

<u>No:</u>	BH2023/02756	<u>Ward:</u>	Hove Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	65 Orchard Gardens Hove BN3 7BH		
<u>Proposal:</u>	Demolition of existing buildings and erection of a 6no storey building and basement comprising a mixed-use development including 2no commercial units for office space (Class E(g)(i)) on the ground floor and 42no one, two and three bedroom flats (Class C3) on ground and upper floors, 25no car parking spaces (including 2no disability spaces), cycle storage and associated landscaping.		
<u>Officer:</u>	Robin Hodgetts, 292366	tel: <u>Valid Date:</u>	26.10.2023
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	25.01.2024
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	TBC
<u>Agent:</u>	ECE Planning Limited 64-68 Brighton Road Worthing BN11 2EN		
<u>Applicant:</u>	Orchard Holdings (Hove) Ltd 178-180 Church Road Hove BN3 2DJ		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement on the Heads of Terms set out below and the following Conditions and Informatives as set out hereunder, **SAVE THAT** should the s106 Planning Obligation not be completed on or before the **6 September 2024** the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 14.1 of this report:

Section 106 Head of Terms:

Affordable Housing

- Commuted sum payment of £305,000 towards provision of affordable housing in the city.

Employment Strategy

- £11,600 contribution towards skills needs on site, pre-employment training for new entrants to the industry on site and apprentice placements
- Employment and Training Strategy
- Strategies for the demolition and construction phases

Transport:

- S278 agreement securing Orchard Gardens and Nevill Road public realm improvements (“works”)

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below. *(To be Inserted in Late List)*
Reason: For the avoidance of doubt and in the interests of proper planning.

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. Notwithstanding any details shown on the approved drawings, no development above ground floor slab level of any part of the development hereby permitted shall take place until details and/or samples relating to 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:
 - a) photos and product specifications of all brick (including mortar, bonding and pointing), details of recessed brick elements, roof coverings, lintels and finials;
 - b) product specifications of the proposed window, door and terrace balustrades treatments (including any privacy screens, opaque panels and railings); and
 - c) details of cladding, louvres, brise soleil
 - d) 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, to comply with Policies CP12 and CP14 of the Brighton & Hove City Plan Part One and DM18 of the Brighton & Hove City Plan Part Two, as well as SPD17.

4. No development shall take place until an ecological design strategy (EDS) which addresses ecological enhancement of the site and provision of biodiversity net gain through the incorporation of a minimum 75% native and/ or non-native species of recognised wildlife value in the landscaping scheme, and the provision of 19 bee bricks and 46 swift boxes, has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:
 - a) purpose and conservation objectives for the proposed works;
 - b) details of a Biodiversity Net Gain metric calculation
 - c) review of site potential and constraints;
 - d) detailed design(s) and/or working method(s) to achieve stated objectives;
 - e) extent and location /area of proposed works on appropriate scale maps and plans;
 - f) type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - g) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - h) persons responsible for implementing the works;
 - i) details of initial aftercare and long-term maintenance;
 - j) details for monitoring and remedial measures;
 - k) details for disposal of any wastes arising from works.

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

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, and to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, as amended, paragraphs 174 and 180 of the National Planning Policy Framework, Policy CP10 of the Brighton & Hove City Council City Plan Part One and Policy DM37 of the Brighton & Hove City Plan Part Two and SPD11.

5. No development, including demolition, shall take place until a Demolition Environmental Management Plan (DEMP) has been submitted to and approved in writing by the Local Planning Authority. DEMP shall at least include:
 - a) The phases of the demolition and forecasted completion date(s)
 - b) 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
 - c) 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)
 - d) 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
 - e) Details of hours of demolition including all associated vehicular movements
 - f) Details of the demolition compound
 - g) A plan showing traffic routes for demolition vehicles.

The demolition shall be carried out in accordance with the approved DEMP.

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies CP8 of the Brighton & Hove City Plan Part One, policy DM20 of City Plan Part Two, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

6. No development, excluding demolition, shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. CEMP shall at least include:
 - a) The phases of the Proposed Development and forecasted completion date(s)
 - b) 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
 - c) 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)

- d) 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
- e) Details of hours of construction including all associated vehicular movements
- f) Details of the construction compound
- g) 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 CP8 of the Brighton & Hove City Plan Part One, policy DM20 of City Plan Part Two, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

7. Other than demolition works, the development hereby permitted shall not be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include detailed design and associated management and maintenance plan for surface water drainage using sustainable drainage methods as per the recommendations of the Surface Water Drainage Strategy by RPS dated 12 October 2023. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied.

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 policy DM43 of City Plan Part Two.

8. Other than demolition works, the development hereby permitted shall not be commenced until a Remediation Strategy based on the outcome of the Quantitative Ground Contamination Risk Assessment Report (July 2020) has been submitted to and agreed in writing by the Local Planning Authority. The approved Strategy shall thereafter be implemented in full.

Reason: As this matter is fundamental to the acceptable delivery of the permission to prevent pollution of groundwater, given the site's location within a Source Protection Zone 1 and to comply with policies DM40 and DM42 of City Plan Part Two.

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

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policies DM18

and DM20 of City Plan Part Two, and CP12 of the Brighton and Hove City Plan Part One.

10. Notwithstanding the approved plans, other than demolition no development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority providing full details of two units which are in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings). These units shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such 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 City Plan Part Two.
11. Within 6 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' shall be submitted to, and approved in writing by, the Local Planning Authority.
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.
12. No development above ground floor slab level of any part of the development hereby permitted shall take place until a drainage strategy detailing the proposed means of foul water disposal and an implementation timetable, has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.
Reason: To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy DM43 of City Plan Part Two.
13. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the following has been submitted to and approved in writing by the Local Planning Authority:
 - Low-carbon provision of heating and hot water.
 - Rooftop solar array layout
 - Air Source Heat Pump(s)
 - Mechanical Ventilation with Heat RecoveryDevelopment shall be carried out in strict accordance with the approved details prior to first occupation.
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply

with policies CP8 and CP12 of the Brighton & Hove City Plan Part One.

14. The development hereby permitted shall not be occupied until full details of external lighting being installed, including levels of luminance, hours of use / operation and details of maintenance, are submitted to and approved in writing by the Local Planning Authority. The predicted illuminance levels shall be tested by a competent person to ensure that the illuminance levels are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels.

The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained.

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

15. Prior to occupation of the development hereby permitted, a scheme for hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

- a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
- b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- c. details of all boundary treatments to include type, position, design, dimensions and materials;
- d. details of the how the landscaping will include native species and enhance biodiversity
- e details of how the landscaping will incorporate food growing.

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

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies DM22 of City Plan Part Two, and CP12 and CP13 of the Brighton & Hove City Plan Part One and SPD11.

16. The two disabled car parking spaces for the residential occupants of the development hereby approved shall be provided in full and made available for use prior to the first occupation of the residential building and shall thereafter be retained in perpetuity.

Reason: To ensure that the development provides for the needs of disabled residents in compliance with Policy DM36 of the Brighton & Hove City Plan Part Two, as well as SPD14.

17. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully

implemented and made available for use. These facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with Policies CP8 of the Brighton & Hove City Plan Part One, WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan and DM20 of the Brighton & Hove City Plan Part Two.

18.

1. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:
 - (a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with industry best practice guidance such as BS 10175:2011+A2:2017 - Investigation of Potentially Contaminated Sites - Code of Practice and BS 5930 Code of Practice for Ground Investigations;
And if notified in writing by the local planning authority that the desk top study identifies potentially contaminant linkages that require further investigation then,
 - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A2:2017;
And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,
 - (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.
2. The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report by a competent person approved under the provisions of condition (1)c that any remediation scheme required and approved under the provisions of condition (1)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:
 - a) built drawings of the implemented scheme;
 - b) photographs of the remediation works in progress;
 - c) certificates demonstrating that imported and/or material left in situ is suitable for use.

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

19. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in

writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.

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

20. 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 Policies CP8 of the Brighton & Hove City Plan Part One and DM44 of the Brighton and Hove City Plan Part Two.

21. No development hereby permitted shall take place until detailed plans and evidence have been submitted to the Local Planning Authority for written approval to demonstrate how the block will be able to connect to any future decentralised heat network, should one become available. Evidence should demonstrate the following:

- (i) Plant room size and location showing facility for expansion for connection to a future district heat network: to include sufficient physical space to be allotted for installation of heat exchangers and any other equipment required to allow connection;
- (ii) A route onto and through site: details of below ground works which will be implemented within the scheme to ensure that appropriate piping routes are available and safeguarded to enable future connections to a heat network, demonstration of where connections will be made into the block, space on site for the pipework connecting the point at which primary piping comes onsite with the on-site heat exchanger/ plant room/ energy centre. Proposals must demonstrate a plausible route for heat piping and demonstrate how suitable access could be gained to the piping and that the route is protected throughout development.
- (iii) Metering: installed to record flow volumes and energy delivered on the primary circuit.

The approved future-proofing measures shall be implemented before first occupation of the building and shall be retained.

Reason: To ensure the development is future-proofed in the interests of sustainability to ensure the development helps the city to achieve its ambition of becoming carbon neutral by 2030 and to comply with Policies SA6, DA6 and CP8 of the Brighton & Hove City Plan Part One and DM44, DM45 and DM46 of the Brighton & Hove City Plan Part Two.

22. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the

guidance provided in BS 4142:2014. In addition, there should be no significant low frequency tones present.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of City Plan Part Two.

23. The vehicle parking area(s) shown on the approved plans shall be provided prior to first occupation and shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times and retained hereafter.

Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

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

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

25. Prior to the first occupation of the development hereby approved a Delivery & Service Management Plan, which includes details of the types of vehicles, time and method of deliveries, servicing and refuse collection will take place and the frequency of those vehicle movements for residential and non-residential uses shall be submitted to and approved in writing by the Local Planning Authority. All deliveries servicing and refuse collection shall thereafter be carried out in accordance with the approved plan.

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

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

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

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

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

28. The non-residential part of the development hereby permitted shall be used as an office (Use Class E(g) (i)) only and for no other purpose (including any other purpose in Class E 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 policies CP2 and CP3 of Brighton & Hove City Plan Part One.
29. No part of the development hereby permitted shall be first occupied or brought into use until written evidence, such as Secure By Design certification, has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the scheme has incorporated crime prevention measures.
Reason: In the interests of crime prevention, to comply with policies CP12 and CP13 and SA6 of the Brighton & Hove City Plan Part One.
30. No plant, flues or associated plant enclosures or any telecommunications equipment (other than those already shown on the approved drawings) shall be placed on the roofs of the development unless details have first been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented and retained thereafter.
Reason: To ensure a satisfactory appearance to the development to comply with policies CP12 of the Brighton and Hove City Plan Part One and DM18 of the Brighton & Hove City Plan Part Two.
31. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.
Reason: To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies DM18 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.
32. No development shall commence until a car park layout plan shall have been submitted to and approved in writing by the Local Planning Authority. This should include details of the proposed ramp and any operational safety measures e.g. traffic light system; cycle parking; motorcycle parking; car parking; electric vehicle parking and charging; disabled parking; visitor parking for the management (such as numbered spaces and Department for Transport approved names and symbols (eg for a disabled bay) inside and outside of the space) of all forms of parking and stopping as appropriate. This should also include details of how the proposal complies with SPD14 Parking Standards and how vehicles safely and conveniently turn to leave the site in a forward gear. Also, this should include dropped kerbs from footways and tactile paving where

appropriate for the mobility and visually impaired including adults with child buggies. The occupation of the development shall not commence until those works have been completed in accordance with the Local Planning Authorities approval and have been certified in writing as complete by the Local Highway Authority. The approved scheme shall thereafter be retained for use at all times.
Reason: To ensure the development provides for the needs of all occupants and visitors to the site, to ensure the provision of satisfactory facilities for all users of the car park including pedestrians and the mobility and visually Pre-commencement Condition impaired and to comply with policy CP9 of the City Plan Part One, DM33 & DM36 of City Plan Part 2 and SPD14 Parking Standards

33. No development shall commence on site until a Scheme of Management of the vehicle and any other forms of parking and stopping in the car park area has been submitted to and approved in writing by the Local Planning Authority. The scheme must at least include the following measures: - Details of how the proposal complies with SPD14 Parking Standards; - Details of how each car parking space will be allocated and managed; - Details of measures to ensure that each car parking space is for the sole use of its allocated owner and/or those they permit to use said space. -Details of the measures to mitigate safety concerns pertaining to the vehicular ramp and the subsequent maintenance of those provisions The above works must be implemented prior to the occupation of the building and thereafter be maintained as such.

Reason: To ensure the development maintains a sustainable transport strategy and to comply with policy CP9 of the City Plan Part One, DM33 & DM36 of City Plan Part 2 and SPD14 Parking Standards.

34. Notwithstanding the plans hereby submitted, the development shall not begin until the Local Planning Authority, in consultation with the Local Highway Authority, have approved a full scheme of highway works for improvements to Orchard Gardens and Nevill Road that:

- Promote a scheme to provide day time only loading facilities for the development by means of an on-street loading bay outside the Orchard Gardens frontage. This will require the approval of a Traffic Regulation Order.
- Promote waiting restrictions on Orchard Gardens in front of any ramp or dropped kerb for bin access, to be approved by Traffic Regulation Order.
- Improve the southern footway of Orchard Gardens in the vicinity of the development by removing the redundant vehicle crossover and reinstating this as raised footway; constructing a new vehicular crossover for the ramp to the basement car park - constructing a new dropped kerb bin access - resurfacing the footway along the frontage of the site
- Improve the eastern footway of Nevill Road in the vicinity of the development by- resurfacing the footway along the frontage of the site
- Improve pedestrian facilities at the junction of Orchard Gardens and Nevill Road by Renewing any damaged tactile paving, on both sides of the road, at the informal crossing point The occupation of the development shall not commence until those works have been completed in accordance with the Local Planning Authorities approval and have been certified in writing as complete by the Local Highway Authority.

Reason: In the interests of highway safety and to comply with policy CP9 of the City Plan Part One, DM33 & DM36 of City Plan Part 2 and SPD14 Parking Standards.

35. Within three months of the date of first occupation 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 DM35 of Brighton & Hove City Plan Part 2, and CP9 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. Swift bricks/boxes can be placed on any elevation, but must avoid areas that are exposed to extended periods of direct sunlight or prevailing weather conditions, with shade casting eaves and gable ends being optimum locations. They should be installed in groups of at least three, approximately 1m apart, at a height no lower than 4m (ideally 5m or above), and preferably with a 5m clearance between the host building and other buildings, trees or obstructions. Where possible avoid siting them above windows, doors and near to ledges/perches where predators could gain access. Always use models that are compatible with UK brick/block sizes and consider the potential for moisture incursion and cold spots in the building design. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place. If it is not possible to provide swift bricks due to the type of construction or other design constraints, the condition will be modified to require swift boxes.
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. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.
5. To discharge the surface water drainage scheme condition, the applicant will need to provide:
 - A detailed design including details and locations of the drainage infrastructure.
 - Calculations to confirm that the final proposed drainage system will be able to cope with both winter and summer storms for a full range of events and storm durations based upon the 1% AEP plus 40% increase in rainfall intensity due to climate change, management and maintenance plan for the

final drainage design for the proposed development incorporating all elements and confirming ownership and management responsibilities.

6. The applicant is advised that the CEMP should also include the following information:
 - Details of any oversailing of the highway construction, falsework, formwork and scaffolding
 - Details of use of any cranes, lifts, escalators and lifting vehicles
 - Details of any Department for Transport Abnormal Load Notification and/or Order
 - A commitment to implement vehicle cleaning and drainage facilities to prevent mud and dirt being trafficked onto the highway from the site or being washed onto it.
7. You are advised that details of the development will be passed to B&HCC as Traffic Authority administering the Controlled Parking Zone, of which the development forms part, so they can determine whether occupiers should be eligible for residents' parking permits.
8. East Sussex Fire & Rescue Service strongly recommend the installation of fire sprinklers in all new developments, there is clear evidence that Automatic Fire Suppression Systems (AFSS) can be effective in the rapid suppression of fires and can therefore play an important role in achieving a range of benefits for both individuals and the community in general.
9. Sussex Police recommend using Crime Prevention Through Environmental Design (CPTED) principles and from a Secured by Design (SBD) perspective. SBD is owned by the UK Police service and supported by the Home Office and Building Control Departments in England (Part Q Security - Dwellings), that recommends a minimum standard of security using proven, tested and accredited products. Further details can be found at www.securedbydesign.com
10. Southern Water requires a formal application for any new connection to the public foul sewer to be made by the applicant or developer. To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link: www.southernwater.co.uk/developing-building/connection-charging-arrangements
11. The water efficiency standard required by condition is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

12. The applicant is advised that Part O of Building Regulations 2022 has been introduced. This standard is aimed at designing out the need for mechanical air conditioning systems in dwellings that would otherwise be prone to overheating and limiting unwanted solar gains. There are optional methods to demonstrate compliance through the Building Regulations.
13. The applicant is advised under Part S of the Building Regulations that new dwellings providing a parking space now require an EV charging point.
14. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.
15. 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.
16. The applicant is advised that the Orchard Gardens and Nevill Road works will require them to enter into a s278 agreement with the council as Highway Authority and to complete associated technical approval steps, which may include public consultation. They should contact s278@brighton-hove.gov.uk at their earliest convenience.
17. **Cycle Access and Parking**
In order to ensure a safe and accessible environment for cyclists, new development should:
 - a) provide for safe, easy, and convenient access for cyclists to/from proposed development; and
 - b) where appropriate extend, improve, or contribute towards the city's existing network of high quality, convenient and safe cycle routes; and
 - c) protect existing and proposed cycle routes unless satisfactory mitigation is provided, or provision is made for an alternative alignment; and
 - d) provide for sufficient levels of cycle parking facilities in line with the Parking Standards for New Development (Appendix 2) (and any subsequent revisions) which must, wherever possible, be universally accessible, under cover, secure, convenient to use, well-lit and as close to the main entrance(s) of the premises as is possible. Short stay visitor cycle parking could be uncovered but must be located close to the building entrance(s) and benefit from high levels of natural surveillance; and
 - e) make provision for high quality facilities that will encourage and enable cycling including communal cycle maintenance facilities, workplace showers, lockers and changing facilities

2. SITE LOCATION

- 2.1. The application site is situated on the north-western corner of the junction of Orchard Gardens with Nevill Road (A2023). The site is currently in use by Portslade Panelworks (planning use class B2) and comprises single storey

industrial buildings along its southern boundary and an enclosed yard to the northern part of the site used for customer and staff parking, enclosed within a close-boarded fence. The Planning Statement indicates that the site currently employs 12 staff.

- 2.2. To the south and east of the site are neighbouring commercial buildings comprising industrial uses including a tyre and exhaust centre immediately south.
- 2.3. Vehicular access is from the northern side of the site off Orchard Gardens. The land between the existing building and the Nevill Road pavement is within the demise of the adjacent tyre and exhaust centre and is used to park vehicles. There is an electricity substation housed in a brick faced building alongside the eastern boundary of the application site facing on to Orchard Gardens
- 2.4. While the adjacent sites are industrial use, the rest of Orchard Gardens to the east of the site is characterised by two storey residential dwelling houses. Residential properties are to the north and to the west. The site is not within a conservation area, nor is it a listed building or in the setting of one.

3. RELEVANT HISTORY

- 3.1. **BH2022/02821:** Demolition of existing buildings and erection of a 5no storey building and basement comprising a mixed use development including 2no commercial units for office space (Class E(g)(i)) on the ground floor and 36no one, two and three bedroom flats (Class C3) on ground and upper floors, 25no car parking spaces (including 2no disability spaces), cycle storage and associated landscaping. Approved 11.10.2023
- 3.2. **BH2016/05312:** Demolition of existing buildings and erection of a 5no storey building and basement comprising a mixed use development of offices (B1) on the Ground floor and 23no one, two and three bedroom flats (C3) on the upper floors, 23no car parking spaces (including 3 Disability Spaces), cycle storage and associated landscaping. Approved 07.08.2018
- 3.3. There have been a number of approval of details applications connected to application BH2016/05312. However, works did not commence and the permission has now lapsed.
- 3.4. **BH2014/03966:** Demolition of existing buildings and erection of a part three, four and five storey building comprising a mixed use development of offices (B1) on the ground and mezzanine floors, 21no one, two and three bedroom flats (including 6 affordable flats) (C3) on the upper floors, 22no car parking spaces, cycle storage, refuse/recycling facilities, photovoltaic solar panels and associated landscaping. Application withdrawn.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the demolition of the existing buildings and erection of a six storey building plus basement comprising a mixed-use development including 2 commercial units for office space (planning use class E(g)(i)) on the ground floor, and 42 one-, two- and three-bedroom flats (class C3) on the ground and upper floors. The scheme would also provide 25 car parking spaces at basement level (including 2 disability spaces), cycle storage and associated landscaping.
- 4.2. The proposal would include a basement that would be accessed via a 1:12 gradient ramp from ground floor level along Orchard Gardens, containing 26 car parking spaces, 60 cycle parking spaces and plant rooms.
- 4.3. As previously, two commercial units of 85.7sqm and 208.2sqm floor space (293.5sqm total) would be provided at ground floor level facing west towards Nevill Road, but 42 dwellings would be provided at ground floor and on the four floors above.
- 4.4. The 6-storey building would be built predominantly of light grey brick with a green, zinc top floor set back from those lower. Detailing would be finished with metal louvres and window frames. The roof form has evolved over the course of the proposal from a flat one originally to an industrial style pitched roof.
- 4.5. The application is largely similar to the previously-approved scheme (ref. BH2022/02821) with an identical footprint, use and design to that application. There would however be changes to fenestration and an extra storey to provide an additional 6 flats, though with amendments to internal ceiling heights, the overall height increase would be 1.5m. The element fronting onto Orchard Gardens to the north would remain at 5 storeys.

5. REPRESENTATIONS

- 5.1. **One Hundred and Twenty Four (124) objections** have been received raising the following concerns:
 - Loss of employment floorspace and of employment land.
 - The design is poorly conceived and is out of keeping and out of scale for the area.
 - Six storeys would be an overdevelopment.
 - Excessive density
 - Overlooking / loss of privacy and views
 - Loss of light and overshadowing
 - Increased noise and pollution, including a decline in air quality
 - The position of the car parking and the ramp to the basement car park would result in increased noise and disturbance.
 - The proposed block is too overbearing and causes overshadowing.
 - The development would add more traffic to the saturated area in an unsustainable manner.
 - Detrimental effect on property values.

- 5.2. **One (1)** representation has been received from Councillor Lyons objecting to the scheme.

6. **CONSULTATIONS**

Internal

- 6.1. **City Regeneration / Economic Development:** No comments to make
- 6.2. **Environmental Health:** No comments received
- 6.3. **Planning Policy:** No objection subject to responses from other consultees.
Note the principle of development has been accepted through previous permissions. The provision of 42 dwellings would be a welcome windfall contribution towards the housing target.
- 6.4. Whilst it does not fully reflect housing need, with a greater proportion of 1-bedroomed units provided, it is welcomed that some 2 and 3-bedroomed units are provided and acknowledged that the character of the development and site location may be better suited to smaller units.
- 6.5. The applicant has provided a Financial Viability Assessment Report which concludes that the scheme is unable to offer any affordable housing contribution as required in Policy CP20. This has now been verified by the District Valuer who concurs with this conclusion. Whilst this is regrettable this is accepted.
- 6.6. The Planning Statement indicates that the applicant is prepared to offer a contribution of £305,000 towards offsite affordable housing. Should the independent review of viability concur with the findings of the Turner Morum report, this contribution would be welcomed and should be secured by Section 106. Impacts on adjacent residential properties should be assessed and comments from the County Ecologist and Sustainability officers sought.
- 6.7. **Private Sector Housing:** No comments
- 6.8. **Sustainability:** No objection subject to the imposition of conditions securing carbon emissions 19% below Building Regulations; minimum EPC rating of B; BREEAM rating of 'very good'; future connection to a heat network; and water efficiency of 110 litres/person/day.
- 6.9. **Transport:** No objection subject to conditions and legal agreement securing car and cycle parking details, a Delivery Service Management Plan, Highway Improvements (including loading facilities on Orchard Gardens, relocated vehicle crossovers, resurfacing of footway along frontages), and a construction and environmental management plan.

External

- 6.10. **County Archaeology:** No objection

- 6.11. **County Ecologist:** No objection subject to the imposition of conditions securing biodiversity net gain.
- 6.12. **Designing Out Crime Officer (Sussex Police):** No objection. No major concerns, but additional measures to mitigate against any identified local crime trends and site-specific requirements should always be considered.
- 6.13. **Southern Water:** Seek Conditions. Note site is within Source Protection Zone 1 of Hove groundwater abstraction so very sensitive hydrogeological area. Quantitative Ground Contamination Risk Assessment Report submitted but require Remediation Strategy as development will include demolition and construction activities that could potentially adversely affect groundwater aquifer and extraction.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove City Plan Part Two (adopted October 2022);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Joint Area Action Plan (October 2019).

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SA6 Sustainable Neighbourhoods
 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
 CP10 Biodiversity
 CP12 Urban design
 CP13 Public streets and spaces
 CP14 Housing density
 CP18 Healthy city

CP19 Housing mix
CP20 Affordable housing

Brighton & Hove City Plan Part Two:

DM1 Housing Quality, Choice and Mix
DM18 High quality design and places
DM19 Maximising Development Potential
DM20 Protection of Amenity
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
DM40 Protection of the Environment and Health - Pollution and Nuisance
DM41 Polluted sites, hazardous substances & land stability
DM42 Protecting the Water Environment
DM43 Sustainable Urban Drainage
DM44 Energy Efficiency and Renewables

Supplementary Planning Documents

SPD03 Construction and Demolition Waste
SPD11 Nature Conservation and Development
SPD14 Parking Standards
SPD16 Sustainable Drainage
SPD17 Urban Design Framework

Other Documents

Developer Contributions Technical Guidance - June 2020
East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan -
Policies WMP3d and WMP3e

9. CONSIDERATIONS & ASSESSMENT

9.1. The main considerations in the determination of this application relate to:

- Principle of development
- Affordable housing
- Loss of employment space
- Density
- Design
- Biodiversity, Landscaping, Trees and Ecology
- Impact on Neighbouring Amenity
- Standard of Accommodation
- Impact on Highways
- Sustainability

Principle of development:

- 9.2. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. 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.
- 9.3. The council's most recent housing land supply position is published in the SHLAA Update 2022 which shows a five-year housing supply shortfall of 7,711 (equivalent to 1.8 years of housing supply).
- 9.4. As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 9.5. The provision of 42 units of residential accommodation would be a benefit of significant weight, making a relatively small, but important contribution towards the Council's housing target given the importance of maximising the use of sites.
- 9.6. Policy CP19 in City Plan Part One requires proposals to have considered housing mix and local assessments. The proposed unit mix is twenty one x 1 beds (50%), seventeen x 2 beds (41%) and four x 3 beds (9%). This does not reflect the housing mix requirements identified in CP19 which suggests that greatest demand is for 2- and 3-bedroomed units (34% and 31% respectively) and less demand for 1 bedroomed units (24%).
- 9.7. However, this is a relatively constrained site close to a main road and an industrial estate, and is therefore considered unsuitable for larger family accommodation so the absence of 4 beds is considered acceptable in this instance. Whilst the proposal would provide more 1-bed units than 2 or 3-bed units contrary to policy requirements, there is a limited market for larger family size units within flatted schemes such as this proposal. Furthermore, if additional larger units were incorporated into the proposal, fewer units would be delivered in total, with implications for the scheme's viability and deliverability. As such, the LPA considers the unit mix to be acceptable in this instance.
- 9.8. Policy CP3 of City Plan Part One seeks to ensure the city has sufficient employment sites and premises to meet the needs of the city. Part 5 of policy CP3 states 'loss of unallocated sites or premises in, or whose last use was, employment use will only be permitted where the site or premises can be demonstrated to be redundant and incapable of meeting the needs of alternative employment uses.'
- 9.9. The accompanying planning statement advises that 'although the site is not redundant, the Panel Works is seeking to relocate to a more industrial area. The

company has received a number of noise complaints over the years and wishes to relocate to an area where noise will not be an issue.'

- 9.10. The premises are not considered to be redundant in accordance with policy CP3 and would result in the loss of 1300 sq metres of employment floorspace. However the scheme would provide a total of 293 sq metres of office floorspace which is identical to the previous application BH2022/02821. Moreover, it is important to note, that the existing site only employs 12 staff and as office accommodation, the proposed floorspace would allow a greater number of employees, providing between 20 and 25 FTE.
- 9.11. Whilst it is acknowledged that the existing employment space is not redundant and does not strictly meet the provisions of policy CP3, the provision of alternative employment floorspace within the scheme, similar to that approved previously, is considered acceptable in this instance.
- 9.12. The acceptability or otherwise of the scheme is subject to consideration of the provision of affordable housing, density, design, biodiversity, landscaping, trees, ecology, neighbouring amenity, the standard of accommodation, highways, sustainability and archaeology. These matters are discussed below.

Residential Accommodation:

Affordable housing

- 9.13. Policy CP20 requires development of 15 net dwellings or more to provide 40% of the units as affordable housing, though it notes that the target may be applied more flexibly where the council considers this to be justified. In this case, the applicant has submitted a Financial Viability Assessment Report in support of their proposal which indicates that no affordable housing could be provided without the scheme being rendered unviable. A commuted sum of £305000 has been offered to provide affordable housing in the city in lieu of on site affordable housing provision.
- 9.14. The report has been the subject of a review by the Council's independent viability consultant. They disagree with the Residual Land Value and Site Value Benchmark provided by the applicant, but ultimately are willing to offer £305,000 as payment towards Affordable Housing. As such, it is accepted that no affordable housing can be provided. However, in case the viability situation improves in terms of sales revenue values rising or base construction costs falling, a late stage review in order to secure any uplift in sales figures as a commuted sum would form part of the Section 106 Agreement.

Density:

- 9.15. The provision of 42 dwellings would provide a density of 323dph (dwellings per hectare) which is significantly higher than the minimum target of 50dph for development outside development areas. However, the approval of the previous scheme indicates acceptance of the principle of a high density development on the site.
- 9.16. Policy CP14 of City Plan Part One outlines that residential development should be of a density that is appropriate to the character of the neighbourhood and be

determined on a case by case basis. Development will be permitted at higher densities than those typically found in the locality subject to various criteria. To make full, efficient and sustainable use of the land available, new residential development is expected to achieve a minimum net density of 50 dph, provided it contributes positively to creating or maintaining sustainable neighbourhoods and that all of the aforementioned criteria can be satisfactorily met.

- 9.17. The various criteria set out by Policy CP14 are high standard of design and maintaining or creating a coherent townscape; respecting, reinforcing or repairing the character of the neighbourhood and contributing positively to its sense of place; the inclusion of a mix of dwelling types, tenures and sizes to reflect identified local needs; being easily accessible by sustainable transport; being well served by local services and community facilities; and providing outdoor recreation space appropriate to the demand it would generate.
- 9.18. The submitted drawings demonstrate that the design would be of a high standard (discussed further below) and that it would maintain a coherent townscape and respect the character of the neighbourhood, thereby contributing positively to its sense of place. The site is approximately a 10 mins walk, or three minutes cycling to Hove train station and sits extremely close to Old Shoreham Road which is serviced by multiple, regular bus routes. As such, it is in a very sustainable location. Furthermore, it is well served by local services (on Old Shoreham Road).
- 9.19. In terms of outdoor recreation space, all of the proposed dwellings would have external amenity space in the form of a balcony and access to a shared communal garden to the rear of the building.
- 9.20. The streets surrounding the site are predominantly residential with two storey dwellings although the application site sits within a distinct industrial area and is a corner plot that would have its own, distinct character. Although the proposed building would not represent the character of the surrounding streets, it would replace an existing industrial unit, on a main thoroughfare and is considered to successfully sit within its own, unique setting.
- 9.21. As previously discussed, the proposal is for a mixed use development and the quantum of residential and commercial is considered acceptable. Building layouts, design, amenity space, access and car parking are discussed in more detail in the following sections, but they are considered acceptable. As such, the density of the proposed development is considered acceptable because it would contribute positively to creating or maintaining sustainable neighbourhoods and meet the criteria in Policies CP14 and DM19.

Design and Appearance:

- 9.22. The existing building is not of any historic or architectural merit. As such, its demolition to make way for a replacement building is considered acceptable, as has been previously accepted in the approval of the previous application (BH2022/02821).

- 9.23. This application reflects the design philosophy of the previous approval so is in principle considered to be of acceptable appearance. The small amendments made are not considered to change this conclusion, noting that the additional storey would add 1.5m on to the building which in context is not considered significant.
- 9.24. The subject site sits on the corner of Nevill Road and Orchard Gardens with the topography of the site being generally level but with a slight decrease in height as you progress along Orchard Gardens to the east.
- 9.25. As with the previous application, the built footprint of the proposed block would make efficient use of the site, and all dwellings would have access to a balcony and shared communal garden to the rear which is supported. Improvements to the public realm would be provided to the north-west corner of the building, where landscaping would be provided to make a clear separation between the development site and the footpath adjacent. The building line would be slightly forward of the buildings to the east, separated by the electricity sub-station and is similar to that proposed in the consented scheme so no concerns are raised in this regard.
- 9.26. The general design and massing of the building is similar to that previously approved and is considered to respond well to the mix of residential character to the north and west and a more commercial/industrial façade to the south and east. In particular the pitched roof form is a welcome addition which would sit well with the similar roof forms to the south and the metal, pitched roofs of the industrial unit to the east.
- 9.27. The materials to be used are as previously approved, with a mix of red and grey brick with green zinc material on the upper, pitched roof element. The combination of red and grey brick present an attractive appearance which is considered to be contextually responsive to the area, whilst presenting a modern appearance to the proposal.
- 9.28. The elevational composition of the proposed building is supported and would closely reflect that previously approved. The design would provide a textured, layered appearance due to the presence of inset balconies, lintels and other architectural elements such as the set-back, zinc roof element. The design and materiality are identical to the previous approval. The final details of all material would be secured by condition in the event the application is approved.
- 9.29. Taking the above into account, the proposal would make an efficient use of an existing site and be contextually appropriate design in compliance with City Plan Part One Policies CP12 and CP13, City Plan Part Two Policy DM18, SPD17 and paragraphs 130 and 134 of the NPPF that require developments to add to the overall quality of the area through being visually attractive as a result of good architecture, layout and landscaping; to be sympathetic to local character and the surrounding built environment while not preventing increased densities; to optimise the potential of the site to accommodate an appropriate amount of development; to reflect local design policies; and raise the standard of design

more generally in an area where they fit in with the overall form and layout of their surroundings.

Impact on Neighbouring Amenity:

- 9.30. Paragraph 130 of the NPPF outlines that planning decisions should ensure that developments create places that promote health and well-being, with a high standard of amenity for existing and future users.
- 9.31. Policy DM20 of City Plan Part 2 states that planning permission for development including change of use will be granted where it would not cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers or where it is not liable to be detrimental to human health.
- 9.32. The addition of a 6th storey to the previously consented scheme does have the potential to impact on neighbours amenity in terms of sunlight/daylight and overlooking.
- 9.33. The main properties that would be affected by the proposed development would be 87 Old Shoreham Road, 2 to 12 Nevill Road (evens, opposite the site to the west), 1 Nevill Road (opposite the site to the north) and 32 Orchard Gardens (to the rear of 1 Nevill Road). A Daylight & Sunlight Report was submitted with the application, undertaken in accordance with standard BRE methodologies.
- 9.34. The Nevill Road properties opposite are two-storey with front and rear gardens, separated from the site by the carriageway. Any impact would be solely to the front of these properties with light levels to the rear being unchanged. 1 Nevill Road to the north would potentially be subject to greater light loss as the site lies to the south. The Daylight and Sunlight Report finds there would be negligible impact on daylight and sunlight to this property. The adjacent property at 32 Orchard Gardens would suffer a minor loss of light; however, this is not considered to be so harmful to consider refusal of the scheme.
- 9.35. Regarding overlooking, there are windows and balconies to all elevations, which would provide some views into the front windows of neighbouring properties along Nevill Road, Orchard Gardens and 1 Nevill Road, which lies directly north of the application site. However, no views into the rear of these properties along the west side of Nevill Road or Orchard Gardens would be afforded and the degree of overlooking caused. Concern is raised regarding additional views to the rear garden of 1 Nevill Road, however, it is important to note that consent has been granted previously for the redevelopment of the site.
- 9.36. There may be some increase in disturbance as a result of the increased use of the site, but it is in industrial use so this would not be significant, particularly noting the site's location on an A-road, with the A270 (Old Shoreham Road) some 30m south.
- 9.37. For the reasons outlined, the overall impact on neighbouring amenity would be considered acceptable and is therefore considered to comply with CPP2 Policies DM20 and DM40.

Standard of Accommodation:

- 9.38. 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 space standards have been formally adopted into the Brighton and Hove City Plan Part 2 Policy DM1 and can now be given full weight.
- 9.39. The scheme would provide twenty one, 1-bed two person dwellings, four, 2-bed three person dwellings, thirteen, 2-bed four person dwellings, and four, 3-bed 5 person dwellings.. The Gross Internal Areas (GIAs) for each residential unit are at least compliant with if not in excess of the figures in the NDSS. All the bedrooms would also be compliant with the NDSS.
- 9.40. Sixteen of the 42 flats (38%) would be single aspect which is similar to the approved scheme. Although not ideal this is considered acceptable and unavoidable given the constraints of the site. The rest would be at least dual aspect, and all units would provide future occupiers with sufficient outlook, natural light and cross-ventilation.
- 9.41. The provision of external amenity space in the form of balconies for all dwellings along with a communal garden to the rear of the site is welcomed. As such, the proposed development is considered to offer acceptable living conditions for future occupiers, compliant with CPP2 Policy DM1.

Biodiversity, Ecology, Landscaping and Trees:

- 9.42. The site is not designated for its nature conservation interest, although it lies within the Impact Risk Zone of Castle Hill Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) but does not meet the criteria for likely impacts. There are no street trees adjacent to the site which could be harmed by development.
- 9.43. The submitted Ecological Impact Assessment confirms that the existing commercial site has little to no ecological value. Likewise the Biodiversity Statement states no indicators are affected by the proposal. Given this, there is the potential for high biodiversity net gain, in accordance Policy DM37 which requires a net gain in biodiversity on site. Measures to improve the ecology outcomes on the site in accordance with Policies CP10 and DM37 as well as SPD11 are proposed to include bee bricks and installing swift and bat boxes, as well as soft landscaping.
- 9.44. The landscaping proposal would be identical to the previous approval and see soft planting on both the west and northern elevations of the building where it would front the footpath. This would include three “feature” trees to the northern frontage on Orchard Gardens (where access to the residential element would be located), raised shrub planting adjacent to the parking area of the neighbouring Kwik-Fit commercial premises and planting in a shared communal garden to the rear.
- 9.45. An Ecological Design Strategy would be secured by condition to show the soft landscape species, the number and location of swift and bat boxes, and the

species composition of the landscape planting. In addition, further details of the landscaping, such as the size of the trees and food growing, would be secured by condition prior to first occupation, and would also require demonstration that Sustainable Urban Drainage measures have been fully considered. Any hard surfacing is recommended to be conditioned as permeable and / or porous.

Impact on Highways:

- 9.46. The site is located in a sustainable location near to Old Shoreham Road, a main transport corridor, well served by bus and cycle routes and in accordance with CPP1 policies DA3 and TR9 (Sustainable Transport) where major new development should be directed. The site is also approximately 10 minutes walk from Hove Station.
- 9.47. A Transport Plan has been submitted, following multiple amendments and additional information which has been assessed by the Highway Authority and following agreement on the analysis of trip rates and lack of suitability for Car Club parking, has been accepted by the authority. The Highway Authority have indicated their general support for the proposals subject to conditions.
- 9.48. The parking provision on site would be 25 spaces in a basement carpark, accessed via ramp from Orchard Gardens. This would include 2 accessible bays. Following additional information being provided relating to trip rates and location of a loading bay, the Highway Authority accept that the proposed parking provision on site is acceptable subject to management and monitoring as part of a car parking management plan.
- 9.49. The provision of cycle parking on site would provide 64 spaces for residents and a further 8 for visitors to the site in the basement. In total SPD14 would require 40 short stay and 12 long stay spaces. The Highway Authority is satisfied with the overall numbers subject to a condition requiring further details and management details for the cycle parking areas.
- 9.50. The proposal includes three active EV charging points, with passive EV charging infrastructure for all other spaces which complies with Policy CP9. An informative will be added advising of the current Building Regulations standards in respect of EV charging.

Sustainability:

- 9.51. City Plan Part One Policy CP8 requires new development to demonstrate a high level of efficiency in the use of water and energy and for it to achieve 19% above Part L for energy efficiency in addition to meeting the optional standard for water consumption. 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. Therefore, an informative is recommended to ensure the development meets that standard.
- 9.52. It is noted that the proposed reduction in carbon emissions is 46%. This is above the aforementioned requirement and is therefore supported. The majority of the reduction would come from low or zero carbon technologies rather than fabric improvements.

- 9.53. In terms of BREEAM, the non-residential element of this proposal qualifies as 'non-major' and is therefore required to meet the 'Very Good' rating. A score of 66.44% is targeted, which would deliver a 'Very Good' rating. Compliance with the 'Very Good' rating is recommended to be secured by condition.
- 9.54. Other measures to improve the sustainability of the proposed building would include overheating mitigation in the form of louvres, openable windows and MVHR (Mechanical Ventilation with Heat Recovery) ventilation. An overheating assessment has been provided which shows a low risk of overheating in the rooms.
- 9.55. Air Source Heat Pumps (ASHP) are to be provided to both the commercial and residential elements of the proposal (located on the roof) along with a 3kWh solar PV array also on the roof. Further details of these would be secured by condition.
- 9.56. It is commendable that the Design and Access statement highlights the RIBA sustainability objectives, however it is not easy to see how these principles are acted upon in the development. Circular construction principles should be addressed as the design process continues, to ensure a genuinely sustainable building, which minimises materials use at every stage of its life-cycle. A statement of circular principles in this development would be secured by condition.

10. CONCLUSIONS

- 10.1. The proposal would provide 42 dwellings and two new office spaces as part of a mixed use development on a brownfield site in Hove, subject to condition, incorporating sustainability measures and providing biodiversity net gains. The design of the building is considered acceptable, which would not have a significantly adverse impact on neighbouring amenity or on highways safety whilst providing an acceptable standard of accommodation. The lack of affordable housing is regrettable and must be given weight against the benefits of the scheme. However, the DVS report has supported the developers viability assessment that it would not be viable and have offered a £305000 commuted sum in lieu of this. The application is recommended for approval and the benefits of the scheme in terms of housing provision outweigh the harm in the planning balance.

11. COMMUNITY INFRASTRUCTURE LEVY

- 11.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. It is estimated that the amount of CIL liability for this application is £725,880. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.

12. EQUALITIES

- 12.1. Access to the proposed residential elements of the building from Nevill Road would consist of steps and a ramp provided for wheelchair access. These are shallower than the consented scheme due to the lower floor heights. Two of the parking spaces would be for disabled vehicle users, in accordance with the carparking SPD. Lifts would be provided in the basement to provide step-free access from the basement to all floors meaning that any of the proposed residential units would be accessible for those with a mobility-related disability.
- 12.2. The development would be subject to a condition ensuring that two of the residential units would be designed to meet M4(3) standards. All other dwellings would be conditioned as being designed to meet M4(2) (accessible and adaptable dwellings) standards.

13. CLIMATE CHANGE / BIODIVERSITY

- 13.1. The site has good links to facilities including shops, is well served by public transport, and cycle parking is proposed, reducing reliance on cars. It also makes a more efficient use of brownfield land with the proposed building being well orientated thereby providing sufficient daylight and sunlight to the new dwellings. A detailing landscaping / planting plan, details of the proposed solar PV array as well as bee bricks and swift bricks are recommended to be secured by condition.

14. S106 AGREEMENT

- 14.1. In the event that the draft S106 Agreement has not been signed by all parties by the date set out above, the application shall be refused for the following reasons:
 1. The proposed development fails to provide a mechanism by which to secure affordable housing, or a financial contribution towards it in the city, in case of the viability situation improving, contrary to Policies CP7 and CP20 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
 2. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development, contrary to Policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
 3. The proposed development fails to provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry, contrary to Policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.

4. The proposed development fails to secure improvements to the public realm and highway, contrary to Policy DM33 of City Plan Part 2.

