unit (sui generis) for commercial-led mixed-use. Pre-application advice given.

### **4. APPLICATION DESCRIPTION**

- 4.1. The application seeks permission for the demolition of the existing car rental premises and the erection of a four-storey building (plus basement) comprising 1358sqm of commercial floorspace (Class E). It is indicated that the building could cater for a wide range of businesses such as cafés and retail units at street level up to established businesses requiring larger office units.
- 4.2. Amended plans have been received during the life of the application to include a revised design to reduce the impact on neighbouring properties, and to delete the originally proposed holiday lets from the scheme so that as noted above, it would be entirely commercial in use.

### **5. REPRESENTATIONS**

- 5.1. **One thousand, two hundred and eighty two (1282)** letters have been received objecting to the proposed development. The main grounds for objection are as follows:

**5.2. Impact of introducing a sensitive use adjacent to Prince Albert Public House**

- Pub should be protected as important community asset, cultural venue and landmark
- Risk of noise complaints from new residential units
- Application does not fulfil duty of 'Agent of Change' of NPPF
- Important venues have closed down from noise complaints
- Soundproofing should be secured
- Legal advice should be sought to protect pub against noise complaints
- Impact on mental health from loss of music venue

**5.3. Design considerations and impact on Heritage Assets**

- Poor design which is out of character with streetscene
- Adverse impact on heritage assets
- Inappropriate height and disproportionate scale
- Too close to boundaries
- Terrace not in keeping with character of the area
- Cluttered roofscape
- Harm to pub external art works
- Harm to the balance of uses in North Laine area
- Result in more empty commercial space in the city
- Accuracy of drawings

**5.4. Standard of accommodation**

- Holiday lets would be unviable due to the music venue
- Sub-standard residential accommodation
- Lack of outdoor amenity space
- Poor natural light and outlook
- Noise and disturbance to future residents
- No provision for waste disposal

**5.5. Impact on Amenity**

- Overshadowing and loss of light
- Overlooking and loss of privacy
- Impact on outlook
- Increased sense of enclosure
- Visual intrusion/ overbearing
- Noise and disturbance from holiday lets
- Air pollution
- Impact on local infrastructure.

**5.6. Other Issues**

- Identified housing need not addressed
- Need for affordable housing
- Loss of an existing industrial unit
- No public benefit
- Additional traffic
- Insufficient parking and access

- Highway safety
  - Permitted Development rights could be utilised to convert the premises to residential use.
- 5.7. Objections relating to impact on views, developer profit, inconvenience from build, impact on property values and that the site is 'for sale' are noted, however are not material planning considerations.
- 5.8. **Four (4)** letters of representation has been received in support of the application for the following reasons:
- Good design
  - Good for local economy and businesses
- 5.9. **Seven ( 7 )** letters of representation were received with the following comments on the application.
- Amended plans mean there is no longer cause to object;
  - Could support if the scheme could never be converted to residential use;
- 5.10. **Caroline Lucas MP** has made representation objecting to the application. A copy of the letter is appended to this report.
- 5.11. **Councillor Pete West** has made representation objecting to the application. A copy of the letter is appended to the report.

## 6. CONSULTATIONS

### Internal:

- 6.1. **Air Quality:** No objection subject to conditions re CEMP and emissions. The proposed site will produce fewer vehicle trips compared with the former car-hire use. This can be classed as air quality positive.
- 6.2. **Arts Development:** Comment The operation of the music venue in close proximity to the proposed development should be protected and appropriate mitigation implemented. It is likely that only a covenant or deed of easement protecting it from future complaints would suffice, alongside sound proofing and other practical mitigations.
- 6.3. **City Clean:** No objection Commercial bins should be provided within the building or commercial sacks can be disposed of in on-street communal refuse bins.
- 6.4. **Economic Development:** Comment The entire building will now be for commercial use which is favoured.
- 6.5. **Environmental Health:** No objection The recommendations made in the acoustic report would be adequate to mitigate any potential noise complaints. A scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration should be submitted. Contaminated land conditions recommended.

- 6.6. **Heritage:** No objection subject to conditions relating to external materials and large scale details of entrance area and shopfront. Overall, the proposed development would enhance the appearance and character of the North laine conservation area and would enhance the settings of the grade II listed Prince Albert PH and the grade II\* listed Brighton Station.
- 6.7. **Planning Policy:** No objection. The site falls within the Central Brighton area defined through City Plan Part One Policy SA2 and commercial use is considered appropriate.
- 6.8. **Sustainability:** No objection subject to BREEAM 'excellent' rating and an Energy and Sustainability Statement.
- 6.9. **Sustainable Drainage:** No objection. The proposed surface water drainage strategy is acceptable. A foul water drainage strategy can be secured by condition.
- 6.10. **Sustainable Transport:** No objection subject to conditions relating to the provision of cycle parking, a Construction and Environmental Management Plan (CEMP) and Delivery and Service Management Plan (DSMP), plus the reinstatement of the kerb and footway in place of the redundant vehicle crossover.
- 6.11. **Urban Design:** No objection provided that there is no residential accommodation at the site, and hours of use are limited, and subject to the provision of an energy strategy.
- External:
- 6.12. **Conservation Advisory Group:** No objection. Advice offered regarding front façade design.
- 6.13. **County Archaeologist:** No objection Although this application is situated within an Archaeological Notification Area, no archaeological remains are likely to be affected by these proposals.
- 6.14. **Ecology:** No objection subject to conditions in relation to provision of bee bricks, bird boxes and an Ecological Design Strategy.
- 6.15. **Exa Infrastructure:** No objection. Advice given regarding proximity to Fibre Optic Cable.
- 6.16. **Historic England:** No objection. No comments offered.
- 6.17. **Southern Water:** No objection. A formal application for a connection to the public sewer is required.
- 6.18. **Sussex Police:** No objection
- 6.19. **UK Power Networks:** No objection Advice given regarding proximity to substation.

## **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.
- 7.2. The development plan is:
- 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  
SA2 Central Brighton  
SA6 Sustainable Neighbourhoods  
CP2 Sustainable economic development  
CP3 Employment land  
CP4 Retail provision  
CP7 Infrastructure and developer contributions  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP10 Biodiversity  
CP11 Flood risk  
CP12 Urban design  
CP13 Public streets and spaces  
CP15 Heritage

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

DM11 New Business Floorspace  
DM18 High quality design and places  
DM20 Protection of Amenity  
DM22 Landscape Design and Trees  
DM23 Shopfronts  
DM26 Conservation Areas  
DM29 The Setting of Heritage Assets  
DM33 Safe, sustainable and active travel  
DM36 Parking and servicing  
DM37 Green Infrastructure and Nature Conservation

DM40 Protection of the Environment and Health - Pollution and Nuisance  
DM41 Polluted sites, hazardous substances and land stability  
DM42 Protecting the Water Environment  
DM43 Sustainable Drainage  
DM44 Energy Efficiency and Renewables  
DM46 Heating and cooling network infrastructure

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD09 Architectural Features  
SPD11 Nature Conservation & Development  
SPD14 Parking Standards  
SPD16 Sustainable Drainage  
SPD17 Urban Design Framework

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations relating to the determination of this application are the principle of the proposed development, design and the impact upon the character and appearance of the surrounding area, impact on cultural and heritage assets, impact on neighbouring residential amenity, and highways and sustainability implications.

**Principle of the Development:**

- 9.2. The site falls within the Central Brighton area defined through City Plan Part One Policy SA2 and the proposed commercial use is considered appropriate. The site is unallocated and there is no preference set out in policy for specific uses should the sui generis car rental premises be redeveloped. The existing building is of low quality and its redevelopment is welcomed. The proposed uses are therefore acceptable in principle in policy terms subject to detailed site-specific considerations.
- 9.3. With regard to the commercial floorspace, Policy DM11 of City Plan Part 2 (CPP2) is relevant, and requires that the E class floorspace should be well designed with layouts that will be suitable for a range of users. There are several areas of floorspace proposed of differing shapes and sizes, which could be flexibly configured and utilised. Although not all rooms would benefit from windows, particularly at lower levels, there would be several lightwells and/ or rooflights which would allow in natural light and, overall, it is considered that the proposal would result in a high quality new commercial property.
- 9.4. The proposed use is therefore, in policy terms, acceptable in principle subject to other planning considerations outlined below. The Council's Planning Policy officer has no objections to the scheme.

**The 'Agent of Change' Principle:**

- 9.5. The Prince Albert public house adjacent to the application site is a key cultural asset and long-standing live music venue and therefore the 'agent of change' principle is relevant. This is set out in the paragraph 187 of the NPPF and

referenced in the supporting text to City Plan Part Two Policy DM40 at paragraph 2.313 noting that new development should be integrated effectively with existing businesses and facilities, which should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Put simply, in this case the new commercial use should not restrict the use of the adjacent Prince Albert music venue because of noise concerns.

- 9.6. It is noted that a large number of the objections to the application relate to the potential impact of siting holiday lets adjacent to the pub, but that these have now been removed from the scheme.
- 9.7. The pub is open seven days a week from midday to midnight (00:30 on Friday and Saturdays). Live music events take place from 20:00 to 23:00 hours on weekdays and 20:00 to 23:30 on Friday and Saturday evenings, with some further additional daytime events.
- 9.8. Additionally, there are external tables at the front of the pub and a beer garden to the rear which will also generate noise through customers' conversations. The Green Door Store is another established live music venue in close proximity to the application site which has a 4am licence and an external smoking area. Noise from customers leaving the venue is therefore likely to affect the application site. The importance of these cultural assets means that it is important that new uses on the adjacent site do not compromise their ability to operate unhindered.
- 9.9. It is recognised that there is now no residential use proposed at the site which is welcomed. The Planning Statement asserts that the commercial units would not be noise sensitive and would not be impacted by noise and disturbance emitted from the public house. However, it is noted above that daytime live music events do take place, and the opening hours of the Prince Albert mean that noise and disturbance could affect those working in the commercial units during the normal working hours. Therefore, appropriate mitigation is essential.
- 9.10. The applicant has provided a Noise Impact Assessment which includes measurements of noise levels during live music events. The report makes several recommendations, such as an independent wall lining on the side of the new construction closest to the Prince Albert pub and enhanced flooring between the basement to third floors to minimise noise transfer between the spaces.
- 9.11. The Council's Environmental Health Officer has assessed the report and agrees that the recommendations made would be adequate to mitigate any potential noise impacts. However, it is considered prudent to restrict hours of use of the proposed premises between 7am and 8pm, as the noise levels at the pub can increase notably after this time in the evening. The recommendations in the noise report and hours of use can be secured by condition, including a requirement that the effectiveness of the noise mitigation measures is checked prior to occupation of the building.



- 9.12. Notwithstanding the above, the Council's Arts Development Officer has recommended that, alongside the sound proofing and other practical mitigations, a covenant or deed of easement is secured to protect the pub from future complaints. This has been used in several other cases around the country, albeit very rarely, and is a private agreement between two landowners. It is a legal means to prevent future residents of a new development from making complaints about an existing venue if licensing requirements are met and noise emissions remain within an agreed level.
- 9.13. This is noted and the issue has been explored by the Council; however ultimately a deed of easement is not considered reasonable in this instance given the area already contains residential properties, and noting that no residential development is proposed in the scheme. This is a busy location, close to Brighton station within an existing mixed-use area of the city centre so background noise levels are already high and existing residents already aware of and affected by the existence of the nearby music venues. Further, those using commercial premises are by nature less sensitive to noise, with less of an expectation of quiet than a residential occupant in their home. Given these factors, in this instance therefore it is considered unreasonable to require the applicant to secure such a stringent legal mechanism.
- 9.14. Subject to sufficient noise mitigation measures, a commercial use (Class E) is considered wholly appropriate for this currently underutilised site.
- 9.15. Overall, the stringent soundproofing measures and hours of use outlined above are considered sufficient to protect future occupiers of the commercial unit from noise and disturbance from the Prince Albert public house. This will provide the necessary protection to safeguard the public house from future noise complaints.

**Design and Appearance and Heritage considerations:**

- 9.16. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Moreover, 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.
- 9.17. The existing building is of no architectural merit and is identified in the North Laine Conservation Area Study as detracting from the character and appearance of the area. It also detracts from the setting of the adjacent listed Prince Albert pub. In design terms the redevelopment of the site is therefore welcomed, and the proposed use would be appropriate to the North Laine Conservation Area.
- 9.18. The footprint, scale and height of the proposed building are considered to be appropriate to the townscape and to the setting of the adjoining listed building. The proposed development responds positively to the topography of the site,

filling the gap by stepping up appropriately with the gradient of the road and would respect the existing pattern of the development in the area.

- 9.19. The elevational approach, referencing the fenestration divisions of the public house, is considered to be suitably contextual together with a mainly rendered façade to match the adjoining buildings. The mansard-style top storey is set back sufficiently so as not to impinge upon the side return to the cornice of the public house.
- 9.20. The east flank elevation of the grade II listed Prince Albert public house has an original window opening, which serves the stairwell and is located on the half-landing between ground and first floor levels. The window itself is an unusual centre pivot casement divided by glazing bars into four equal panes of glass. It forms the only source of natural light to the staircase at lower level (there is a rooflight over the top landing) and, typically for buildings of this period, the staircase is a fine and important feature of the building. Amended plans have introduced a well-sized lightwell in this area (with an access door for maintenance). This satisfactorily overcomes the heritage concerns relating to loss of light.
- 9.21. Overall, it is considered that the proposed development would enhance the appearance and character of the North Lane Conservation Area and the settings of the grade II listed Prince Albert Pub and the grade II\* listed Brighton Station. It is noted that Historic England, the Conservation Advisory Group and the Council's Heritage Officer and Urban Design Officer do not object to the scheme. Materials samples and large-scale details of the proposed shopfronts can be secured by condition.

**Impact on Amenity:**

- 9.22. Policy DM20 of City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause unacceptable loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

Daylight/ Sunlight:

- 9.23. A Daylight and Sunlight Assessment has been submitted with the application which assesses the impacts on the adjacent properties in Trafalgar Street, Over Street and Frederick Place, using the method given in the BRE good practice guidance document 'Site Layout Planning for Daylight and Sunlight'; the conclusions are summarised below.
- 9.24. The proposed development would impact on the daylight reaching the window on the eastern elevation of the Prince Albert pub. However, it is recognised that the window serves a stairwell within a commercial unit rather than a habitable room, and that some daylight would be preserved by the proposed lightwell in front of the window. For this reason, it is considered that refusal of the application on these grounds is not warranted. It is also noted that there is a small outside/smoking area to the rear of the pub, essentially a partially covered narrow strip of land running east to west. Again, it is not considered that the impact from the

development on this area would be so severe as to warrant refusal of the application.

- 9.25. The daylight and sunlight received to the rear of the residential properties in Over Street is already significantly compromised by the existing situation and there would be no additional adverse impacts at ground floor level, only marginal daylight impacts at first floor level, and very minimal loss of sunlight to the second-floor decks of 23 and 24 Over Street. These minor impacts would not be contrary to BRE good practice guidance, and the proposal is considered acceptable in this regard.
- 9.26. The proposed increase in height at the site would have some impact on the availability of daylight and sunlight to the rear of the two residential properties immediately west of the site at nos. 29 and 30 Frederick Place. However, the assessment indicates that these dwellings are already compromised, particularly at ground floor level, by existing buildings in the vicinity and the overall impact of the proposed development would be limited, according to the criteria laid down in the BRE good practice guidance. It is recognised that these properties are double aspect and would still receive light from their front windows which would be unaffected.
- 9.27. The proposed development would have some impact on the five rooflights at 28a Frederick Place, mainly through loss of sunlight for part of the year as most daylight is received vertically. However, these rooflights do not illuminate habitable rooms, rather serve a commercial building where reliance on artificial light is a lesser consideration than on a residential building. Therefore, the proposal is considered acceptable in this regard.
- 9.28. It is noted that there are existing windows that serve residential accommodation to eastern elevation of no. 46 Trafalgar Street adjacent to the east. The increase in height at the site may lead to some overshadowing of these windows. However, the windows appear to be secondary and / or do not serve habitable rooms so it is not considered that the impacts on these windows would warrant refusal of the application.

Overlooking / Loss of Privacy / Overbearing Impact:

- 9.29. In terms of overlooking and/ or loss of privacy, there are several eastern side windows proposed to the third floor of the development, however this top storey would be inset from the east, and, given the distances involved, it is not considered any undue overlooking of properties in Over Street would arise. The small side windows proposed at first and second floor levels are not considered to result in any harmful overlooking of neighbouring properties, given their size.
- 9.30. However, the easternmost front windows at first and second floor level could potentially give rise to views into the side windows of the flats at no. 46 Trafalgar Street to the east, given the close relationship between the two. For this reason, it is recommended that those windows are obscured glazed.
- 9.31. Whilst the proposal is taller than existing it has been designed to ensure that increases in bulk are set away from shared boundaries to reduce negative

amenity impacts. As such, it is not considered that the proposal would result in a sufficiently overbearing or enclosing impact to adjoining residents.

Roof Terrace:

- 9.32. There is a roof terrace proposed at third floor level. Although a 1.8 metre privacy screen is proposed, it is considered that a raised terrace at this level would be unneighbourly in terms of the relationship with the adjacent residential dwellings and gardens in Over Street. The terrace would give a perceived sense of overlooking and loss of privacy from a raised height at very close quarters to the neighbouring properties.
- 9.33. It should also be noted that there is an extant permission (BH2021/01841) for 2 new infill dwellings adjacent to no. 25 Over Street. The approved plans include patio areas. The proposed raised terrace would be sited directly adjacent to these approved dwellings and would form an uncomfortable relationship. There is also the potential of noise nuisance arising from the terrace which could also impact on the flats at 46 Trafalgar Street to the east.
- 9.34. Although some outside space would generally be desirable within a new commercial development, it is not considered an essential requirement within this city centre location. Additionally, there is also the potential for the workers to be impacted by the live music from the pub when using the roof terrace. Given the above, it is considered that the terrace area, and all other areas of flat roof, should be used for maintenance or emergency purposes only. This can be secured by condition.

Noise/ Activity:

- 9.35. The introduction of plant in a dedicated space inside the third-floor stairwell is noted. This is a potential source of noise to the proposed users of the development. The Council's Environmental Health Officer has recommended that a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration should be sought. This can be secured by condition.
- 9.36. In terms of hours of use of the proposed premises, Class E allows a wide range of options including office space, retail units and gyms. The site is within a busy city centre location; however, the configuration of the space and the end users of the development are not finalised. Therefore, in this instance, it would be prudent to take a conservative approach to the hours of use to protect adjoining residents from noise, this would also benefit the adjacent Prince Albert pub in terms of the 'agent of change' principle. The hours of use can be secured by condition.
- 9.37. Notwithstanding the above, it should be noted that nearby occupiers are likely to benefit from the loss of the car rental use, with vehicles no longer noisily entering and exiting the site.
- 9.38. Overall, although there may be some minor impact on adjacent uses from the proposed development, there would also be some benefits, and, overall, any

impact caused is unlikely to cause significant harm to living conditions and the scheme is considered acceptable in this respect.

**Sustainable Transport:**

- 9.39. It is considered unlikely this development in the city centre would generate significant additional vehicle trips, given the former use of the site as a car rental premises. There may be an increase in person trips to the site however, in this central location, this are unlikely to have a significant impact on the local highway network.
- 9.40. The site is within a Controlled Parking Zone. No car parking provision is being proposed for the development and there is the potential for parking overspill onto the highway. However, the site is in a very central location and next to Brighton Railway Station and a large bus stop hub. For those who do wish to travel by car, there are pay and display parking and disabled parking bays on Over Street and Trafalgar Street car park is nearby. Therefore, it is considered that the lack of on-site car parking does not warrant refusal of the application in this case.
- 9.41. For a development of this size, Parking Standards SPD14 requires a minimum of 17 cycle parking spaces provided for staff and 3 cycle parking spaces provided for visitors. The proposed 10 cycle parking spaces is therefore below the minimum requirements. There would need to be amendments to the layout to accommodate a minimum of 20 cycle parking spaces in a secure and convenient cycle parking storage. SPD14 also states that showers and changing facilities should be provided for developments of over 500m sqm.
- 9.42. Therefore, notwithstanding the plans submitted, additional cycle parking provision and shower/changing facilities should be provided as there is ample space on site.
- 9.43. The Council's Highways Officer has no objections to the scheme subject to the provision of the above facilities, a Construction and Environmental Management Plan (CEMP), a Delivery and Service Management Plan (DSMP), plus the reinstatement of the kerb and footway in place of the redundant vehicle crossover of Trafalgar Street. These measures can be secured by condition.

**Sustainability:**

- 9.44. Policy CP8 requires that all development incorporate sustainable design features to avoid expansion of the city's ecological footprint, radical reductions in greenhouse gas emissions and mitigate against and adapt to climate change. CPP2 Policy DM44 requires conversions and new build non-residential to achieve a minimum energy Performance Certificate EPC rating 'B'. This can be secured by condition.
- 9.45. The submission documents state that the development would achieve a BREEAM 'Excellent' rating. However, a pre-construction BREEAM assessment of the appropriate standard has not been submitted. Therefore, it is recommended that the pre-construction assessment and a post-construction certificate to demonstrate completion is secured by condition.

- 9.46. In addition, an Energy and Sustainability Statement should be provided by condition to explain how the development would meet planning policy for energy efficiency, carbon emissions, renewable energy, biodiversity, and other sustainability requirements.

**Ecology:**

- 9.47. The site is not designated for its nature conservation interest and is dominated by buildings and hard standing, with no vegetated space. The existing building offers extremely limited potential for roosting bats or nesting birds. The site is unlikely to support protected species.
- 9.48. As a major application, Policy DM37 of CPP2 and BHCC's Interim Technical Advice Note on biodiversity net gain (BNG) requires the development to deliver a minimum of 10% BNG. Given that the site is dominated by buildings and hard standing, the metric baseline would be zero, effectively negating the need for BNG.
- 9.49. However, both policies CP10 of the CPP1 and DM37 require developments to seek to provide biodiversity enhancements. It is noted that green roofs are proposed. The County Ecologist has recommended the provision of swift boxes, bee bricks and an Ecological Design Strategy; these can be secured by condition. Provided appropriate measures are implemented, the proposal can be supported from an ecological perspective.

**Other considerations:**

- 9.50. Given the former use of the site as a vehicle repairs workshop, investigations with regard to the potential for contaminated land are recommended by the Council's Environmental Health Officer. These can be secured by condition.
- 9.51. It is noted that the Council's Air Quality Officer supports the scheme as the proposed development would produce fewer vehicle trips compared with the former car-hire use which can be classed as 'air-quality positive'.
- 9.52. The Council's Flood Risk manager has agreed that the submitted sustainable drainage strategy in respect to surface water is acceptable, and foul water dispersal strategy can be secured by condition.

**Conclusion and Planning Balance:**

- 9.53. The existing building design is of low-quality and detracts from the character and appearance of the area and the setting of the adjacent listed Prince Albert pub. The redevelopment of the site is therefore welcomed, and the proposed use would be appropriate to the North Laine area. It is also considered it would enhance the appearance and character of the conservation area and the settings of the grade II listed Prince Albert PH and the grade II\* listed Brighton Station. There should be no significant harm to the amenity of neighbouring dwellings, given the existing situation and subject to a condition relating to hours of use.
- 9.54. Notwithstanding the above, it is recognised that the Prince Albert public house adjacent to the application site is a key cultural asset and long-standing live

music venue. Therefore the 'agent of change' principle is relevant whereby existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Taking note of this, the applicant has deleted the proposed residential 'holiday lets' from the scheme and the proposal is now solely commercial.

- 9.55. Give the above, subject to stringent soundproofing measures, appropriate hours of use, and restrictions on potential future changes of use, the new development should integrate effectively with existing businesses, and, as such, it is considered that the benefits of the scheme would significantly outweigh any negative impacts. Approval of the application is therefore recommended as the proposal is considered to positively contribute towards meeting the objectives of the City Plan policies.

## **10. EQUALITIES**

- 10.1. A lift to all floors is proposed and there appears to be ground floor level access to the building. There is no disabled car parking being proposed due to the site constraints. However, there are disabled bays located on Over Street, and Brighton Railway Station and Trafalgar Street car park are within a short distance. Blue badge holders can park on single or double yellow lines for up to 3 hours if there is not a loading restriction.

## **11. COMMUNITY INFRASTRUCTURE LEVY**

- 11.1. 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. 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.

