

<u>No:</u>	BH2019/01551	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	38A Upper Gardner Street Brighton BN1 4AN		
<u>Proposal:</u>	Demolition of existing storage unit (B8) and erection of 3no 2 storey dwellinghouses (C3) and 1no 2 storey office building (B1) and additional two storey bridged extension between the existing properties fronting Upper Gardner Street.		
<u>Officer:</u>	Laura Hamlyn, tel: 292205	<u>Valid Date:</u>	30.05.2019
<u>Con Area:</u>	North Laine	<u>Expiry Date:</u>	25.07.2019
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Dowsett Mayhew Planning 63A Ship Street Brighton BN1 1AE		
<u>Applicant:</u>	Sussex Property Investments Ltd 63A Ship Street Brighton BN1 1AE		

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.

Plan Type	Reference	Version	Date Received
Proposed Drawing	TA 1021/50	A	16 July 2019
Proposed Drawing	TA 1021/51	B	16 July 2019
Proposed Drawing	TA 1021/52	A	16 July 2019
Proposed Drawing	TA 1021/53	E	16 July 2019
Proposed Drawing	TA 1021/54	C	16 July 2019
Proposed Drawing	TA 1021/55	B	16 July 2019
Proposed Drawing	TA 1021/56	B	16 July 2019
Proposed Drawing	TA 1021/57	C	16 July 2019
Proposed Drawing	TA 1021/58	B	16 July 2019
Proposed Drawing	TA 1021/59	C	16 July 2019
Proposed Drawing	TA 1021/60	C	16 July 2019
Location and block plan	TA 1021/01	B	24 May 2019

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

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

3. The offices hereby approved shall be completed and ready for occupation, prior to first occupation of any of the residential dwellings hereby approved.
Reason: To ensure the delivery of office floorspace given the identified shortage, and to comply with policy CP3 of Brighton & Hove City Plan Part One.

4. The commercial premises hereby permitted shall be used as an office (Use Class B1(a)) only and for no other purpose (including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission obtained from the Local Planning Authority.
Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the supply of office floorspace in the city given the identified shortage, to comply with policy CP3 of Brighton & Hove City Plan Part One.

5. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples or 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 of all brick, render and tiling (including details of the colour of render/paintwork to be used) in the frontage facing Upper Gardner Street
 - b) details of all brick, render and tiling (including details of the colour of render/paintwork to be used) to the external surfaces of the office buildings and dwellings at the rear
 - c) details of all hard surfacing materials
 - d) details of the proposed window, door, balcony screening, and boundary treatments
 - e) details of all other materials to be used externally
 Development shall be carried out in accordance with the approved details.
Reason: To ensure a satisfactory appearance to the development and to comply with policies HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

6. The existing cobbles to the access underneath the proposed bridge building, and the flint wall to the neighbouring property 39 Upper Gardner Street shall remain exposed where not covered by the buildings hereby approved, and shall be retained as such thereafter, except where otherwise agreed in writing with the Local Planning Authority.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

7. The development hereby permitted shall not be occupied until details of the proposed entrance gate to Upper Gardner Street have been submitted to and approved in writing by the Local Planning Authority. The gate shall be provided in accordance with the approved details prior to occupation of the development. The gate shall have been painted black and shall thereafter be retained as such.
Reason: In the interests of the character and appearance of the development and the visual amenities of the area and to comply with policies HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.
8. The terrace associated with the office hereby approved shall not be used except between the hours of 09:00 and 17:00 Mondays to Fridays.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
9. The bathroom window in the east elevation of the dwelling unit 3 hereby permitted shall be obscure glazed and non-opening, unless the parts of the window(s) which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining properties and to comply with policy QD27 of the Brighton & Hove Local Plan.
10. The rooflights to the west roofslope of the dwellings hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining properties and to comply with policy QD27 of the Brighton & Hove Local Plan.
11. Prior to first use of the terrace associated with the office hereby permitted, 1.8m high screening to the west, north and east sides as measured from the finished floor level of the terrace shall be installed and retained as such thereafter.
Reason: To safeguard the privacy of the occupiers of the adjoining properties and to comply with policy QD27 of the Brighton & Hove Local Plan.
12. Prior to first use of the dwellings hereby permitted, 1.8m high boundary treatments shall be installed and retained as such thereafter.
Reason: To safeguard the privacy of the occupiers of the adjoining properties and to comply with policy QD27 of the Brighton & Hove Local Plan.
13. No extension, enlargement, alteration of the dwellinghouses or provision of buildings etc. incidental to the enjoyment of the dwellinghouse within the curtilage of the of the dwellinghouses 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 HE6 and QD27 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

14. 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 TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.

15. The development hereby permitted shall not be occupied until the redundant vehicle crossover on Upper Gardner Street has been converted back to a footway by raising the existing kerb and footway.

Reason: In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

16. Within 6 months of commencement of the development hereby permitted or prior to occupation, whichever is the sooner, a scheme shall be submitted to the Local Planning Authority for approval to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.

Reason: This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

17. Within three months of the date of first occupation of the offices a Travel Plan for the development has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall thereafter be fully implemented in accordance with the approved details.

Reason: To ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

18. 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.

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

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

20. The development hereby permitted shall not be occupied until the dwellings hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings), with the exception of the retained cobbled access, and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

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

- (i) The phases of the Proposed Development including the forecasted completion date(s)
- (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
- (iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
- (iv) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
- (v) Details of hours of construction including all associated vehicular movements
- (vi) Details of the construction compound
- (vii) A plan showing construction traffic routes

The construction shall be carried out in accordance with the approved CEMP.

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that the scheme required to be submitted by Condition 16 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers of the restrictions upon the issuing of resident parking permits.
3. The applicant should contact the Highway Authority Access Team for advice and information at their earliest convenience to avoid delay (transport.projects@brighton-hove.gov.uk or telephone 01273 292233). The Travel Plan shall include such measures and commitments as are considered necessary to mitigate the expected travel impacts of the development and should include as a minimum the following initiatives and commitments:
 - (i) Promote and enable increased use walking, cycling, public transport use, car sharing, and car clubs as alternatives to sole car use;
 - (ii) A commitment to reduce carbon emissions associated with business and commuter travel;
 - (iii) Increase awareness of and improve road safety and personal security;
 - (iv) Undertake dialogue and consultation with adjacent/neighbouring tenants/businesses;
 - (v) Identify targets focussed on reductions in the level of business and commuter car use;
 - (vi) Identify a monitoring framework, which shall include a commitment to undertake an annual staff travel survey utilising iTrace Travel Plan monitoring software, for at least five years, or until such time as the targets identified in section (v) above are met, to enable the Travel Plan to be reviewed and updated as appropriate;
 - (vii) Following the annual staff survey, an annual review will be submitted to the Local Planning Authority to update on progress towards meeting targets;
 - (viii) Identify a nominated member of staff to act as Travel Plan Co-ordinator, and to become the individual contact for the Local Planning Authority relating to the Travel Plan.
4. The water efficiency standard required under condition 18 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2,

page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

5. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
6. The applicant is advised to consider the provisions of Section 35 of the East Sussex Act 1981 with respect to access for fire appliances.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site consists of a vacant plot fronting onto Upper Gardner Street between a large flint faced three-storey warehouse and modern two storey terraces. The vacant lot provides access to the large T-shaped lot to the rear.
- 2.2. The subject site lies within the North Laine conservation area. Upper Gardner Street is a varied street consisting of early 19th century two-storey terraces, modern two-storey houses, the 1887 infant's school, a large warehouse and numerous smaller warehouse/light industrial buildings.
- 2.3. The application proposes to erect 3no two storey dwellings in the northern part of the site. The existing building to the south part of the site would be extended and converted to office (B1(a)), and a new two storey bridge building (B1(a)) is proposed to the part of the site fronting Upper Gardner Street.

3. RELEVANT HISTORY

- 3.1. **BH2018/03836-** Demolition of existing storage unit (B8) and erection of 4no two storey residential dwellings (C3). Refused 13/06/2019 for the following reasons:
 - The proposed development would result in the loss of employment floorspace, contrary to policy CP3 of the Brighton and Hove City Plan Part One, and policy EM10 of the Brighton and Hove Local Plan.
 - The proposed development, by reason of the poor outlook from the main living spaces, and the small size of the outdoor amenity spaces that are not commensurate to the size of dwellings proposed, would fail to deliver an appropriate standard of accommodation for future occupiers, and is therefore contrary to policies QD27 and HO5 of the Brighton and Hove Local Plan.
- 3.2. **BH2018/03780-** Demolition of existing boundary wall and reconstruction of replacement wall (part-retrospective). Approved 13/03/2019.

- 3.3. **BH2018/00641-** Part change of use of existing storage building (B8) to office (B1) with extension to existing building and two storey bridged extension between the existing properties fronting Upper Gardner Street. Appeal dismissed 13/02/2019.
- 39 Upper Gardner Street
- 3.4. **BH2014/04276-** Change of use at first floor level from cafe (A3) to offices (B1). Approved 31/03/2015.
- 3.5. **BH2012/02173-** Change of use from retail (A1) to café (A3) on lower ground, ground and first floors and retrospective change of use from café (A3) to office (B1) on second floor and replacement of ground floor sliding doors and fenestration above. Approved 30/04/2013.
- 3.6. **BH2011/01127-** Change of use from storage and distribution (B8) to mixed use retail (A1) and café/restaurant (A3) together with installation of new sliding glazed doors to the front elevation behind an existing timber door. Approved 06/07/2011.

4. REPRESENTATIONS

- 4.1. **Fourteen (14)** representations have been received, objecting to the proposed development on the following grounds:
- loss of light to windows and courtyards of Upper Gardner Street and Queens Gardens
 - mutual overlooking between proposed dwellings and Upper Gardner Street or Queens Gardens
 - overdevelopment
 - inappropriate height
 - poor design
 - inappropriate materials (metal roof)
 - inappropriate fenestration to street frontage
 - narrow pedestrian access via a gate, emergency ingress/egress issues
 - noise issues from the office terrace
 - poor outlook to the proposed dwellings
 - overhang of roof and drainage
 - impact on sewerage system
 - the antique centre helped maintain the character of the street
 - detrimental effect on property values
 - lack of consultation with local residents
- 4.2. A representation from the **North Laine Community Association** has been received, objecting to the proposed development on the following grounds:
- narrow alleyway resulting in cramped and poor environment
 - overdevelopment, inappropriate density
 - poor outlook
 - harm to the conservation area, inappropriate street frontage
 - harm to neighbouring amenity
 - increased noise from the office terrace breakout space

- a pre-development archaeological survey should be undertaken
- impact on sewerage system
- increased parking demand
- a site management plan should be required

4.3. **Cllr Lizzie Deane** objects to the proposed development. A copy of the objection is attached.

5. CONSULTATIONS

5.1. **Environmental Health:** No comment.

5.2. **Heritage:** Original comments – Seek further information

The proposed alterations to the existing structure at the rear are not visible from the public realm of the conservation areas and as such and consistent with previous consultations, the elements that do not have the potential to impact upon the designated heritage asset do not form part of the discussion contained herewith.

5.3. The scheme in this submission has been reduced and altered to take on board the Inspectors comments, the commercial bridging unit being of two storeys with a pitched front roof slope that replicated the profile and pitch of the existing terrace buildings. To the rear, a flat roof that affords a second floor office area.

5.4. The disproportionate window projects forward, indicated by the shadows shown on the proposed street elevation drawing and that the soffit, fascia and gutter lines are interrupted by the proposed form which jars with the consistent detailing of both the terrace and the larger warehouse building. As previously recommended, Conservation would wish the design of the fenestration to be reflective of the proportions and placement within the façade to the existing fenestration of the adjoining terrace thereby preserving the design intent and characteristics of the streetscene which contributes to the special character of the conservation area.

5.5. A further design consideration of the projecting window interrupting the eaves line is the discharge of rainwater from the sloped roof. As an infill development there are a number of constraints that effect position of rainwater downpipes and the proposed front elevation only affords a unimpeded route at the abutment with the neighbouring terrace. This would result in the gutter serving the northern part being unserviceable. Details of the proposed rainwater goods, flues and vents to the street facing façade are sought.

5.6. The cobbled entrance is an important feature of the streetscene and contributes to the sense of place and local distinctiveness. Confirmation on this element of the scheme is sought.

Comments following Amendments – Objection

- 5.7. The proposal whilst ensuring that the eaves and gutter is consistent across the street facing façade retains the large visually dominant window at first floor level that is considered disproportionate to the more traditional openings contained on the ground floor and those reflected in the facades of adjacent buildings. The window retains its projecting form which is illustrated on the drawing by a heavy shadow line. The mass, scale and form of the window is considered to be visually dominant within the streetscene and detracts from the traditional proportions of the surrounding fenestration which depict a diminishing vertical hierarchy.
- 5.8. As such it is considered that the projecting, oversized window results in a cluttered elevation that negatively impacts upon the streetscene and thus the special character of the conservation area.
- 5.9. **Conservation Advisory Group: Objection**
The Group recommends REFUSAL. The grounds for recommending refusal of the previous similar application are maintained. The introduction of 3no. two storey buildings into this yard represents an overdevelopment. It would destroy the historic street pattern of development in the North Laine which has been discernible whilst the site has been a furniture storage facility and show room open to the public. This application does not address the objection (of both CAG and the Planning Inspector) re. the fenestration fronting the public highway. The proposed gate is an unattractive feature. The granite setts, at the entrance to the site at least, should be preserved.
- 5.10. **Economic Development: Objection**
The proposal would create an additional 12 FTE jobs with 18 employment opportunities. However the proposal would result in the net loss of employment floorspace, without evidence to demonstrate redundancy of the commercial use.
- 5.11. **Planning Policy: Comment**
More information is required to demonstrate that the employment floorspace is genuinely redundant and can be released to alternative use such as residential in line with policy CP3.5. There is concern regarding the size, access and amenity of the proposed infill which should be considered carefully alongside any heritage impacts from its setting in a conservation area. Waste management needs to be considered.
- 5.12. **Sustainable Transport: No objection**
No objection subject to the necessary conditions securing additional detail on the cycle parking, the restriction of residents' access to parking permits, a travel plan for the office use, a CEMP, and the reinstatement of the kerb at the redundant crossover.

6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan,

and all other material planning considerations identified in the "Considerations and Assessment" section of the report

- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017)
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment land
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP14	Housing density
CP15	Heritage
CP19	Housing mix

Brighton & Hove Local Plan (retained policies March 2016):

TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD15	Landscape design
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
EM10	North Laine Area - mixed uses
HE6	Development within or affecting the setting of conservation areas
HE12	Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD09	Architectural Features

SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of the proposed change of use to residential, the impact of the design on the character and appearance on the North Laine Conservation Area, the standard of accommodation for future occupiers, the impact on neighbouring amenity, as well as transport and sustainability issues.
- 8.2. There is relevant planning history on the site, and this application seeks to address the issues raised previously. Application BH2018/00641 sought permission for the change of use of the building on the south part of the site to office (B1(a)) and extensions to that building, and the erection of a three storey flat roof bridge building to the part of the site fronting Upper Gardner Street. This was appealed on non-determination, recommended for refusal and subsequently dismissed by the appeal inspector. The concerns raised by the Local Planning Authority focused on design and amenity. The inspector concluded that the proposed bridge building would result in an awkward and unattractive junction to the roof of the neighbouring dwellings, and would have a negative impact on the streetscene and the character and appearance of the conservation area. The inspector also concluded that the bridge building would have an increased sense of enclosure of the rear outdoor space for neighbouring occupiers at 38 Upper Gardner Street.
- 8.3. This application has been amended to provide a pitched roof to the bridge building fronting Upper Gardner Street, removing the awkward junction with the residential terraced properties, and setting the rear projection of the bridge building away from the boundary with no.38.
- 8.4. Application BH2018/03836 sought permission for the erection of 4no dwellings to the north part of the site, but did not include the south part of the site or the erection of the bridge building as part of the scheme. This application was refused due to the loss of employment floorspace and due to the poor standard of accommodation. This scheme is an amendment to application BH2018/03836 to now provide 3no dwellings instead of 4 to the north part of the site, and now includes the provision of office floorspace as part of the same scheme on the south part of the site and to the part of the site fronting Upper Gardner Street.
- 8.5. Amended drawings were received during the course of the application to:
 - remove the annotation referring to the offices being illustrative
 - confirm that the access would have the cobbles retained
 - introduce high level obscure glazed windows to the first floor ensembles
 - remove the overhanging eaves and introduce an internal box gutter
 - reduce the projecting bay window to the street frontage to allow the fascia and gutter to sail over it and to show a single downpipe on the edge of the site next to no.38.

Planning Policy:

- 8.6. The application sets out that the lawful use of the site is as storage (Class B8). Google Streetview shows that Brighton Antique Wholesalers occupied the site from at least Sep 2011 to Oct 2015. During this period the entrance to the site has a large gate rather than a shopfront window. Council tax records indicate that the site is in use as a warehouse.
- 8.7. Policy CP3 seeks to secure sufficient employment sites and premises are safeguarded. The application site is in Central Brighton, which has been identified as the city's prime office location where B1(a) office uses will be protected. Policy EM10 resists the loss of employment floorspace to residential. The supporting text particularly emphasises the need for small employment sites.
- 8.8. The application does not demonstrate that the employment floorspace is redundant. However, there has been a partial collapse of the boundary wall with the terraced properties to Queens Gardens. This wall supported the roof over the single storey warehouse space to the north part of the site, and most of this roof was subsequently removed. Following this partial collapse, further sections of the wall were removed. This demolition was granted retrospective consent under BH2018/03780.
- 8.9. It is reasonable to consider that a reinstatement of the whole site to a warehouse (B8) use would have a high cost relative to its likely future value as an employment use within Class B8. This addresses criterion (g) of policy CP3, supporting text 4.39. Furthermore while there would be a net loss of 230sqm of employment floorspace (450sqm of B8, to 220sqm of B1), there would also be an increase in the number of possible employees rising from 6 to 18 full time jobs. It is also important to note that the comings and goings associated with a B8 use are likely to be increased compared to that of an office floorspace. Recommended condition 4 restricts the use to an office.
- 8.10. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.11. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). The figures presented in the SHLAA reflect the results of the Government's 2018 Housing Delivery Test which was published in February 2019. The Housing Delivery Test shows that housing delivery in Brighton & Hove over the past three years (2015-2018) has totalled only 77% of the City Plan annualised housing target. Since housing delivery has been below 85%, the NPPF requires that a 20% buffer is applied to the five year housing supply figures. This results in a five year housing shortfall of 576 net dwellings (4.5 years supply). In this situation, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with

the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

- 8.12. The proposal would result in the net loss of 230sqm of employment floorspace (B8), but this would be offset by the increased employment density of the proposed Class B1 use with an increase of 12 full time jobs. The reinstatement and refurbishment of the whole site would have a high cost relative to its likely future value as an employment use within Class B8. The proposal would also provide three family sized dwellings. The benefit of the housing delivery will be given increased weight in the planning balance.
- 8.13. As the net loss of employment floorspace is justified with the increased employment density of the proposed use, it is recommended that a condition be applied to require that the office space be completed and ready for occupation, prior to first occupation of the residential units. Given the identified shortage of office floorspace in central Brighton, it is further recommended that a condition be applied to ensure that any future change of use away from B1(a) require planning permission.

Design and Appearance:

Dwellings

- 8.14. Application BH2018/03836 was refused due to the loss of employment floorspace and due to the poor standard of accommodation. While there was a concern that the development of this historically informal space had not been appropriately justified, it was considered that the proposal for 4no dwellings would have a neutral impact on the character and appearance of the North Laine Conservation Area.
- 8.15. The current proposal for 3no dwellings provides for plots which are slightly larger than the plots associated with nearby residential properties. By reducing the number of dwellings from 4 to 3, the amount of outdoor amenity space could also be increased, such that the proportion of built form on each plot is considered to be appropriate.
- 8.16. The proposed dwellings would again be finished in rendered walls and metal standing seam roofs. There is no in principle objection to a modern appearance given that the dwellings would not be visible from the public realm of the conservation area.
- 8.17. The proposed dwellings would have a neutral impact on the character and appearance of the North Laine Conservation Area. It is recommended that details of the proposed materials be secured by condition.

Bridge building

- 8.18. Application BH2018/00641 proposed a three storey flat roof office building fronting Upper Gardner Street. The council recommended refusal on the grounds that this building by reason of its excessive height, flat roof form, massing and fenestration detailing would be out of keeping with its immediate setting and wider North Laine Conservation Area. The appeal inspector dismissed the appeal, critiquing the awkward and unattractive junction to the

roof of the neighbouring dwellings. The inspector did not however raise concerns with regard to the proposed fenestration.

- 8.19. The current proposal provides a pitch roof to the street facing elevation of the bridge building, addressing the inspectors concerns around the junction with the roof of the neighbouring dwellings.
- 8.20. Amended drawings were received during the course of the application reducing the height of the projecting window to allow the fascia and eaves detail to sail over it, and to allow rainwater to be discharged from a single downpipe on the boundary with 38 Upper Gardner Street to the north. This is considered acceptable.
- 8.21. It is noted that Heritage have objected to the proposed fenestration of the bridge building, describing it as visually dominant and disproportionate to traditional openings which have a diminishing visual hierarchy. With regard to application BH2018/00641, the appeal inspector considered there to be significant contrast in scale, form and fenestration pattern between the existing warehouse and the neighbouring terrace of the modern two storey houses when viewed from the street. The bridge building proposed under the previous application, in terms of its height, flat roof form and the two storey projecting window, was considered to be a well-mannered architectural device to link two very different buildings. Planning Inspectorate decisions carry significant weight in the assessment of subsequent applications. It is considered that the fenestration in the current proposal is similar in character and appearance to that included in the previous appeal decision. In light of the appeal decision, the proposed fenestration is therefore supported.
- 8.22. At the rear the second and third storeys of the proposed bridge building would be finished in the same materials as the rear walls resulting in a difference in the appearance of the building from the front. The bridge building would appear as a two storey building with a pitched roof from the front and a three storey building with a flat roof from the front. Given that this is a commercial building, and the limited visibility of this element of the scheme from the public realm, it is considered that this design does not harm the character and appearance of the conservation area.
- 8.23. The existing cobbles to the access underneath the proposed bridge building, and the flint wall to the neighbouring property 39 Upper Gardner Street contribute to the character and appearance of the conservation area. It is acknowledged that the cobbles were previously not visible from the public realm, however the gate to the warehouse has been removed since at least September 2017. It is recommended that a condition be applied to require that these elements be conserved and remain exposed in so far as possible. It is further recommended that the gate be a metal gate painted black, and that details of the gate be secured by condition.
- 8.24. It is recommended that samples and details of the finishes fronting Upper Gardner Street be secured by condition.

Extensions to existing building

- 8.25. Application BH2019/00641 proposed extensions and alterations to the existing building to the southern part of the site to the rear of 39 Upper Gardner Street. Neither the council recommendation nor the appeal inspector found that there would be harm to the character and appearance of the site or that of the wider North Laine Conservation Area. This proposal is replicated within the submitted scheme. It is recommended that details of the proposed materials be secured by condition.

Heritage Summary

- 8.26. When considering whether to grant planning permission for development in a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Case law has held that the desirability of preserving the character or appearance of a conservation area must be given “considerable importance and weight”. The harm identified of the fenestration of the bridge building is considered less than substantial and is outweighed by the public benefit of additional residential accommodation that the scheme would provide, in addition, to the Planning Inspector’s previous conclusion on this matter.

Standard of Accommodation (Dwellings):

- 8.27. The proposed open plan kitchen/living rooms would be dual aspect with fenestration to the eastern elevation, and overlooking the gardens. The first floor bedrooms at units 1 and 2 would have windows to the side elevations and the front bedrooms would also have a rooflight. The ground floor bedroom at unit 3 would look out onto a private patio area, and the first floor bedroom would have one rooflight, one obscure glazed window facing south and a clear glazed window facing north. The first floor ensuite has an obscure glazed window facing east, and it is recommended that the obscure glazing be secured by condition.
- 8.28. Given the relative positions of the proposed rooflights and the first floor windows to the terrace at Upper Gardner Street, it is considered that there would not be significant mutual overlooking. There would be no overlooking between the proposed dwellings and the terrace to Queens Gardens.
- 8.29. Amended drawings were received, adding rooflights to the first floor ensuite bathrooms to units 1 and 2 which would have no natural light or ventilation. It is recommended that obscure glazing to these rooflights be secured by condition.
- 8.30. The proposed outdoor amenity spaces are commensurate to the size of the dwellings and their central location. The boundary treatment appears to be 1.5m high which does not ensure that the gardens would be appropriately private. It is recommended that a condition be applied requiring installation of 1.8m high screening prior to first occupation of the dwellings. Details of the boundary treatment can be secured along with the other proposed external finishes.

- 8.31. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, Draft City Plan Part 2 proposes to adopt them and indicates a direction of travel on behalf of the LPA. The NDSS provide a useful guideline on acceptable room sizes that would offer occupants useable floor space once the usual furniture has been installed. The NDSS identifies a minimum floor space that should be achieved for a single bedroom as measuring at least 7.5sqm, and a double bedroom should measure at least 11.5sqm. The minimum floor space requires a head height of above 1.5m.
- 8.32. Units 1 and 2 are based on the same design with the following measurements:
- ground floor - 38.7sqm, first floor - 33.1sqm (total - 71.8sqm)
 - bed 1 - 12.2sqm, bed 2 - 8.1sqm
- 8.33. Unit 3 has a different design and has the following measurements:
- ground floor - 41.2sqm, first floor - 36.6sqm (total - 77.8sqm)
 - bed 1 - 19.8sqm, bed 2 - 8.9sqm
 - (NDSS: 2b3p 2 storey - 70sqm)
- 8.34. The proposed dwellings would be of an adequate size with sufficient storage and circulation space.

Impact on Amenity:

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

Offices

- 8.36. The proposed alterations to the building between 39 Upper Gardner Street and 36-39 Queen's Gardens would result in additional bulk near the boundary. As the roof has been designed to pitch away from the boundary, it is considered that there would not be a significant reduction in light to the rear windows of the adjoining properties to Queen's Gardens. The sense of enclosure to the rear courtyard would be increased, however given the height of the existing boundary wall, it is considered that the impact would not be of a degree sufficient to warrant refusal of the application.
- 8.37. A single storey ground floor extension, with a terrace over is proposed to the east of 36 Queen's Gardens. The drawings show that the boundary wall would provide screening of at least 1.7m. Given the small separation between the terrace and the rear windows at Queen's Gardens, it is recommended that screening of at least 1.8m high be installed. The terrace would have no screening to the north or east and as such would allow overlooking of the existing first floor windows at 38 Upper Gardner Street and the bedroom windows of the proposed new dwelling (unit 1). Both of these

sides of the terrace should also have 1.8m high screening as measured from finished floor level of the terrace. It is recommended that installation of this screening be secured by condition. Details of the finishes of the screening can be secured along with the other proposed external finishes.

- 8.38. The proposed terrace would have a floor area of approx. 16.5sqm. This relatively large terrace could allow a number of occupiers of the office to congregate and this may result in noise and disturbance in close proximity to neighbouring residential properties on Queen's Gardens. However it is noted that the terrace is likely to be used more during the day time in line with normal office hours, whereas the residential properties may be empty during the normal working day. Given the central location of the site, there would generally be some expectation of activity during the day. In the early morning and later evening, when the neighbours are likely to be back at home, the use of this terrace is more likely to cause issues. It is recommended that use of the terrace be restricted by condition to normal office hours between 9:00 and 17:00 Mon-Fri, and at no time on weekends or bank holidays.
- 8.39. The potential impact of the proposed bridge building has been fully considered in terms of daylight, sunlight, outlook and privacy and no significant harm has been identified. By setting the building away from the garden boundary of 38 Upper Gardner Street, the proposal would not result in a significantly increased sense of enclosure of a degree sufficient to warrant refusal of the application.

Dwellings

- 8.40. It is considered that proposed dwellings would not result in significantly harmful overshadowing of windows on the original rear elevation or the rear gardens of properties to Upper Gardner Street. Where the properties have been extended at 31 and 33 Upper Gardner Street, it is likely that the ground floor windows are already overshadowed by the existing boundary wall, or the terrace to Queens Gardens. The first floor windows at the extended properties would not be significantly impacted.
- 8.41. The same sections do not show the lower ground floor level of the properties to Queens Gardens. Detailed drawings for the configuration of this terrace can be found for 33 Queens Gardens (BH2019/00044), 34 Queens Gardens (BH2016/01156), and 26 Queens Gardens (BH2010/02657). These properties are set out on split levels. The habitable rear lower ground floor room has a window set just above the level of the rear patio. It is likely that these windows were overshadowed by the pre-existing boundary wall. The boundary wall has in part collapsed and in part been demolished. A part-retrospective application has been approved under BH2018/03780 to demolish and rebuild this boundary wall. The windows at ground and first floor levels would not experience a loss of light as a result of the proposed development.
- 8.42. The proposed sections show that the development would be higher than the pre-existing wall by up to approx. 0.6m. It is considered that this would not

result in significantly harmful additional sense of enclosure, to a degree that warrants refusal of the application.

- 8.43. The proposed change of use to residential would change the pattern of the comings and goings to the site. In this busy city centre context, it is considered that the likely intensity of use is acceptable.
- 8.44. Given the constraints of the site, it is recommended that permitted development rights be restricted by condition.

Sustainable Transport:

- 8.45. The application proposes 21 cycle parking spaces which exceeds the standards set out in SPD14. It is recommended that further details be secured by condition to ensure that the spaces are secure, convenient, well-lit and where practical sheltered.
- 8.46. It is recommended that the footway and kerb be reinstated along its full length and that this is secured by condition.
- 8.47. No car parking is proposed on site, and in this central location this is considered acceptable. The property is located in an area which is covered by a Controlled Parking Zone, Zone Z. The proposed development has the potential to generate additional on-street parking demand. The impact of this has not been assessed by a parking survey as part of the submission for this application. It is recommended that residents' access to parking permits be restricted by condition.
- 8.48. The proposed office use would result in the generation of additional trips and parking demand, and as such it is recommended that a travel plan for the office be secured by condition.

Sustainability:

- 8.49. Policy CP8 requires new residential development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. These standards are secured by condition.
- 8.50. Policy CP8 requires new commercial development to achieve a BREEAM rating of Very Good where the development is between 236 and 1000sqm. The new build element of the proposal falls below this threshold, and as such this standard is not secured by condition.

Other matters

- 8.51. Given the scale of the works and the proximity to a large number of residential properties, it is recommended that a Construction Environmental Management Plan be secured by condition to ensure the impact of the construction works is minimised.
- 8.52. The application site is not within an Archaeological Notification Area, and as such no programme of archaeological works will be secured by condition.

9. EQUALITIES

- 9.1. Policy HO13 sets out that new residential buildings are expected to be built to a standard whereby they can be adapted to meet the needs of people with disabilities without major structural alterations. It is recommended that a condition be applied to secure compliance with Building Regulations Optional Requirement M4(2). It is noted that the cobbled access which is to be retained may not meet this standard, and the condition is amended accordingly.