

<b><u>No:</u></b>	<b>BH2025/00268</b>	<b><u>Ward:</u></b>	<b>Kemptown Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>6B College Place Brighton BN2 1HN</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing office and storage buildings and the erection of 3no. new dwellinghouses (C3).</b>		
<b><u>Officer:</u></b>	Helen Hobbs, tel: 290585	<b><u>Valid Date:</u></b>	30.01.2025
<b><u>Con Area:</u></b>	East Cliff Conservation Area	<b><u>Expiry Date:</u></b>	27.03.2025
<b><u>Listed Building Grade:</u></b>		<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>	Fullers Plastering Ltd 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>
Proposed Drawing	AL_100		30-Jan-25
Proposed Drawing	AL_101		30-Jan-25
Proposed Drawing	AL_102		30-Jan-25
Proposed Drawing	AL_110		30-Jan-25
Proposed Drawing	AL_112		30-Jan-25
Proposed Drawing	AL_115		30-Jan-25
Location and block plan	AL_001		30-Jan-25

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 DM18/DM21/DM26 of Brighton & Hove City Plan Part 2 and CP12/CP15 of the Brighton & Hove City Plan Part One.

4. 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 Policies DM18 and 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.

5. No extension, enlargement, alteration of the dwellinghouses or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the dwellinghouse(s) as provided for within Schedule 2, Part 1, Classes 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 DM18/DM20/DM26 of Brighton & Hove City Plan Part 2, and CP12/CP15 of the Brighton & Hove City Plan Part One.

6. 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.

7. 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.
8. The development hereby approved should achieve a minimum Energy Performance Certificate (EPC) rating 'B' for new build residential.  
**Reason:** To improve the energy cost efficiency of existing and new development and help reduce energy costs and enhance sustainability, to comply with policies DM44 of the Brighton & Hove City Plan Part Two and CP8 of the Brighton & Hove City Plan Part One.
9. 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.
10. 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) Timescales for the Proposed Development including the forecasted completion date;
  - (ii) Details 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) Measures to minimise disturbance to neighbours regarding issues such as noise and dust management, vibration, site traffic, and deliveries to and from the site;
  - (iv) Measures to prevent mud/dust from tracking onto the highway;
  - (v) Details of hours of construction including all associated vehicular movements
  - (vi) Details of the construction compound including plant and material storage and manoeuvring areas;
  - (vii) A plan showing construction traffic routesThe construction of the development shall be carried out in full compliance 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.

11. At least one bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with Policy 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.

12. The development hereby permitted shall incorporate at least six swift bricks/boxes within the external walls of the development 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.

13. 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;
- c. details of all boundary treatments to include type, position, design, dimensions and materials;

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

- 14.

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 policies DM41 and DM20 of the Brighton & Hove City Plan Part 2.

15. 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.

16. 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 and sustainability on the site and in accordance with Policy DM37 of Brighton & Hove City Plan Part 2, Policies CP8 and CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

17. Prior to first occupation of the development hereby permitted, a warning signage shall have been installed to the wall above car height at the front and back of the proposed pedestrian/vehicle shared access.

**Reason:** To reduce the risk to pedestrian safety and comply with Policy DM33 of the City Plan Part Two.

**Informatives:**

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant 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>

**Biodiversity Net Gain**

Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply. These can be found in the legislation.

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that, unless an exception or a transitional arrangement applies, the planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan in respect of this permission would be Brighton & Hove City Council.

## **2. SITE LOCATION**

- 2.1. The application relates to a workshop, an office and storage buildings, which are all vacant, but had previously been used for over 20 years by Fullers Plastering

(manufacturing - Planning Use Class B2). They appear to be largely 20th century flat-roofed structures.

- 2.2. The site is located within a mews accessed via a narrow archway on the western side of College Place, between no.s 6 and 7, the entrance doors of which front onto the sides of the archway. It is surrounded by residential properties of three to four storeys, some of which have accommodation within converted roof spaces facilitated by both small and large box dormers, or mansards in the case of 8-9 College Place.
- 2.3. The application site is within the East Cliff Conservation Area, but not subject to an associated Article 4 direction. However, 6 and 7 College Place at the entrance to the site are Grade II listed buildings. The site is also within Controlled Parking Zone (CPZ) H.

### 3. RELEVANT HISTORY

- 3.1. **BH2023/01659:** Demolition of existing garage, storage and workshop buildings and erection of terrace of 3no. residential units (C3) and an office unit (E). Refused 23.10.2023. Refused by the LPA for the following reason:  
*“1. The proposed development, by reason of its height and positioning close to the rear boundary of the site, would result in the enclosure of the rear of the properties on Clarendon Place and would cause a loss of privacy to rear windows as well as a potential loss of sunlight and daylight. The proposed development would also result in unacceptable overlooking of the garden area of the property to the south of the site. The works would fail to protect the residential amenity of neighbouring occupiers which would conflict with the objective of policy DM20 of the Brighton and Hove City Plan Part 2.”*
- 3.2. Dismissed at appeal 11 September 2024.
- 3.3. **BH2022/03694** Demolition of existing garage, storage and workshop buildings and erection of terrace of 3no. residential units (C3) and an office unit (E). Withdrawn 27 January 2023.

### 4. APPLICATION DESCRIPTION

- 4.1. The current application seeks the demolition of the existing garage, storage and workshop buildings and the erection of a terrace of three residential units (Use Class C3) all of two storeys in height.
- 4.2. The key differences between the current application and the 2023 refused application include:
  - Removal of the small office floor space previously to be provided within one of the new buildings
  - Reduction in overall height of the development by 900mm through excavation of the plot and a reduction of floor to ceiling heights internally

- Reduced massing at the rear of the terrace by recessing the rear building line of the middle dwelling as well as recessing the first floor level

## 5. REPRESENTATIONS

- 5.1. In response to publicity, responses were received from six (6) individuals, **objecting** to the application and raising the following issues:
- Impact on the easement/right of way
  - Location of the bins
  - Impact on noise and disturbance during construction
  - Impact on dust and pollution during construction
  - Loss of privacy
  - Loss of light
  - Loss of outlook
  - Overdevelopment
  - Loss of privacy
  - Lack of information regarding biodiversity and any net gain
  - Impact on trees and planting/ wildlife
- 5.2. Full details of representations received can be found online on the planning register.

## 6. CONSULTATIONS

### Internal:

- 6.1. **Heritage:** No Objection subject to Conditions  
The information provided is satisfactory to determine that the development can be made acceptable in relation to the impacts on heritage provided the conditions relating to materials are imposed.
- 6.2. **Environmental Health:** Comments from previous application  
Approval subject to a contaminated land condition and an asbestos informative.
- 6.3. **Economic Development:** No Comment
- 6.4. **Planning Policy:** No Objection  
No in-principle objection to the proposed development, subject to further planning considerations and balance.
- 6.5. **Sustainable Transport:** Comments from previous application  
Acceptable, subject to conditions about signage (and lighting if appropriate), a refuse and recycling strategy and a cycle parking scheme

### External:

- 6.6. **Southern Water:** No Comment



## **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; revised October 2024);
  - 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 Planning for Sustainable Economic Development

CP3 Employment Land

CP8 Sustainable buildings

CP10 Biodiversity

CP12 Urban design

CP15 Heritage

CP19 Housing mix

#### Brighton & Hove City Plan Part 2:

DM1 Housing Quality, Choice and Mix

DM11 New Business Floorspace

DM18 High quality design and places

DM19 Maximising Development Potential

DM20 Protection of Amenity

DM22 Landscape Design and Trees

DM26 Conservation Areas

DM29 The Setting of Heritage Assets

DM33 Safe, Sustainable and Active Travel

DM37 Green Infrastructure and Nature Conservation

DM40 Protection of the Environment and Health - Pollution and Nuisance

DM41 Polluted sites, hazardous substances & land stability

DM43 Sustainable Urban Drainage

DM44 Energy Efficiency and Renewables

#### Supplementary Planning Documents:

SPD03 Construction & Demolition Waste

SPD09	Architectural Features
SPD11	Nature Conservation & Development
SSPD14	Parking Standards
SPD17	Urban Design Framework

## 9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of development, density, design, impact on heritage assets, neighbouring amenity, highways, the proposed standard of accommodation, land contamination, sustainability and biodiversity matters.

### 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. Changes to national planning policy in December 2024 mean that the local housing need figure for Brighton & Hove using the standard method is now 2,498 homes per year. A 20% buffer is applied to this figure to reflect the most recent Housing Delivery Test measurement (published in December 2024) for the council being less than 85%.
- 9.3. The council's most recent housing land supply position, measured against the total supply identified in the 2023 SHLAA Update of 3,879, shows a five-year housing supply shortfall of 11,109. This is equivalent to 1.3 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 application site is a single business unit which consists of a row of 3 garages converted into storage units and office workshop spaces with trade yard and gated front. The existing premises has been vacant since November 2021.
- 9.6. The proposal would result in the loss of 120m<sup>2</sup> of premises and open space storage in B2 use - General Industrial garaging, storage, office and workshop. CPP1 Policy CP3.5 states that loss of unallocated sites or premises in employment use will only be permitted where the site can be demonstrated to be redundant. Whilst no marketing information has been provided with the current application, the previous history and appeal decision is considered to be given significant weight. The 2023 application, whilst refused, raised no objection to the loss of the existing B2 use. Furthermore, the Planning Inspector raised no concerns in relation to this principle and referred to the site as heavily constrained by surrounding residential properties, limiting its development

potential as well as noting that the replacement of the industrial use at the site has significant benefits.

- 9.7. The 2023 proposal however did include a small provision of 38m<sup>2</sup> of Class E (g) office space. This has not been included in the current application. The submitted planning statement does not make reference to the loss of the office space from the previous proposal. It is considered that the constraints of the site which make the site unsuitable for B2 usage, would also likely make it inappropriate for B8 usage and is likely to have some impact on the desirability of the location of for a Class E(g) office. In this instance, the loss of this office space, given the size and other benefits of the scheme, such as providing additional housing, no objections are therefore raised.
- 9.8. The provision of three dwellings at the site is therefore given increased weight and makes an important, albeit minor, contribution to the city's housing land supply.

**Design and Heritage:**

- 9.9. 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.
- 9.10. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".
- 9.11. The site is accessed via a narrow archway from College Place. The Heritage team have confirmed that the site has little historical significance and raise no objection to the demolition of the existing buildings. At two storeys in height, the new buildings would be lower in height than the surrounding building heights which is supported. The structures would have due subservience to the principal buildings with road frontage which is considered to be the correct design approach for such a site.
- 9.12. The modern design of the dwellings is considered acceptable, subject to the use of high quality materials appropriate for use within a conservation area setting. The development, whilst being within the setting of the listed buildings in College Place, would be separate and distinct and have the necessary subservience to the historic townscape. There is no demonstrable harm to the setting of these listed buildings. The development would have a limited impact on the wider East Cliff Conservation Area given that there are very restricted views into the site from the public highway.

**Proposed Standard of Accommodation:**

- 9.13. The 'Nationally Described Space Standard' (NDSS) was introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. These space standard has been formally adopted into the CPP1 Policy DM1 and therefore they can be given full weight.
- 9.14. Plots 1 and 3 would comprise ground floor living space, with two double bedrooms and a bathroom at first floor level. The units would measure approximately 78m<sup>2</sup>. As the units include two double bedrooms, the units would be considered as a 2 bed 4 person unit, the minimum space standard for which is 79m<sup>2</sup>. The minimal shortfall is acknowledged and is accepted on this occasion given the constraints of the site. Furthermore, the general layout and room sizes would all be adequate and would be able to provide a suitable standard of accommodation. At ground floor level, the units also benefit from a south facing patio, and a rear courtyard including cycle storage.
- 9.15. Plot 2 would have a similar layout as the other two dwellings, however would only have one double bedroom at first floor. It would measure approximately 65.5m<sup>2</sup>, and therefore exceeds the standard of a 1 bed 2 person unit which should have a minimum floor area of 58m<sup>2</sup>. It would also have a rear courtyard with cycle store.
- 9.16. All three units would have dual aspect at ground floor to provide natural light and ventilation from the north and south. All rooms would have good levels of light and outlook.
- 9.17. It is noted that the residents will also benefit from being in a sustainable location, within easy walking distance of the amenities of Kempton, and public spaces such as the seafront just 250 metres to the south.
- 9.18. On balance, and having regard to the physical constraints of the site, it is considered the development would, on-balance, deliver a satisfactory standard of residential accommodation.

**Impact on Neighbouring Amenity:**

- 9.19. Policy DM20 of City Plan Part Two 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, adjacent or nearby users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.20. The main properties that would be affected by the proposed development would be 1-2, 3, 4, 5 and 6 Clarendon Place to the north, 7 and 8-9 College Place to the east and 4, 4B, 5 College Road to the west. The previous application was refused solely on amenity grounds due to the height and positioning of the development and its impact on nos. 1-6 Clarendon Place in terms of enclosure, loss of privacy and loss of sunlight and daylight. The reason also identified a harmful impact to the south, particularly with reference to No. 3 College Road, in terms of overlooking and loss of privacy to the rear garden of this neighbouring property.

- 9.21. The Inspector largely agreed with the Council's reason for refusal. During the appeal process the applicant provided a Sunlight and Daylight study for the previously proposed development (which was taller and larger at the rear than the current proposal) and both the Inspector and the Council accepted the findings of the study. It was therefore concluded that the proposal as previously proposed would not impinge on the sunlight and daylight of the properties to the rear of the site.
- 9.22. As the height of the current development has been reduced as well as some of the massing to the rear, it is also concluded that the development would not affect the sunlight or daylight of these adjoining properties to the north.
- 9.23. The previous application acknowledged that the existing rear boundary is already a very high wall which has some enclosing and overbearing impacts on the properties to the north. The current proposal ensures that the proposed dwellings would only protrude an additional 0.7m above this wall. The first floor level of the proposed dwellings would also be set further away from the shared boundary than the previous proposal, with the centrally positioned dwelling being substantially pulled back from the rear building line of the development. The separation distances of the first floor levels are as follows;
- 9.24. Plot 1 would have a minimum distance of 2.8m, plot 2 would have a minimum distance of 5.4m and plot 3 would have a minimum distance of 2.9m.
- 9.25. The previous proposal set the minimum distance as being approximately 2.5m from the shared boundary.
- 9.26. The lowered height and increased separation distances of the proposal has substantially removed the enclosing impact previously identified. The development would not be overly visible from above the boundary wall, particularly when viewed from the ground floor levels or garden levels of these neighbouring properties.
- 9.27. The first floor rear windows have been positioned below the boundary wall level and as such would not lead to any loss of privacy or overlooking.
- 9.28. It is therefore considered that the previous concerns relating to the impact on the properties to the north have been satisfactorily addressed.
- 9.29. In regard to the impact on the properties east and west of the proposed development site, no significant impact was previously identified. The distance to the properties to the west would be approximately 14 metres and approximately 11 metres to the property to the east. The previous application identified that these properties would experience some loss of outlook given that a two-storey wall would rise on the boundary, nevertheless given the separation distances involved and the fact no windows are proposed for the side elevations of the development, the proposal is not considered to be excessively unneighbourly or overbearing on the occupiers to the east and west. The tight urban grain in which the site is located means the relationship to the properties in College Place to the east and College Road to the west is considered

acceptable in this instance. Furthermore any of the impacts identified have been further reduced due to the lowered height of the development.

- 9.30. In regard to the front elevation facing south, in refusing the previous application the overlooking of the garden at No. 3 College Road was included as an unacceptable impact. The Inspector however did not agree with the council in this regard, stating that:  
*“The front bedroom of unit 1 would increase overlooking into the garden of this property. However, this is a particularly large garden on context of this location and there is already screening from a mature tree. On balance the adverse effect would not be sufficient in itself to warrant dismissal of the appeal.”*
- 9.31. The Inspector’s findings are therefore given significant weight and as such the impact on No. 3 College Road is no longer considered to be significant to warrant refusal.
- 9.32. Representation has been made on the application regarding noise and disturbance. It is not considered that the development would cause a significant impact in this regard. It is generally considered that the levels of activity associated with the proposal would be less than those associated with the previous use. In addition there is provision under the Environmental Protection Act should complaints arise in the future.
- 9.33. Overall, it is considered the proposal would not have a significant impact on neighbouring amenity.
- Impact on Highways:**
- 9.34. The site is considered to be in a sustainable location close to local shops and services with bus stops served by several routes, including to Brighton train station.
- 9.35. The application does not include car parking spaces. The erection of 3 residential units and the loss of 2 existing parking spaces would mean that there may be parking overspill onto the highway, but the Highways Team have not objected to the proposal. This site is located inside a Controlled Parking Zone (CPZ) H and the Highway Team have stated CPZ H appears to have capacity to accommodate the likely parking demand associated with this development.
- 9.36. The applicant is proposing 2 cycle parking spaces per unit. Parking Standards SPD14 requires a minimum of 1 cycle parking space for 1 - 2 bedroom dwellings. Although space is shown to the rear of the site, this is not considered a convenient location, therefore further details regarding cycle parking via condition would be required to be in line with Policy DM33 of the City Plan.
- 9.37. The plans indicate refuse and recycling bins in front of each residential unit. The refuse and recycling scheme in this area operate via communal bins located at the junction of College Place with St James Street. The previous application raised concerns regarding the distance of the communal bins from the proposed development. A strategy to address this will therefore be secured by condition.

9.38. A condition will also be attached to require that the applicant display a sign at the front entrance of the site to alert motorists that pedestrians/cyclists may be present. This access has been historically shared by vehicles/pedestrians and cyclists however it is only slightly wider than a car and therefore the sign is required for pedestrian safety.

9.39. The Transport Officer has also raised concerns that the access, due to the constrained width would have limited space for a fire tender vehicle to access the new development. The applicant is advised that a fire main valve at the site boundary should be provided. This would be required under building regulations.

**Sustainability:**

9.40. Energy and water efficiency measures 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.

**Biodiversity and landscaping:**

9.41. Conditions requiring at least one bee brick and four swift bricks/boxes have been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

9.42. The development would include a chalk grassland roof. Some landscaping detail has been included on the plans. Further information will be requested by condition, as soft landscaping is encouraged to contribute to the visual character of the development as well as ecological improvements to the site.

**Land Contamination:**

9.43. Due to previous uses on site, the Environmental Health Team have requested a condition in relation to potential land contamination.

**Other Matters**

9.44. Representations have been made regarding rights of way across the site. This has not been fully explained, however this is a private matter between the parties concerned, beyond the planning process. The applicant has signed Certificate A on the application form declaring sole ownership over the land to which the application relates.

**Biodiversity Net Gain**

9.45. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because it does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat.

**Conclusion and Planning Balance**

9.46. The scheme is considered to have overcome the reasons that the Inspector dismissed the appeal against the refusal of the 2023 application so is now acceptable in terms of its impact on neighbouring amenity. It is also considered to be of acceptable design with minimal impact on the surrounding area given its location to the rear of the main buildings, accessed via a narrow mews. The standard of accommodation is acceptable and sufficient cycle parking would be

secured by condition. Finally, the provision of three additional dwellings must be given increased weight in the planning balance, so approval is recommended.

## **10. EQUALITIES**

Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
  - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 10.1. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

## **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.