

<u>No:</u>	BH2023/00026	<u>Ward:</u>	Hangleton And Knoll Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Studio 49 Elm Drive Hove BN3 7JA		
<u>Proposal:</u>	Demolition of existing studio and erection of 2no bedroom dwelling (C3).		
<u>Officer:</u>	Jack Summers, tel: 296744	<u>Valid Date:</u>	09.01.2023
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	06.03.2023
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Paul Heath C/o Lewis And Co Planning SE Ltd 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.

Plan Type	Reference	Version	Date Received
Location and block plan	TA1443/04	B	8 March 2023
Proposed Drawing	TA1443/10	B	23 March 2023
Proposed Drawing	TA1443/11	B	15 March 2023
Proposed Drawing	TA1443/12	B	23 March 2023
Proposed Drawing	TA1443/13	C	23 March 2023
Proposed Drawing	TA1443/14	C	23 March 2023
Proposed Drawing	TA1443/15	B	23 March 2023
Report/Statement	Tree Development Report	-	7 March 2023
Report/Statement	Tree Retention and Protection Plan	-	7 March 2023

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

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

3. 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.

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 CP12 of the Brighton & Hove City Plan Part One; and DM18 of the Brighton & Hove City Plan Part Two.

4. (i) The rooflight on the south roof slope hereby permitted shall be obscure-glazed, and thereafter permanently retained as such.
- (ii) The windows on the north and east elevations at first floor level serving Bedroom 1 shall be:
 - a. Obscure-glazed, unless the parts which are clear-glazed are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.
 - b. Non-opening, unless the parts which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policy DM20 of the Brighton & Hove City Plan Part Two.

5. No extension, enlargement, alteration of the dwellinghouse or provision of buildings etc. incidental to the enjoyment of the dwellinghouse within the curtilage of the dwellinghouse 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 CP12 of the Brighton & Hove City Plan Part One, and DM18, DM20 and DM21 of the Brighton & Hove City Plan Part Two.

6. The development hereby permitted shall not be occupied until the dwelling hereby permitted has been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings), and it 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 the Brighton & Hove City Plan Part Two.

7. The development hereby permitted shall be carried out strictly in accordance with the details within the Tree Development Report and upon the Tree Retention and

Protection Plan provided by Connick Tree Care, received by the Local Planning Authority on 7th March 2023.

Reason: As this matter is fundamental to protecting the trees which are to be retained around the edges of the site during construction works in the interest of the visual amenities of the area and to comply with policies CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One, DM22 and DM37 of the Brighton & Hove City Plan Part Two; and SPD06: Trees and Development Sites.

8. One or more bee bricks 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 policies CP10 of the Brighton & Hove City Plan Part One, DM37 of the Brighton & Hove City Plan Part Two, and Supplementary Planning Document SPD11: Nature Conservation and Development.
9. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy DM41 of the Brighton & Hove City Plan Part Two.
10. Other than demolition works, the development hereby permitted shall not be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority.
The development shall subsequently be implemented in accordance with the approved details.
Reason: As this matter is fundamental to the acceptable delivery of the permission to prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policies DM42 and DM43 of the Brighton & Hove City Plan Part Two.
11. The development hereby approved shall not be occupied until the refuse and recycling storage facilities shown on the approved plans have been installed and made available for use.
The approved facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policies CP8 of the Brighton & Hove City Plan Part One, DM20 of the Brighton & Hove City Plan Part Two, and WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
12. The residential unit development hereby approved shall not be operational until it has achieved as a minimum, an Energy Performance Certificate (EPC) rating 'B'.

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

13. The dwellinghouse hereby approved shall not be occupied until it has achieved a water efficiency standard of a minimum 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 energy and water and to comply with policies SA6 and CP8 of the Brighton & Hove City Plan Part One.

14. Notwithstanding the proposal hereby permitted, prior to the first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall 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 the Brighton & Hove City Plan Part Two and SPD14.

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 application of translucent film to clear glazed windows does not satisfy the requirements of condition 4.
3. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
4. Where asbestos is found/suspected on site, it will fall under the Control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: www.hse.gov.uk/asbestos
5. The applicant is advised that Part L - Conservation of Fuel and Power of the Building Regulations 2022 now requires each residential unit built to have achieved a 31% reduction in carbon emissions against Part L 2013.
6. The water efficiency standard required by condition is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/pace setting dishwasher, 8.17 L/kg washing

machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

7. In order to be in line with Policy DM33 (Safe, Sustainable and Active Travel) cycle parking must be secure, convenient (including not being blocked in a garage for cars and not being at the far end of a rear garden), accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22 or will consider other proprietary forms of covered, illuminated, secure cycle storage including the Police approved Secure By Design cycle stores, "bunkers" and two-tier systems where appropriate.
8. The applicant is advised under Part S of the Building Regulations that new dwellings providing a parking space now require an EV charging point.
9. The applicant is advised that following the simplified assessment method under Part O of the 2022 Building Regulations is unlikely to achieve the required standard unless it is a single dwelling. In addition, single façade flats, dwellings adjacent to noise and pollutants are unlikely to achieve the required standard of Part O.
10. The applicant is advised that assessment under the CIBSE TM59 Thermal Model option should be submitted as part of a full Building Regulations application. The new building regulations will come into force for building regulation applications made on or after 15th June 2022. The new requirements will not apply to applications made prior to June 15th, providing building work have commenced before 15th June 2023 on all aspects of the application. This gives 1 year's grace to allow commencement.

2. SITE LOCATION

- 2.1 The application site comprises a single storey dwelling at the rear of the plot of no.49 Elm Drive. It was originally built as an incidental outbuilding servicing the main dwellinghouse; however, it has been established that it has been in use as a separate dwelling since at least 2016 and benefits from a lawful status by being immune from enforcement action, in accordance with Section 171B of the Town and Country Planning Act 1990 (as amended).

3. RELEVANT HISTORY

BH2021/00573 Prior approval for the erection of an additional storey to form a first floor extension. Prior Approval Refused - Appeal Dismissed, with the Inspector upholding only reason for refusal no.3

1. The proposed development includes slate roof tiles which are dissimilar in appearance to the existing corrugated roofing material. The development would not therefore represent permitted development as it would breach the restrictions of Schedule II, Part One, Class AA.2(2a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
2. The proposed additional storey would include windows that would be highly visible from the private gardens and rear windows of properties including no.44 Wayfield Avenue and nos. 49 and 51 Elm Drive; this would result in significant perceived loss of privacy for occupants of these properties which would be detrimental to their amenities.
3. By virtue of the building's position, size and materials, the design and architectural features of the principal elevation of the dwellinghouse as a result of the proposed development would result in a bulky building form which would be out of character with the area and harmful to the wider streetscene.

BH2020/03788 Prior approval for the erection of an additional storey to form a first floor extension. Prior Approval Refused

1. The proposed additional storey would include windows that would provide unobstructed views into the private gardens and rear windows of properties including no.44 Wayfield Avenue and nos. 49 and 51 Elm Drive; this would result in overlooking that would cause a significant perceived and actual loss of privacy for occupants of these properties which would be detrimental to their amenities.
2. By virtue of the building's position, size and materials, the design and architectural features of the principal elevation of the dwellinghouse as a result of the proposed development would result in a bulky and utilitarian building which would be out of character with the area and harmful to the wider streetscene.

BH2020/02147 Certificate of lawfulness for existing use as 3no self-contained dwellings (C3). Approved

BH2003/00656/CL Certificate of Lawfulness for proposed development of a block-built garage under a tiled roof. Approved

4. APPLICATION DESCRIPTION

- 4.1 Planning permission is sought to demolish the existing dwelling and erect a new chalet bungalow style dwellinghouse with rooms in the roof. The proposed design includes a simple pitched roof design with a rear (north) facing gable end featuring a small window bank, and a side (east) facing dormer window.

5. REPRESENTATIONS

Fifteen (15) representations have been received, objecting to the proposal on the following grounds:

- Development has commenced prior to any permission being granted
- There is no need for additional housing locally, given permitted major schemes in the area
- The development is ugly
- The proposed development is not in keeping with the local streetscene
- If approved, the dwelling would be enlarged using 'permitted development' rights
- Loss of privacy
- Loss of light/overshadowing
- Noise nuisance
- Light pollution
- New access onto Wayfield Avenue
- The proposed development would increase vehicle congestion and parking stress
- It would not be possible to enforce a 'car free' development
- The proposed development would limit access to the two flats within no.49 Elm Drive
- Increased risk of flooding
- Land contamination
- Damage to trees in the vicinity
- The design promotes an unsustainable lifestyle
- The development is contrary to private covenant
- The proposed development could set a harmful precedent
- The existing dwelling is unoccupied, contrary to the applicant's statement
- Emergency services may not be able to access the proposed dwelling
- Inaccuracies in the Community Infrastructure Levy documentation

6. CONSULTATIONS

Arboriculture – Verbal:

The trees in the rear garden of no.47 Elm Drive are not of sufficient quality to merit an emergency Tree Preservation Order. Nevertheless, tree protection measures to mitigate the potential impact on these trees and the street tree in front of the application site on Elm Drive should be secured by condition in the interest of mitigating the impact of development.

Environmental Health:

The previous uses of the site are unknown, and the existing roof could contain asbestos. It is recommended that if planning permission is granted that it be subject to a condition requiring further investigation into potential land contamination.

Southern Water:

Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS).

Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Design and Construction Guidance (Appendix C) and CIRIA guidance.

Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Transport:

The application is acceptable subject to confirmation that the access would be sufficient for a fire engine to access the dwelling in case of emergency, provision of cycle storage and an easement providing access for number 49 Elm Drive to their existing off street parking.

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.

The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove City Plan Part Two (adopted October 2022);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

- Shoreham Harbour Joint Area Action Plan (JAAP) 2019.

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

- SS1 Presumption in Favour of Sustainable Development
- SA6 Sustainable Neighbourhoods
- CP1 Housing Delivery
- CP8 Sustainable Buildings
- CP9 Sustainable Transport
- CP10 Biodiversity
- CP11 Flood Risk
- CP12 Urban Design

Brighton & Hove City Plan Part Two

- DM1 Housing Quality, Choice and Mix
- DM18 High quality design and places
- DM20 Protection of Amenity
- DM21 Extensions and alterations
- DM22 Landscape Design and Trees
- DM33 Safe, Sustainable and Active Travel
- DM35 Travel Plans and Transport Assessments
- DM36 Parking and Servicing
- DM37 Green Infrastructure and Nature Conservation
- DM42 Protecting the Water Environment
- DM41 Polluted sites, hazardous substances & land stability
- DM43 Sustainable Drainage
- DM44 Energy Efficiency and Renewables

East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan (WMP)

- WMP3 Implementing the Waste Hierarchy

9. CONSIDERATIONS & ASSESSMENT

- 9.1 The main considerations in the determination of this application relate to the design and appearance of the proposed development; the standard of accommodation that would be offered to future residents; and the potential impacts on the amenities of local residents; and on highway safety.

Principle of Development

- 9.2 The proposed dwelling would replace the existing lawful dwelling; given the fact that an established lawful dwelling currently occupies the development site, it is not considered reasonable to raise any strong objection in principle to its replacement with another single dwelling. There is no net gain in residential units on the site.

- 9.3 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. The local housing need figure for Brighton & Hove using the standard method is 2,328 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.
- 9.4 The council's most recent housing land supply position is published in the SHLAA Update 2022 which shows a five-year housing supply shortfall of 7,711 (equivalent to 1.8 years of housing supply).
- 9.5 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).

Design and Appearance

- 9.6 The proposed development has a simple pitched roof design with a rear (north) gable end, a small dormer window on the east roof-slope and a total of two rooflights on the front and west-side roof slopes.
- 9.7 External materials include red roof tiles and weatherboarding on the external walls. Red clay tiles are characterful of the wider area and are considered to integrate well with the built environment. Weatherboarding is not common within the local area but is considered to be acceptable for this small, back-land development. Two sets of elevational drawings have been submitted showing two different options for the colour of weatherboarding; in the interest of clarity, the proposed external materials for the development shall be secured by condition in the interest of visual amenity.
- 9.8 The proposed development is a similar scale to the existing building but evokes a more traditional residential character. The existing building is of no architectural merit and appears as a rather tired, industrial structure that is ill-suited within its setting.
- 9.9 It is considered that the removal of the existing building is welcomed and that the proposed structure would be a marked improvement in visual amenity and build quality. Though concerns have been raised regarding the appearance of the building and it has been described as ugly in the representations received, it is considered simple in design and suitable as a back land garden development. Though it has a greater height than the existing structure, the proposed building is considered to be a suitable replacement that would not cause any significant harm to the visual amenity of the area and whilst architecturally simple in design, it is not considered so harmful to warrant refusal of the application.

- 9.10 Concerns have been raised that the development would not fit in well with the character of the local streetscene. As a back-land development the existing building is already atypical of the area. It is considered that in terms of form and roof materials the development does fit in as well as can be expected with the other dwellings in the area. The consideration is whether the proposed structure is so significantly different to the existing that would cause further harm. The proposed structure is not highly visible from the Elm Drive streetscene and so its need to directly adhere to the character of the streetscene is not considered to be a significant issue. It is considered that the proposal would have a neutral impact on the character of the area given the existing structure and establishment of a dwelling in this position.
- 9.11 The proposed dwellinghouse would be visible from Wayfield Avenue across a car park to the rear of no.44, presenting the gable end and the bedroom window. It is not considered that this would cause any significant harm to the visual amenities from north of the site.

Impact on Amenities

- 9.12 The proposed development would be approximately 0.65m taller than the existing structure and approximately 3.1m taller than the existing north boundary fence. It would cast a longer shadow than the existing structure but given it rises to a central gable point (rather than being the maximum height along its entire length) it is not considered that this shadow would be particularly harmful that would warrant refusal of the application.
- 9.13 West of the site is the garden of no.51 Elm Drive; given the orientation of the land, the pitched roof-form, and the fact the proposed dwelling would be adjacent to a garage within the curtilage of no.51, it is considered that the impact from shadowing would be acceptable. Some limited shadowing may occur in the early hours of the day, but this would only impact on the far (north) end of the rear garden and should not be significantly impactful on the amenities of neighbouring residents.
- 9.14 Northwest of the site is the rear garden of no.46 Wayfield Avenue, the closest boundary of which is approximately 6m from the corner of the proposed dwellinghouse. The pitched roof-form of the proposed development will mitigate overshadowing, and the potential morning shadow cast across the south end of the garden of no.46 Wayfield Avenue is not considered to cause any significant harm.
- 9.15 Directly north of the development is a car park, and the private gardens of nos.42 & 44 Wayfield Avenue. The gardens of these two properties are separated from the application site by approximately 9m and it is considered that the development would have an acceptable impact on the amenities of occupants therein from overshadowing. The rear gardens of nos.40 and 42 are considered likely to be more impacted upon by the existing garage that sits between said gardens and the proposed dwelling.

- 9.16 The rear (south) end of the garden of no.38 Wayfield Avenue is approximately 3.8m northeast from the closest corner of the proposed dwelling and may experience some overshadowing in the afternoon hours. This garden is already likely to be overshadowed by the abovementioned detached garage and any additional shadowing from the proposed development that would affect over the southern tip of the garden is unlikely to be significantly impactful. It should also be noted that some overshadowing of this area likely already occurs from the mature trees in the garden of no.47 Elm Drive.
- 9.17 Directly east of the proposed dwelling is the north end of the rear garden of no.47 Elm Drive. The shadow of the proposed dwelling is only likely to fall across any of this curtilage in the late afternoon/early evening and would not affect the areas closest to the main house. Shadowing is also already likely from the mature trees in this garden, so additional significant impact is unlikely.
- 9.18 It is considered that the overshadowing as a whole would be less impactful, and the development is acceptable in this regard. It should also be noted that previously refused applications for a full two-storey building in this location would have cast a larger shadow than the current proposal and were both found acceptable in this regard. The Planning Inspector for application BH2021/00573 also did not raise shadowing as a concern.
- 9.19 The potential impact caused by the building works themselves is not a material planning consideration to be given any weight in the assessment of the acceptability of this proposal. Although some level of disruption is very likely, this would be in the short-term only and is not reason to withhold planning permission. The proposed development represents a net increase of one bedroom on the site and it is not considered likely that the additional noise output associated with the occupation of this dwelling would be significant or warrant objection. The council will retain the authority to investigate under the Environmental Protection Act 1990, should any noise complaints be received.
- 9.20 Concerns have been raised that the proposed development would lead to an impact on amenities due to light pollution. Light spill from ground floor windows/doors would be largely blocked by the boundary fencing and trees in the area. Light spill from the two rooflights and two upper floor windows is not considered likely to cause any significant harm or merit refusal of the planning application. The application site is surrounded by other residential properties that are two-storey in height and have a larger number of windows. Any light from the windows of the proposed dwelling would have a similar impact to the existing setting; the LPA has no significant concerns in this regard.
- 9.21 Concerns have been raised that the proposed development would cause harm to the amenities of local residents due to the impact on privacy from the upper floor windows.
- 9.22 The south-facing rooflight would provide views into the rear gardens of nos.47-51 Elm Drive. Though these gardens already have some mutual overlooking from existing windows, the rooflight would provide slightly more compromising views (back towards the dwellings themselves and possibly into windows). However,

given the rooflight serves quite a small ensuite bathroom and is less likely to be used for views, it is not considered that the impact on the privacy of Nos.47-51 would be significantly harmful. Nevertheless, it is considered that a condition requiring the rooflight to be fitted with obscure glazing should be attached to any planning consent. Given the desirability of natural ventilation for a bathroom it is considered it would be unnecessarily onerous to also require the rooflight to be fixed shut, and that the installation of obscure glazing would, in this instance, satisfactorily address the concerns.

- 9.23 The west-facing rooflight would face out over the garage roof then rear garden of no.51 Elm Drive; given the internal height of the rooflight (with the lowest point being approximately 1.7m off the floor) and the fact it serves a bedroom, it is not considered that it would be likely to be used for views into private gardens but would provide useful skyward outlook for residents.
- 9.24 The north-facing window serves a bedroom and would offer views across the car park and potentially into the gardens of nos.42 and 44 Wayfield Avenue. The east-facing (dormer) window also serves the bedroom and would offer views across the rear gardens of nos.43-47 Elm Drive. There is potential for harm in this regard; loss of privacy would make these rear gardens less desirable as amenity spaces. The Planning Inspector for application BH2021/00573 made the ruling that windows fitted with measures to restrict views (such as obscure glazing and limited opening method) would have an acceptable impact on the amenities of local residents, and that the LPA had given too much weight to perceived overlooking. In light of that decision, it is considered that the two windows could be acceptable subject to a condition requiring both be fitted with obscure glazing up to an internal height of 1.7m, and also to be fixed shut to an internal height of 1.7m. This should allow for acceptable outlook and natural ventilation for occupants, whilst also safeguarding the amenities of neighbouring residents.

Impact on the Public Highway

- 9.25 It has been raised in the representations received that the proposed development would promote an unsustainable lifestyle, and that occupants are unlikely to cycle and more likely to own multiple private motor vehicles. This view is not considered to be supported by any clear evidence; the proposed development includes secure cycle parking (which could be secured by condition) and the site is proximate to local bus routes and Aldrington Railway Station, so future occupants would have practical means of sustainable travel.
- 9.26 The proposed development aspires to be 'car-free', but since the site does not lie within a Controlled Parking Zone, occupants would be free to park any vehicles on the public highway, so the Local Highway Authority would not have the power to secure car-free development in any case. The concern of local residents that there is a high level of parking stress in the area is noted, however, there is a dwelling sited in the rear garden currently.
- 9.27 It should be reiterated that there is no net increase in dwellings on the land; a single-bedroom unit is being replaced with a two-bedroom unit, and the likely increase in trips from the site is considered to be insignificant.

- 9.28 The Highways team have commented on the application and have raised concerns that fire engines should be able to access the site. Whilst this is noted, this would be something that is dealt with at the Building Regulations stage. The plans indicate the location of the cycle parking and is shown to be an open store. This would not be acceptable and a condition is required for the submission of further details that would meet the requirements of SPD14.
- 9.29 Concerns have been raised that the proposed development would limit the access to the two flats within no.49 Elm Drive. Given that access is unchanged from the existing, it is not clear why this would be the case. Moreover, the Highways team have advised that there should be an easement agreement to ensure access to the garages attached to the existing house at the front, 49 Elm Drive is maintained. However, since there is an existing dwelling in situ and this is a replacement of the existing dwelling with a new dwelling, it is not considered that this would be a reasonable requirement.
- 9.30 Concerns have been raised that a new access onto Wayfield Avenue (through the north edge of the site) would be created; however, such an access is not shown on the submitted drawings, so this has been given very limited weight. Depending on the ownership of the boundary wall/fence, access could be created without the need for express planning permission and matters surrounding rights of way are civil in nature so should not be given any weight in this assessment.

Standard of Accommodation

- 9.31 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. These standards have been formally adopted into policy DM1 of the CPP2 and can now be given full weight.
- 9.32 The new residential unit would provide a gross internal area (GIA) of approximately 76m². This GIA is measured in conjunction with a qualitative assessment of the usability of the total space in terms of layout and circulation, and the provision of natural light and outlook to determine if a good standard of accommodation would be enjoyed by future residents.
- 9.33 The dwelling is laid out as a two-bedroom, three bed-space house over two storeys, and should provide a minimum GIA of 70m² to comply with the NDSS and policy DM1 of the CPP2; which it comfortably exceeds. The layout is sensible with good circulation spaces and natural light provision for each room. The top floor bedroom is required to have obscure fixed to parts of both windows in the interest of safeguarding the amenities of neighbouring residents, so the scheme has been amended to include a single west-facing rooflight that can provide some skyward outlook, in order to mitigate this. The private garden for the dwelling is small but commensurate with the size of the property. There is space to the front of the dwelling for refuse and recycling bins, and for secure cycle parking, and the dwelling offers level access. There are no concerns with the standard of accommodation that would be offered to future residents.

Sustainability

- 9.34 Policy DM44 requires new build residential buildings to achieve, as a minimum, an Energy Performance Certificate (EPC) rating 'B'. New dwellings are also required to achieve a water efficiency standard of a minimum of not more than 110 litres per person per day maximum indoor water consumption. This can be secured by condition.

Other Considerations

- 9.35 It has been stated in the representations received that development has commenced prior to any permission being granted. No development was observed at the time of the site visit; however, to seek planning permission retrospectively is a valid course of action in the development process and should not be weighed against a developer in the assessment of the propriety of a proposal. As there has been no evidence that the development has commenced, this application has been treated as a prospective proposal.
- 9.36 The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bumblebees. A suitably worded condition will be attached to secure an appropriate number of bee bricks within the proposal in order to help meet the requirements of policies CP10 of the City Plan Part One and DM37 of the City Plan Part Two as well as SPD11.
- 9.37 Concerns have been raised that by granting permission for the proposed development a harmful precedent could be established. Each planning application is assessed on its own merits and the decision made in this regard to this application would not automatically set a precedent either for or against similar development in the area. It should again be reiterated that the proposed development site is atypical of the area and represents the replacement of an existing lawful dwelling that has become lawful due to the length of time it has been in situ; it should not be considered as a new subdivision of the land or establishment of a new planning unit. It should not be considered to set a precedent for other development in the area where a back-land dwelling would be a new addition to the housing stock.
- 9.38 Concerns have been raised that the proposed development would be contrary to a private covenant on the land. Private covenants are separate from the planning process and cannot be afforded any weight in this assessment.
- 9.39 It has been suggested that the proposed development would increase the risk of local flooding. Given that the proposed development has a footprint equal to that of the existing structure and therefore is likely to result in an equal amount of rainwater run-off, it is not understood why it would lead to increased flooding. Nevertheless, developments should seek to improve the quality of drainage over pre-existing conditions and introduce SuDS wherever practicable. Further information shall be secured as part of a landscaping condition.

- 9.40 Concerns have been raised that emergency services would not be able to access the new dwelling; however, it has been confirmed with a Building Control Surveyor that this is not the case. The access to the site is unchanged from the existing arrangement, which includes a driveway with a length of approximately 28m. Emergency Service use hoses with a length of 40m, so there are no reasonable grounds to suppose that the dwelling would be inaccessible.
- 9.41 Concerns have been raised that if permission is granted and the development carried out, it could later be enlarged through permitted development rights found in the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Given the constraints of the site and the high likelihood that further development could introduce detrimental impacts either visually or upon the amenities of neighbouring residents, the LPA would seek to remove the permitted development rights of the dwelling by condition, in order to have more control over any future development; such a condition would successfully mitigate this reasonable concern.
- 9.42 Concerns have been raised that the development site may be contaminated. Given the historic uses of the site (as a garage and vehicle workshop) this is a reasonable concern and planning permission shall only be granted subject to a condition requiring works cease if unidentified contaminants are found during the construction process, and for mitigation measures to be agreed with the LPA and implemented prior to works recommencing. Though it is noted that the building was most recently in use as a (C3) dwelling, the conversion works were not subject to any regulatory controls (since they became lawful through length of time) there is reasonable potential that contamination has not been sufficiently mitigated to date.
- 9.43 There are several mature trees adjacent to the development site in the rear garden of no.47 Elm Drive. The Council Arboriculture Officer has assessed these trees based on photographs taken at the time of a site visit and does not consider them to be of sufficient quality to merit a Tree Preservation Order, and that they should not be considered as a constraint to development. The submitted Tree Development Report from Connick Tree Care is considered suitable to demonstrate that development can be achieved without an undue detrimental impact on the health of these trees. The footprint of the proposed dwellinghouse is smaller than that of the existing structure and it has been reported that the existing building was constructed around a similar time to the closest (and largest) trees, so the root systems of these trees would not necessarily intrude into ground that would be needed for the foundations of the proposed development.
- 9.44 The street tree at the front of the site contributes positively to the visual amenity of the area and requires protection measures to ensure its health is safeguarded throughout the delivery and construction period. On-site tree protection measures for all trees outside of the development site shall be secured by condition in the interest of safeguarding the biodiversity of the site, as well as visual amenity.

Conclusion

9.45 For the reasons outlined above, the proposed development is considered to be acceptable in terms of appearance and the impacts it is anticipated to have on the amenities of local residents. Planning conditions in the interest of visual and residential amenity, biodiversity and sustainability shall be included. For the foregoing reasons the proposal is considered to be in accordance with policies SA6, CP1, CP8, CP9, CP10, CP11 and CP12 of the Brighton and Hove City Plan Part One, and DM1, DM18, DM20, DM22, DM33, DM35, DM36, DM37, DM41 and DM43 of the City Plan Part Two.

10. EQUALITIES

10.1 The proposed dwelling appears to offer level access and so could be suitable for persons with a mobility-related difficulty. Development in accordance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) shall be secured by condition. Some concern has been raised during the application regarding external access to the garden for wheelchair users, however, since access is possible through the dwelling, this is considered acceptable.

11. COMMUNITY INFRASTRUCTURE LEVY

11.1 It has been asserted in the representations received that the CIL information has been incorrectly submitted. The CIL Team will independently assess the submitted information and determine if the application is liable for a CIL charge. This will not have any impact on the planning merits of the application.

11.2 Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23rd July 2020 and began charging on all CIL liable planning applications on and from the 5th October 2020. It is estimated that the amount of CIL liability for this application is £2,550.90. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as is practicable after the issuing of planning permission.

12. CLIMATE CHANGE/BIODIVERSITY

12.1 Biodiversity improvements including a bee brick shall be secured by condition within the approved development. Tree protection measures shall be required in order to safeguard the health of trees around the site.

12.2 Re-use of an existing site will reduce pressure on undeveloped land for creating housing and the subsequent environmental impact. The application site is in a sustainable location in terms of transport, with bus routes and Aldrington Railway Station within walking distance. Secure cycle parking is shown on the approved drawings and shall be secured by condition.

