



PLANNING & HERITAGE STATEMENT

Part change of use (retention of Class E) and extension to create 11no C3 units

July 2023

No.45 Gloucester Street, Brighton, BN1 4EW

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1 INTRODUCTION

- 1.1 This application relates to No.45 Gloucester Street - a 3-storey property located within the North Laines. A series of historic piecemeal single-storey and 2-storey extensions exist to the side and rear. Currently the entire site is partially in commercial use.
- 1.2 The application proposes replacing the existing rear extensions with a 3-storey rear extension. It further proposes that the upper 2 floors of the whole site become C3 residential use whilst the GF becomes of mixed commercial and C3 use. The proposal would result in 11no C3 flats and the retention of a commercial element.
- 1.3 The locality is within the North Laine Conservation Area. The site is not a Listed or Locally Listed Building.
- 1.4 GPDO Class MA permits change of use from commercial to residential across much of the site, creating a material fallback position. We also note that the Article 4 restricting loss of commercial space (Feb 2023 Government amendment) is applicable only to part of the site.
- 1.5 In this regard, it should be noted that the proposal retains a GF commercial unit including retention of existing commercial frontage, in accordance with the character of the locality.
- 1.6 It is critical to recognise that BHCC has a nationally significant housing land supply shortfall, currently just 1.8 years. NPPF Paragraph 11d) is firmly engaged. The near-term delivery of 11no C3 units at a central and highly sustainable location is therefore due significant weight in the balance.
- 1.7 Further, the proposal undoubtedly accords with DM19, DM21, CP14, SPD17 and NPPF Paras 117, 119, 120d), 124, 125 and 130e, which promote the optimisation of existing sites, whilst Para 69 stipulates that *great weight* is due to the provision of small/medium sites.
- 1.8 There would be no unacceptable visual impact on the Conservation Area. The proposal would result in a contemporary addition to the rear of the site. The proposal exhibits a very high standard of high-end contemporary design which, when observed, would significantly enhance the existing commercial back land site.
- 1.9 Further, DM26 advocates a flexible approach to rear development within Conservation Areas where the original fabric is much altered by piecemeal alteration.
- 1.10 There would be no unacceptable impact on neighbouring amenity for properties to the east on St George's Place. The 3-storey element of the rear development would remain well set back from the eastern boundary of the site.
- 1.11 Section 7 presents equivalent nearby C3 proposals where contemporary solutions have been found acceptable given the weight of housing delivery and the existing site characteristics.

2 RELEVANT POLICY AND LEGISLATION

POLICY

2.1 The following local and national policies are relevant to this application.

Brighton and Hove City Plan Part 1

2.2 The following policies from the Brighton & Hove City Plan Part 1 are relevant:

- SS1 Presumption in favour of sustainable development;
- SA2 Central Brighton;
- CP1 Housing delivery;
- CP2 Sustainable economic development;
- (CP6 Visitor accommodation – the site is within the CP6 Hotel Core Zone)
- CP7 Infrastructure and Developer Contributions;
- CP8 Sustainable buildings;
- CP9 Sustainable transport;
- CP12 Urban design;
- CP13 Public streets and spaces;
- CP14 Housing density;
- CP19 Housing mix.

Brighton and Hove City Plan Part 2

2.3 The following policies from the Brighton & Hove City Plan Part 2 are relevant:

- DM1 Housing quality, choice and mix;
- DM12 Regional, Town, District and Local Shopping Centres
- DM18 High-quality design and places;
- DM19 Maximising development potential;
- DM20 Protection of amenity;
- DM21 Extensions and alterations;
- DM26 Conservation areas;
- DM29 The setting of heritage assets;
- DM33 Safe, Sustainable and Active Travel;
- DM40 Protection of the Environment & Health – Pollution & Nuisance;
- DM44 Energy efficiency and renewables.

2.4 The following SPDs from the BHCC Local Development Framework are relevant:

- SPD09 (2009) Architectural features;
- SPD12 (2020) Extensions and alterations;
- SPD17 (2021) Urban design framework -

(this SPD outlines the importance of delivering development that responds to the city's limited spatial opportunities and helps to meet the city's significant housing needs through high-density developments).

2.5 The following Article 4 Directions are relevant:

- A4/19 North Laine (amended March 2005);
- Article 4 Direction - Commercial, Business and Service to Residential (as modified by the Secretary of State on 1st February 2023).

2.6 The following conservation documents are relevant:

- The North Laine Conservation Area Study (1995).

National Planning Policy Framework (NPPF)

2.7 Within the NPPF (July 2021) as-a-whole the following paragraphs are of particular relevance to this application:

- 8 a) (Overarching objectives – building a responsive and competitive economy);
- 8 b) (Overarching objectives – meeting present social needs & supporting well-being);
- 8 c) (Protecting and enhancing the built environment);
- 9 (Flexibility – taking account of circumstances);
- 10-11 (Presumption in favour of sustainable development at the heart of the NPPF);
- (Footnote 8 – including where there is a housing land supply shortfall);
- 13 (Supporting the delivery of local objectives);
- 38 (Decision-making – supporting development leading to social gains);
- 47 (Determining applications – taking account of material considerations);
- 55 (Use of conditions to achieve an acceptable development);
- 82 d) (Flexible application of policies to accommodate needs);
- 110 c) (Designs to reflect national design guides & codes)
- 117 (Making effective use of land);
- 119 (Effective use of land);
- 120 d) (Optimising use of land where supply of alternative housing is constrained);
- 124 (Efficient use of land - meeting identified needs);
- 125 (Optimal use of each site);
- 126 and 129 (Design quality);
- 130 a) (Durable development);
- 130 b) (Appropriate design, sympathetic to local character & history);
- 130 c) (Not discouraging or preventing appropriate change);
- 130 d) (Appropriate building materials);
- 130 e) (Optimising the potential of each site);
- 130 f) (High standard of amenity for occupants);
- 190 (Appropriate strategies for heritage assets);
- 202 (Benefits weighed against less than substantial harm to a heritage asset);
- 207 (Not all elements around heritage sites contribute to their significance).

LEGISLATION

2.8 The following legislation are considered relevant to the assessment of this application.

Planning (Use Classes) (England) Order 1987 - as amended

2.9 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 No. 757 introduced Class E (commercial, business and services).

Planning (General Permitted Development) (England) Order 2015 - as amended

2.10 The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 No. 428 (6.) introduces change-of-use Class MA (change-of-use from Class E to Class C3 dwellinghouse).

Planning (Listed Buildings & Conservation Areas) Act 1990 – as amended

2.11 Within the Planning (Listed Buildings and Conservation Areas) Act, Section 72 in particular relates to preservation and enhancement of buildings in Conservation Areas.

3 SITE CONTEXT

3.1 The application site is No.45 Gloucester Street, Brighton, BN1 4EW.

Locality description

3.2 The site is located at the far northeast margin of the North Laines area, to the rear of St George's Place and 45m west of Valley Gardens.

3.3 Gloucester Street is orientated east-west and connects between St George's Place to the east and Sydney Street to the west. The site is located at the eastern end, 30m from the junction with St George's Place. The site is on the northern side of the road, facing the junction with Gloucester Road and just east of the junction with St George's Mews. (Location plan below).



Above: Site location plan.

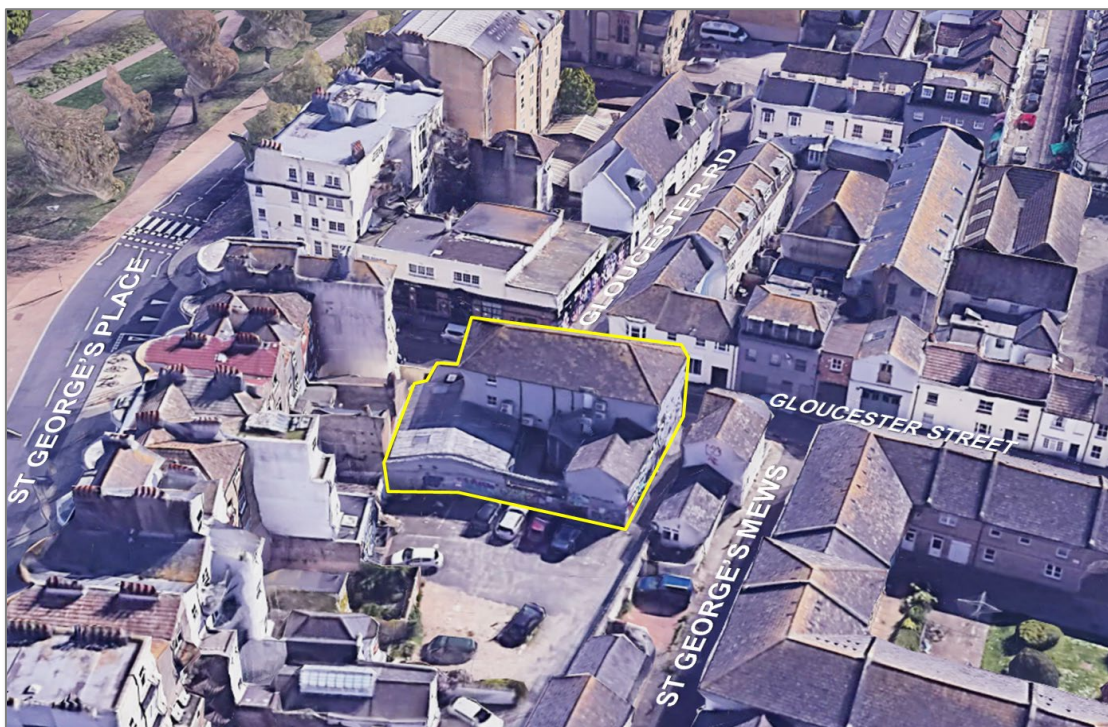
3.4 Properties in the area are of mixed residential and commercial character, including some with traditional shop frontage at street level. The North Laine Brewhouse is to the immediate southeast. The application site itself and buildings to the immediate south-west have a warehouse-type character.

3.5 The locality has a close-knit urban character, with terraced properties, narrow streets and narrow pavements. Buildings front hard to the pavement or with very narrow garden strips.

- 3.6 Buildings to the south and west of the application site are predominantly 2-storey but with occasional 3-storey buildings and/or mansard-type upper level. Roof type is predominantly pitched but also parapeted, front gabled or mansard.
- 3.7 Building height rises sharply to the immediate east with the buildings fronting east onto St George's Place being 4 to 5-storey and with lower ground floor level. (See images below).



Above: Aerial view to north of the area around the application site (yellow). (© Google).



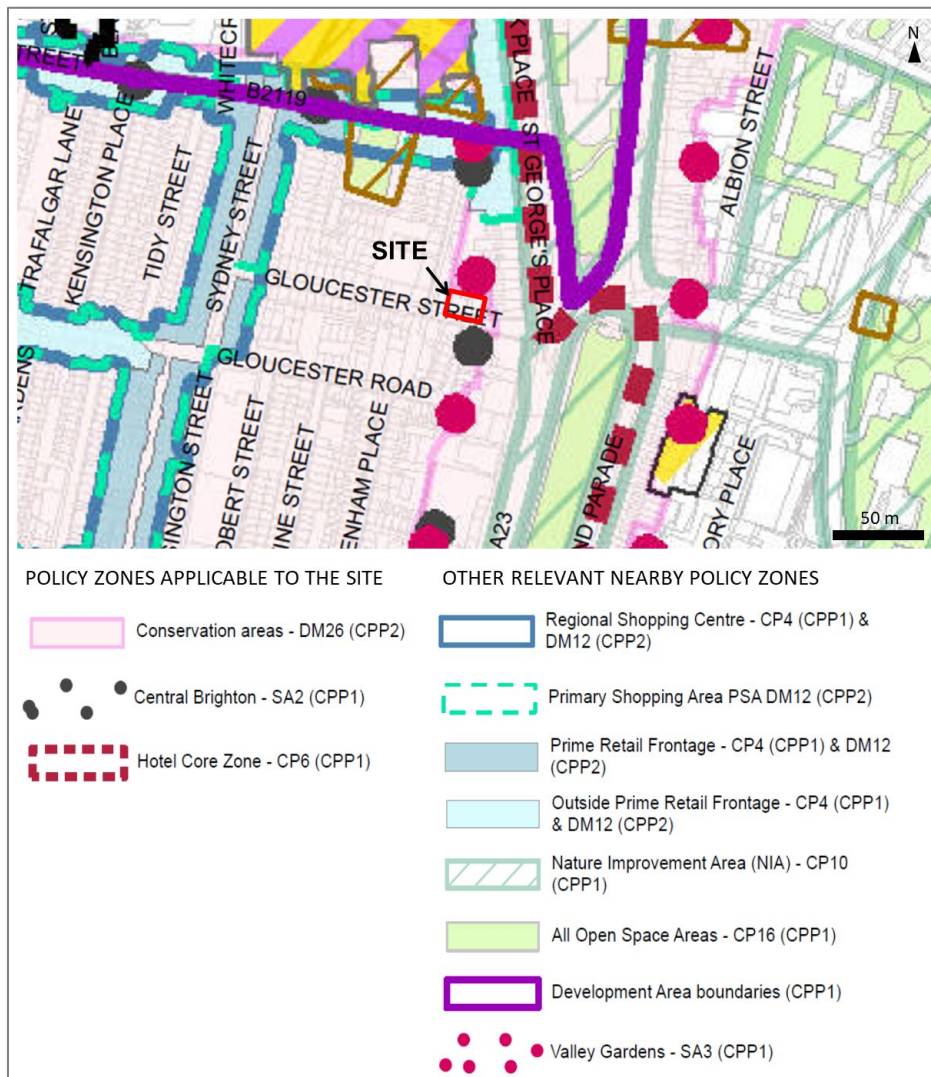
Above: Aerial view to south of the area around the application site (yellow). (© Google).

- 3.8 The buildings of St George's Place are characterised by a parapeted roof to the east-facing front elevation and with a gabled or inverted-gable 'butterfly'/'valley' roof apparent to the west-facing rear elevation.
- 3.9 The east of the application site is flanked by the west-facing rear of St George's Place which is characterised by a diverse array of extensions to the original rear outriggers, ranging between 1-4 storeys in height and commonly displaying a sideways-pitched roof. (Image below).



Above: Aerial view to east of the rear of St George's Place, flanking the application site (yellow). (© Google).

- 3.10 The overall characteristic of the area is typified by heritage properties interspersed with modern developments which infill previously vacant plots. The occurrence of approved modern extensions / development and heritage assets is a relevant consideration to this application and is considered further below.
- 3.11 The heritage context is also discussed fully further below.
- 3.12 The application site is located within a number of Policy Zones – see map below:
- The site is within a DM26 Conservation Area (see Heritage discussion).
 - The site is within SA2 Central Brighton.
 - The site is within the CP6 Hotel Core Zone but this is not considered relevant to this application.
- 3.13 The site is not within any other Policy Zones. Relevant to this application – the site is not within any designated Shopping Area or Retail Frontage zones.



Above: Site policy zone context (site indicated). (© BHCC).

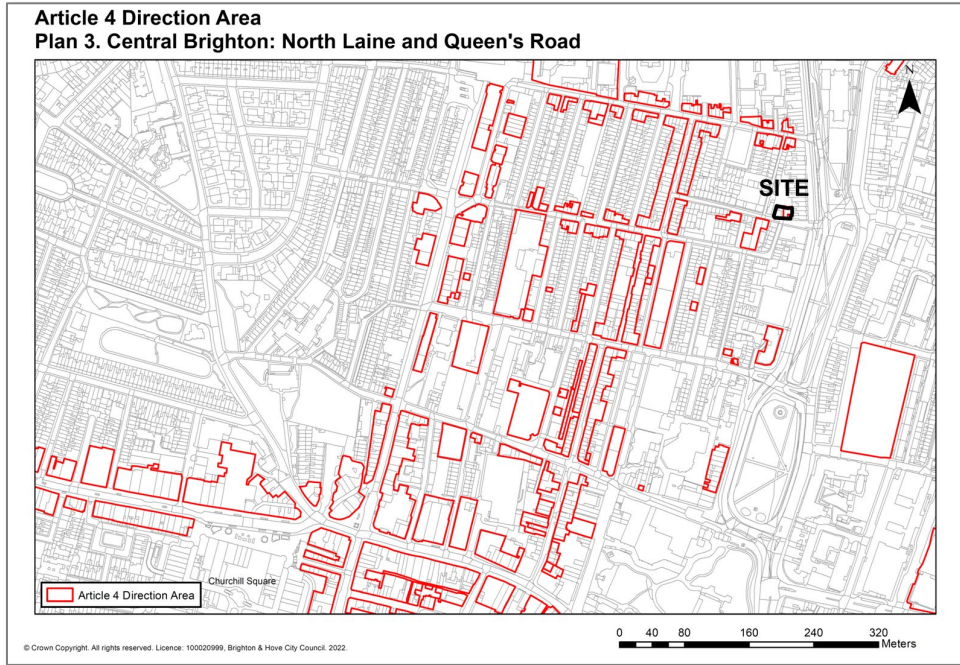
3.14 There are 2no Article 4 Direction relevant to the site.

3.15 A4/19 North Laine (amended March 2005) states the following:

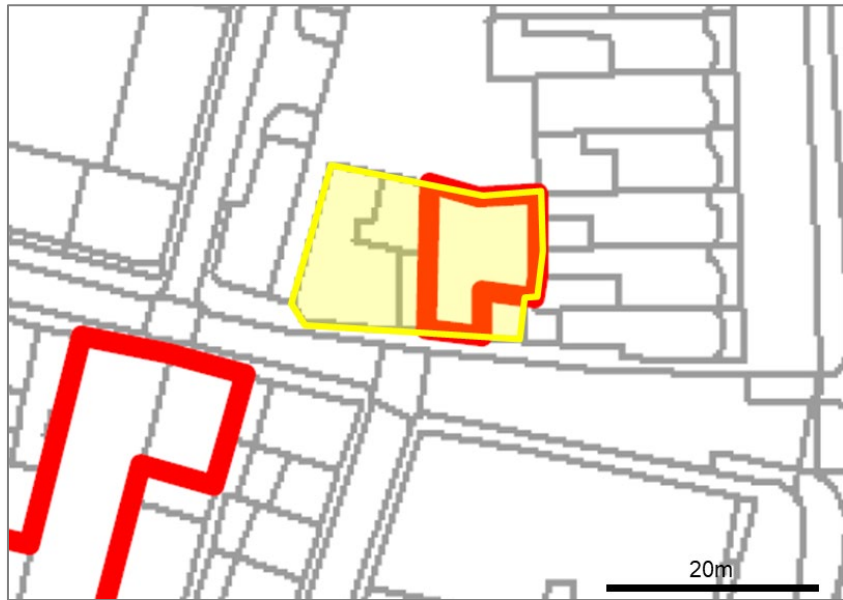
The Article 4(2) Direction - ‘Planning Permission will now be required for the enlargement, improvement or other alteration of front facades and roofs of dwelling houses, including the erection of a porch outside any external door, or the provision of a hardstanding, where these would front a highway or open space, and the erection, alteration or removal of a chimney. This will bring the regulations for the fronts of houses into line with those for flats and commercial premises. These additional controls do not apply to the rear of houses, except where they back onto streets or open spaces.

The Article 4(1) Direction - Planning Permission is now required for the demolition of the whole or any part of a boundary wall or railings, or the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure, where these would front a highway or open space, and the formation of a means of access to the highway. This applies to all buildings.’

3.16 The Article 4 Direction restricting the GPDO Class MA change of use from Commercial, Business and Service to Residential (as modified by the Secretary of State on 1st February 2023) also extends across part of the site - see maps below.



Above: Extent of the Article 4 direction area in the North Laines restricting the use of GPDO Class MA (commercial to residential) (site indicated). (© BHCC).



Above: Extent of the Article 4 direction area (red) restricting the use of GPDO Class MA (commercial to residential) in the area of the application site (yellow). (© BHCC).

3.17 Ultimately, the east side of the site could not utilise Class MA PD Rights. The west side could and as such this represents a material 'fall-back' position which is discussed later in this report.

3.18 The site is not a Listed Building or Locally Listed Building, (see Heritage discussion).

3.19 The site is not within an area of flood concern (Flood Risk Zone 1).

Application site and immediate street scene

3.20 The application site (No.45 Gloucester Street) is a south-facing detached property on the northern side of the street.

3.21 The principal and side elevations of the host application building are observed within views west and east along Gloucester Street. The side elevations are largely obscured within these views other than when the observer is in close proximity of the site. The rear elevation is wholly concealed within these views (see images below).



Above: Public street-level view to west up Gloucester Street. Application building indicated. (© Google).



Above: Public street-level view to east down Gloucester Street. Application building indicated. (© Google).

3.22 The rear and west-side elevations of the host application building are partially observed within select views south down St George’s Mews. The building is largely obscured other than when the observer is in close proximity to the site (see image below).



Above: Public street-level view to south down St George’s Mews. Application building indicated. (© Google).

3.23 The site is wholly concealed within views north up St George’s Mews (see image below).



Above: Public street-level view to north up St George's Mews. Location of concealed application site indicated. (© Google).

3.24 The principal elevation of the host application building is observed within views north up Gloucester Road, approaching the junction with Gloucester Street. The side and rear elevations are wholly concealed within these views (see image below).



Above: Public street-level view to north up Gloucester Road. Application building indicated. (© Google).

3.25 The property is a 3-storey building with hipped roof and minimal architectural detailing (see image below).



Above: Public street-level view to north of principal elevation of application building. (© Google).

3.26 There is prominent fenestration of the principal elevation facing south onto Gloucester Street (see image below). This includes former 1F and 2F door openings which are now partially boarded over. Some former GF windows are currently fully blocked.

3.27 The GF has street facing commercial access from Gloucester Street, though with minimal signage. The access includes a gateway connecting to an internal courtyard.



Above: Detail of street-level view of principal elevation of application building. (© Google).



Above: Public street-level view to north-east of application building. (© Google).

- 3.28 A 1-storey east-side extension forms a blank wall on Gloucester Street (see image above).
- 3.29 An apparently piecemeal association of 1-storey and 2-storey extensions are also present to the north facing rear of the site (see images below). These extend to the northern eastern and western site boundaries and fill the application plot.
- 3.30 Immediately beyond the site to the north is a car park area, accessed via a narrow access road connecting to Gloucester Street which runs beside the western boundary of the site.
- 3.31 Currently the rear of the site does not contribute positively to the appearance of the locality.



Above: Public street-level view to southeast-west of existing rear of application building. (© Google).



Above: Public street-level view to southeast-west of existing rear of application building. (© Google).

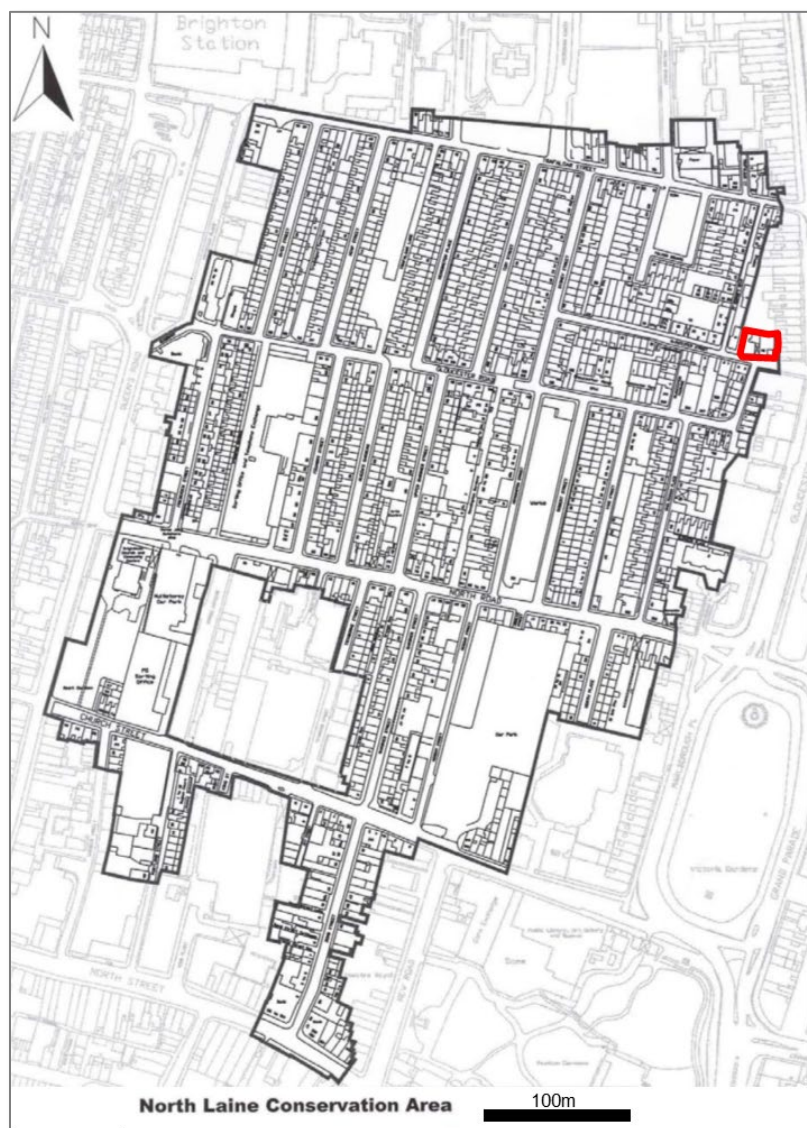
3.32 The entire site is currently in commercial use.

Heritage context

- 3.33 The site is located within the North Laine Conservation Area. The site is also outside of (but on the very periphery of Valley Gardens Conservation Area).
- 3.34 The site is not a Listed Building or Locally Listed Building.
- 3.35 There are some Listed Buildings and Locally Listed Buildings in and around the locality.
- 3.36 The relevant heritage context is detailed below.

North Laine Conservation Area

- 3.37 The site is located in the North Laine Conservation Area – positioned against the far north eastern boundary of the Conservation Area – see map below.



Above: Location of the site (indicated) within the North Laine Conservation Area (© BHCC).

- 3.38 Within the Conservation Area, the site features within certain views along Gloucester Street, Gloucester Road and St George’s Mews – these views have been presented and summarised further above.
- 3.39 The following are relevant general introductory excerpts from the comprehensive North Laine Conservation Area Character Statement, including excerpts relating particularly to the area in proximity to the application site:

‘1. INTRODUCTION

1.1 ...The North Laine although less well known, is unique in Brighton. It combines residential streets and a large residential community with busy shops, workshops, cafes, pubs and restaurants in a lively blend. There are few outstanding historic buildings. Yet its streets and buildings, seen as a whole, form an area of townscape which is interesting and attractive and fully justifies its status as a Conservation Area....’

- 3.40 The character statement indicates that Gloucester Street was preliminarily developed during the period 1822-1830.

- 3.41 The Character Statement provides the following information about the features and characteristics of the North Laine Conservation Area relevant to this application:

‘Topography

3.23 The ground in this part of Brighton slopes generally down from west to east towards Valley Gardens ...The ground slope is particularly noticeable on the east-west cross streets, where the buildings step down the hill like staircases...

The Street Pattern and Layout of the Buildings

3.24 The dominant characteristic of the North Laine is its irregular linear grid street pattern, running north-south, which was based on the original pattern of arable fields.’

‘3.25 The original buildings were gradually laid out in the 19th Century to relatively high site coverages on narrow plots. The houses have very small rear gardens. In the main the building line is hard up against the pavement edge or in some cases behind very small front gardens or basement light wells...’

3.26 Because the North Laine was developed piecemeal after the main frontages such as the fashionable Old Steine and Valley Gardens frontages, there are places where the plot boundaries layout interlocks like a jigsaw with those of the grander frontages in an interesting way.’

‘Important Views

3.27 The topography and layout of the area, with its long streets, affords a large number of long views through the Conservation Area, as well as into and out of it. In some cases, important landmark buildings can be seen in these. Those views worthy of special mention include:- Trafalgar St, Gloucester Rd, North Rd, and Church St, which have views right across the North Laine to Valley Gardens and the hillside beyond.’

‘Its Building Forms

3.28 The dominant building form is rows of houses or terraces. Some streets, such as Bond Street and Church Street, have a variety of building types and styles while others, such as the east side of Kensington Place, are architecturally uniform formal terraces.

3.29 The traditional building heights vary between 2-3 storeys and are much lower than those generally found elsewhere in the historic areas of Brighton. The main roads surrounding the area to the east, south and west have taller buildings in general.

Architectural Styles and Materials

3.30 Most of the buildings date from the 19th Century, but there is a scattering of 18th Century buildings, particularly around the edges. The earlier buildings frequently have corniced parapeted facades and round segmental bay windows with sashes sub-divided by glazing bars'

'3.31 The later Victorian buildings frequently have overhanging bracketed eaves and canted window bays. Later 19th Century buildings often have sash windows with fewer sub-divisions and larger panes. Sadly, many of the buildings have lost their original glazing bars or have had their windows completely altered in an unsympathetic manner. Most doors were originally simple 4-panelled doors with bolection mouldings around the recessed panels...'

'3.32 The dominant materials in the North Laine (as in most parts of historic Brighton) are painted stucco (render) walls and slate roofs. Some stucco buildings have simple lining out to imitate stone jointing, whilst others have more bold and ornate ashlaring with "vee" or square joints. Originally most were left unpainted, although some were given a colour wash. It is now a long established tradition to paint rendered buildings white or pale pastel colours. There are also a good number of brick and clay tiled buildings and a few pebble fronted buildings and one or two rare mathematical tiled buildings. Brick types were brownish - yellow stocks - often used with red rubbers for dressings, and occasionally soft reds.'

'3.34 in recent years many of the hand made plain clay tiled and slate roofs have been recovered with inappropriate and ugly concrete interlocking tiles or certain types of unconvincing artificial fibre-cement "slates" or resin-bonded reconstituted slates which are smooth, metallic looking and have very sharp straight edges.

Roof Lines

3.35 The roof-lines are another important element of the townscape. The structural forms of roofs in the area are varied. The earliest buildings in the North Laine have simple ridged roofs sloping to the front and rear, or gambrelled roofs - a sort of steeply sloping mansard. Mostly they are plain clay tiled. Their shapes, cladding materials, details such as eaves, parapets, party wall up-stands, chimney stacks and pots all add a richness to the sky-line which is important to maintain.

3.36 The Georgian/Regency style buildings generally tend to have front parapet walls, often with cornices, and concealed or partly concealed roofs behind. Most of these are "butterfly" valleyroofs, but mansards and even one or two hipped roofs behind parapets can be found. They are generally slate clad, but many Regency buildings have plain clay tiles. The Victorian period buildings and terraces, which predominate, generally have ridged roofs with decorative bracketed eaves and were generally slate covered originally.'

3.42 The Character Statement contains the following relevant discussion regarding the development of vacant / underused sites within the Conservation Area:

'4.22....The Plan (Proposal HP3) identified a number of sites for housing developments in the North Laine area, both inside the conservation areas and outside them.

4.23 In the former category, sites include:Gloucester Street/St. George's Mews,'

'Small Vacant Sites and Smaller Development Sites

6.39 In addition to the large development sites, there are a large number of small vacant sites and parking lots scattered throughout the area, both within and outside the Conservation Area. These can have a particularly damaging effect on the quality and character of the townscape and give the area a run-down appearance. It is important to stimulate development of these sites to enhance the area generally.

6.40 Where sites have been used to provide parking for adjoining buildings, it may be possible to design schemes which retain ground-floor parking whilst completing the street frontage. Where parking provision is in excess of current standards, the parking could be eliminated. The Council's policy is to restrain car commuting into the central area. The development of these small sites should reflect the particular character of each individual street in terms of uses, height, mass, materials, building lines, roof and parapet lines and plot widths.

6.41 The following small vacant sites have been identified, only a few of which have development proposals:-Land in Gloucester Street'

Listed Buildings

3.43 The site is within proximity of a number of Listed Buildings - see annotated map below.



Above: Listed Buildings and Locally Listed Buildings in the wider vicinity of the application site (indicated). (© Historic England).

- 3.44 The most significant building in the wider locality is St Peter’s Church (Grade II*). All other nearby Listed Buildings are Grade II.
- 3.45 The application site is concealed within almost all views of Listed Buildings in the area. This is to the location of the site and the nature of the surrounding built form.
- 3.46 The sole exception is the southern end of the Grade II listed terrace of No.1A-13 St. George’s Place. These buildings are located to the immediate east of the site. The application site features within the view to the west at the junction with Gloucester Street - here the site appears within the background of the buildings at the southern end of the terrace (see image below).



Above: View west at the junction between St. George's Place and Gloucester Street. The application site (indicated) is seen within the backgrounds of the listed terraced properties. (© Google).

- 3.47 Within this view the application building is a relatively low prominence structure - wholly subservient to the 4-storey (plus LGF) listed terrace properties that dominate the foreground.
- 3.48 The list entry for the St George's Place terrace relates to the exterior of the front elevations and roof. The rear of the buildings does not feature in the list entry.

Locally Listed Buildings

- 3.49 A number of locally listed buildings are also within proximity of the site (see map above).
- 3.50 Again, the application site is concealed within almost all views of Locally Listed Buildings in the area due to the location of the site and the nature of the surrounding built form.

4 PLANNING HISTORY

- 4.1 There is the following available planning history for the application site.
- 4.2 BH2011/02162 – *Change of use from retail (A1) to offices (B1)*. (Unit 1, 45 Gloucester Street). Approved 2011.
- 4.3 BH2010/01712 - *Installation of security gates*. (Retrospective). (45 Gloucester Street). Approved 2010.
- 4.4 BH2009/02330 – *Conversion of garage to office (B1) and external alterations*. (45 Gloucester Street). Approved 2010.
- 4.5 BH2003/03708/FP – *New residential unit at rear north-west of site and amendments to BH2002/00459/FP and BH2003/02070/FP*. (45 Gloucester Street & rear of 1A St Georges Place). Approved 2004.
- 4.6 BH2003/03669/LB – *Demolish existing garage*. (45 Gloucester Street & rear of 1A St Georges Place). Approved 2004.
- 4.7 BH2002/00459/FP – *Amendment of previously approved application (ref. BH2000/01518/FP) for alterations to windows*. (Rear of 45 Gloucester Street). Approved 2002.
- 4.8 BH2000/01518/FP - *Conversion of rear commercial units to 3 'live work' units. Proposed first floor extension at rear (east elevation) (amended scheme)*. (Rear of 45 Gloucester Street). Approved 2001.

5 DESCRIPTION OF THE PROPOSAL

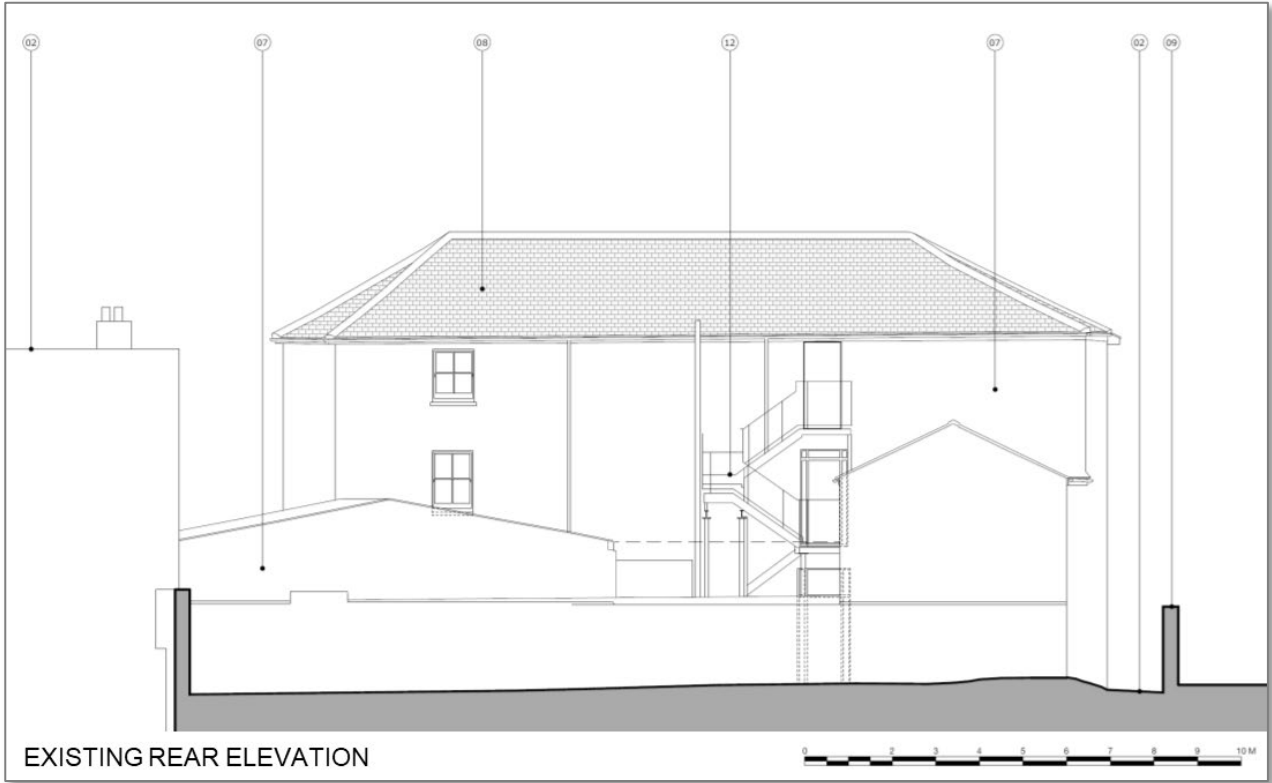
5.1 Please refer to the Design and Access Statement.



Above: Existing front (south) street elevation.



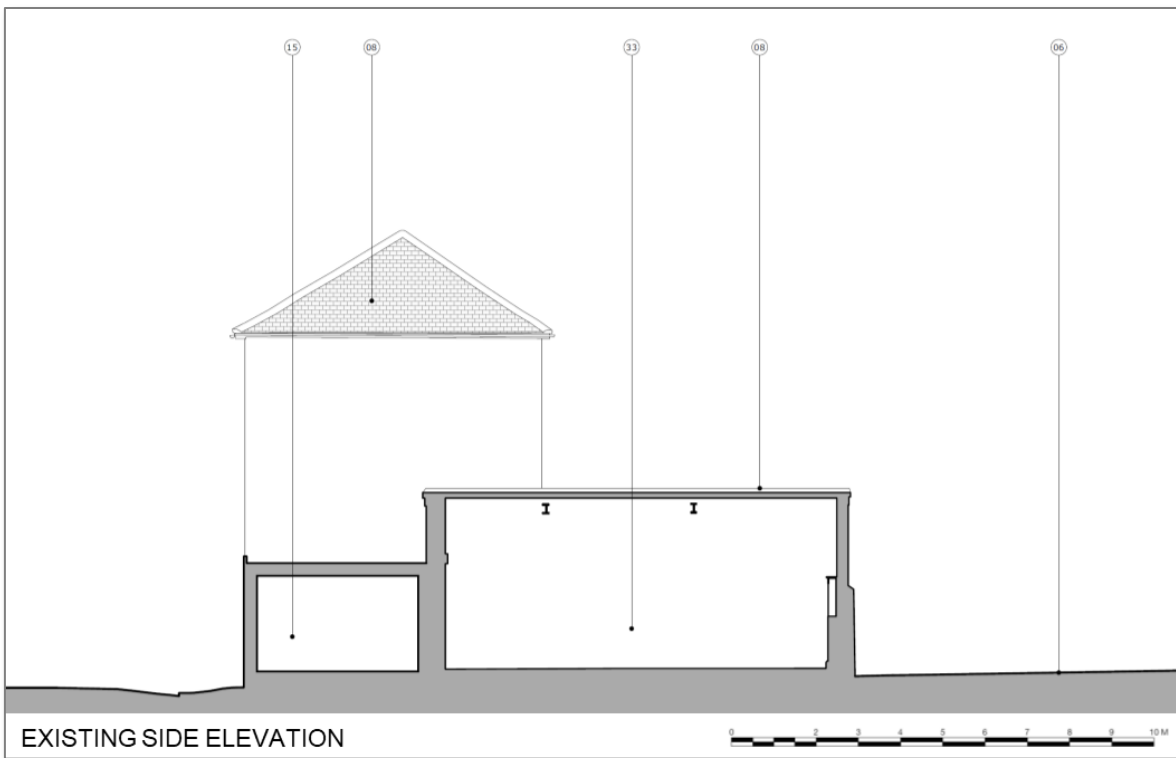
Above: Proposed front (south) street elevation.



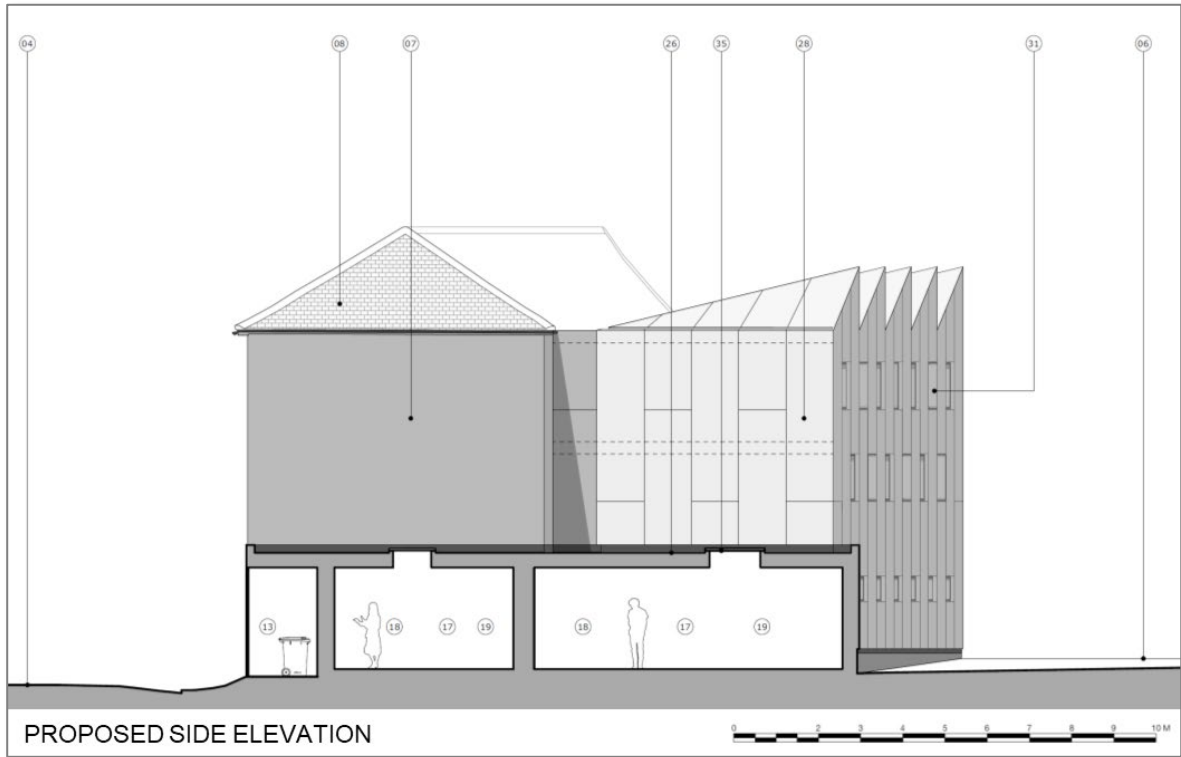
Above: Existing rear (north) elevation.



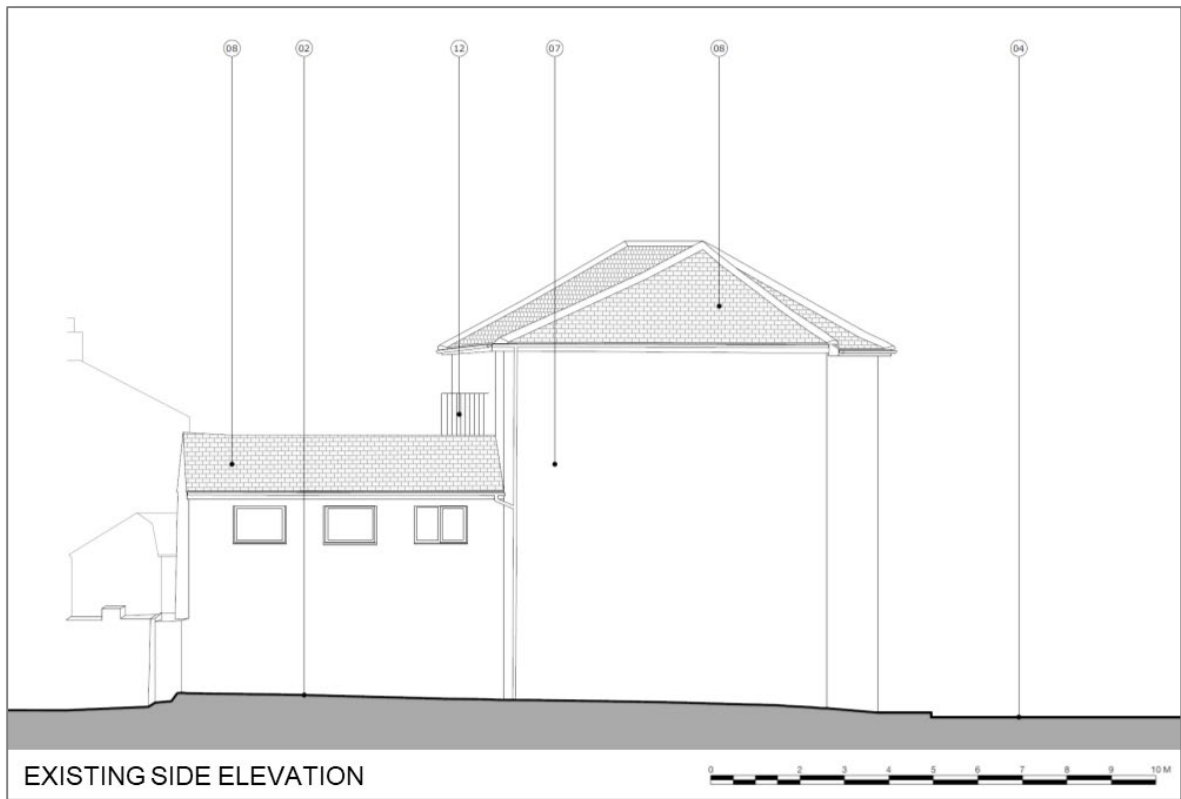
Above: Proposed rear (north) elevation.



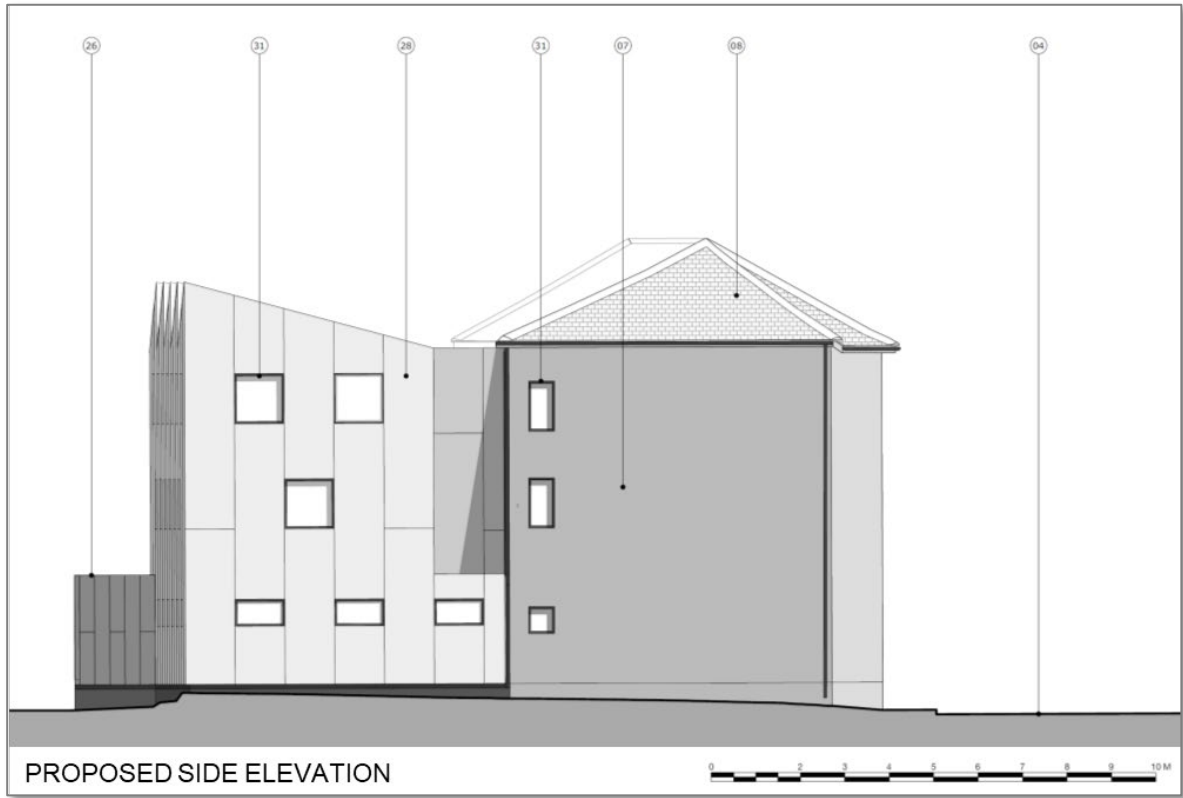
Above: Existing side (east) elevation.



Above: Proposed side (east) elevation.



Above: Existing side (west) elevation.



Above: Proposed side (west) elevation.

6 ASSESSMENT OF THE PROPOSAL

PLANNING CONSIDERATIONS

6.1 In this instance, the main planning considerations are:

- Principle of the development;
- Visual impact and design (including impact on the Conservation Area);
- Neighbouring amenity;
- Occupant amenity / standard of accommodation (internal and external amenity);
- Sustainable transport;
- Sustainability;

PRINCIPLE OF DEVELOPMENT

6.2 The basic principle of residential units within a settlement is accepted and established from the outset.

NPPF Objective to boost housing

6.3 One of the key objectives of the NPPF is to support the delivery of sustainable housing. In addition, another of the Government's key objectives is to significantly boost the supply of homes as set out in Section 5 of the NPPF.

Decision making context – 11d) is engaged, 5 Year HLS is now 1.8 years

6.4 There is overwhelming NPPF support for the principle of housing delivery as an overriding consideration in the assessment of this application.

6.5 It is vital to recognise that the proposal increases housing capacity at a time of a significant and persistent 5YHLS shortfall.

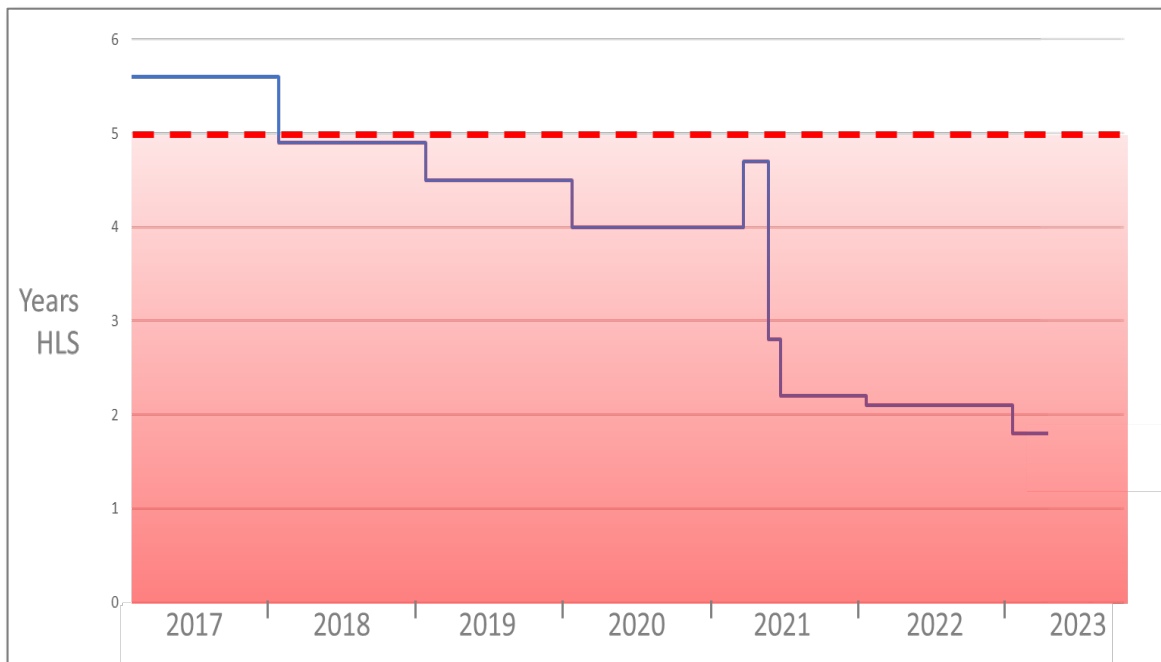
6.6 This is acknowledged within the LPA's recent delegated reports – e.g.:

'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).'

6.7 The current five-year housing land supply position is 1.8 years. This is confirmed within the latest (March 2023) SHLAA for BHCC which states that:

'5.7...comparison of the projected 5-year housing supply (4,511 units) with the 5 year housing requirement (12,222 units) indicates an overall 5 year housing shortfall of 7,711 residential units (equivalent to 1.8 years housing supply).'

6.8 The provision in BHCC has been on a long-term worsening downward trajectory – see below.



Above: Downward trajectory of HLS in BHCC

The ‘tilted balance’ and diminished weight of Local Plan policies

6.9 Paragraph 11 states that a presumption in favour of sustainable development should be applied and, in particular, when making decisions, this means:

*‘d) Where...the policies which are most important for determining the application are out-of-date*8, granting permission unless:*

- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*7; or*
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.’*

Footnote 8: *‘This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73 [sic - actually 74]; or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.’*

6.10 In this instance, the presumption in favour i.e. *‘the tilted balance’* must be applied.

6.11 It is paramount to recognise the resulting diminished weight that can therefore be attached to the policies within the Council’s own local development plan(s).

6.12 The policies which are most relevant for determining the application are *‘out-of-date’*.

- 6.13 This should not be a point of ambiguity or debate, but a matter of fact stipulated within the NPPF – indeed, as noted above, the LPA routinely reference Paragraph 11 of the NPPF in their delegated reports. The NPPF position is clear.

Great weight must be given to small and medium scale developments

- 6.14 In accordance with the NPPF, the provision of small to medium sized units must be given **great** weight.
- 6.15 This ‘great’ weight is not an optional choice for the decision maker – rather, it is prescribed within Paragraph 69 (our emphasis):

‘69. Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should

*(c) support the development of windfall sites through their policies and decisions – giving **great** weight to the benefits of using suitable sites within existing settlements for homes; ‘*

- 6.16 Paragraph 60 states that: *‘it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.’*
- 6.17 At present there is an identified housing need which needs to be met and with limited opportunities to rectify the situation. This proposal represents an opportunity to help in meeting part of the demand.

Decision-making context - an imperative to optimise existing sites within BHCC

- 6.18 It is further important to consider the objective is situated within CPP2 Policy DM19 Maximising Development Potential - this policy explicitly identifies the land-supply challenges in the city and the requirement to support development opportunities that increase the capacity at a given site.
- 6.19 We note the following relevant DM19 policy wording:

‘To avoid underdevelopment of sites proposals should seek to maximise opportunities for the development and use of land to ensure the efficient and effective use of available sites’.

‘Planning applications will be expected to demonstrate that development proposals meet all of the following requirements:..

b) residential development should seek to optimise densities...;

c) achieve efficient use of the site in terms of building layouts and design..’

2.152 ‘Development opportunities in Brighton & Hove are constrained by the South Downs and the sea leaving only a limited supply of land suitable for development within the City Plan area. Underdevelopment of sites can compromise the ability of the city to meet land use targets set out across the City Plan. It is important that new development proposals make efficient use of

land and *maximise the potential of available sites...* This requires consideration of the efficient and effective use of sites... (including) in terms of the design and layout of buildings.'

2.153 '*...even where a lower density of development may be appropriate, it is still important to ensure that an efficient use of the site is achieved in terms of ... layouts and design, etc.*'

6.20 It is also relevant here to note the following additional BHCC policy quotes.

CPP2 DM21 ('extensions or alterations to existing buildings, including roof extensions'):

'2.162 Brighton & Hove is a densely built-up city where development often involves the extension or alterations of existing buildings.'

CPP1 CP14 (housing density):

'4.161 ... The purpose of this policy is to ensure that the city, which is compact and constrained, makes the most efficient use of the limited brownfield land available whilst ensuring that sustainable neighbourhoods are achieved.'

6.21 Noting that NPPF Paragraph 134 stipulates the importance of local design policy, we further note the following relevant quotes from SPD17 (Urban Design Framework):

'good design...responds to the city's limited spatial opportunities and challenging physical and environmental constraints' (pg3);

And *'helps to meet the city's significant housing needs through high quality higher density development' (pg3);*

Also, *'in Brighton & Hove, the quality of new development is determined by how well the design...accommodates higher density to make the best use of limited opportunities'(pg6).*

6.22 Thus, there is clear recognition within local policy and guidance of the existing constraints on development and the need to increase housing capacity at existing sites. Utilising such spaces is therefore a natural and necessary response to these building constraints and a sensible solution to providing much needed additional capacity.

6.23 The proposed development will clearly assist with increasing the capacity at the site and will result in a gain of 11no C3 units, including 2no family units.

6.24 The following excerpt from DM19 2.153 is particularly relevant as it demonstrates the appropriate spirit and essence of the planning balance exercise for this application:

'Proposals that are inconsistent with the density levels in Policy CP14 will need to demonstrate that a satisfactory balance has been achieved between respecting local context and maximising site potential to meet the city's needs, in particular in relation to housing provision.'

SA2 (Town Centre), CP3 (Employment Land) and DM12 (Regional Centre)

- 6.25 The provision of housing at first floor level (and above) within Central Brighton and the Regional Centre accords with both SA2 and DM12.
- 6.26 It is acknowledged that there is some conflict with SA2.3 and CP3.5, in that the site has not been marketed.
- 6.27 In this instance however, noting this conflict, Paragraph 11d) is firmly engaged – this is as a result of the position on the 5YHLS.
- 6.28 It is also noted that there would not be a complete loss of the commercial use, rather, downsizing.
- 6.29 Due to the housing land supply position, SA2 and CP3 can carry only limited weight ‘*in the balance*’.
- 6.30 This limited weight is in contrast to the great weight that must be given to the provision of housing.
- 6.31 DM12 also states that

a) The proposal will maintain and enhance the vitality, viability and the character of the shopping area;

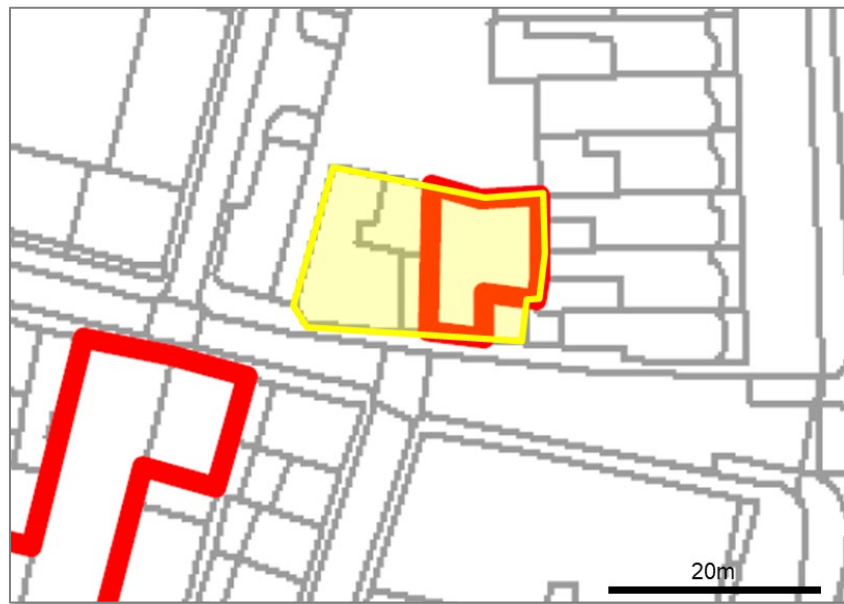
b) The proposal will retain active ground floor uses and frontage and provide a direct service or sales to visiting members of the public;

c) The proposed development or uses will not have a harmful impact on the amenity of local residents due to noise, odour, disturbance or light pollution (see DM20, DM40);

- 6.32 Through this proposal, all of the above criteria are met.
- 6.33 We expect that decision makers will give this the relevant weight when carrying out their balancing exercise.

Permitted development fallback position

- 6.34 In this instance, it is also pertinent to consider what could be achieved under MA for much of the site. For example, the area not within the Article 4, could if vacant, be converted to residential without the need for full planning. As such, it is our view there exists a relevant fallback position for the western section of the site. With this in mind, it is noted that the application does currently propose the retention of a commercial unit at ground floor / street frontage.



Above: Extent of the Article 4 direction area (red) restricting the use of GPDO Class MA (commercial to residential) in the area of the application site (yellow). (© BHCC).

DESIGN (including visual impact on the Conservation Area) (DM21, DM26)

- 6.35 The site is located within the North Laine conservation area and its proximity to certain heritage assets.
- 6.36 It is also relevant to consider that the proposal introduces a contemporary design.
- 6.37 We consider that the design is of a very high quality by award winning Brighton Architect's. The design respectfully and appropriately enhances the immediate piecemeal rear development whilst remaining wholly discrete within the main public domain street scene of Gloucester Street.
- 6.38 The rear extension would relate to (but in a subservient manner) the height, scale, massing and building lines of the existing host building.

Visual impact on North Laine Conservation Area

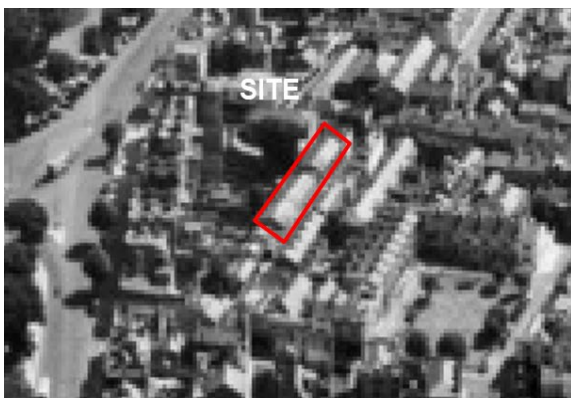
- 6.39 The proposal results in no unacceptable harm to the conservation area. The development would not result in the loss of any special character identified in the North Laine character Statement.
- 6.40 The site is not located within any important views as defined within the character statement.
- 6.41 As has been presented with in section 3, the host application building appears within only selected views in the conservation area along Gloucester Street, Gloucester Road and St Georges Mews.
- 6.42 We have demonstrated within section 3 that only the front part of the building features within most of these views. It is therefore critical to recognise that the proposal does not materially

change the appearance of the front/street facing part of the site – as such, it could not result in any harm to these views.

- 6.43 Rather, it could in fact be argued that the proposal subtly enhances the front elevation within this context through the restoration of currently blocked out windows and the introduction of a traditional timber gated entrance (which would correspond well to the historic function) for the refuse area where there currently exists an unwelcoming area of blank wall.
- 6.44 Moreover, the existing overall exterior building envelope will be retained - again, the reinstated windows and introduced timber gateway will result an exterior which has better correspondence to original warehouse character than the current blocked windows and blank wall.
- 6.45 Given the above, the only material view to consider is the view east / south east towards the rear of the site from St George’s Mews.



- 6.46 we note that historically this break in built form on St George’s mews was a near continuous terrace of two-storey buildings. These would have concealed the rear of the application building within views from St George’s mews - comparison image below shows how previously St George’s mews was near continuous terraced buildings which would have effectively obscured the site). Thus, the rear of the application site has historically only been available within select private rear views



- 6.47 At present, the existing rear of the site lacks positive character and makes a negative contribution to its setting. Accordingly, the rear should be less sensitive to change.
- 6.48 The proposal will offer a genuine enhancement and would raise the standard of design at this locality.
- 6.49 Even if the LPA did consider that some harm were to result, it is pertinent to consider DM26 'Conservation Areas' Section 2.203 which gives specific recognition of the 'more flexible' approach that should be applied when assessing proposals for rear elevations (equivalent wording is also found in SPD12 regarding extensions and alterations in Conservation Areas):

'A more flexible approach will be taken in respect of rear elevations [in Conservation Areas] that are not publicly visible, particularly where the rear of a terrace or group has been subject to past incremental alteration that has eroded its significance, but important traditional and/or original features should nevertheless be conserved and will be strongly encouraged.'

- 6.50 We therefore consider that the spirit of DM26 can apply and the rear extension element of this proposal should clearly be approached as a rear development whereby 'a more flexible approach' is appropriate.

Contemporary design choice

Turning to the specifics of the design - In this instance the proposal clearly adopts an honest and contemporary design approach. The design does not seek to replicate the host building and purposely avoids an unsuccessful pastiche.

- 6.51 The proposal would undoubtedly result in a building of architectural interest - it is clearly a creative and sophisticated design of the highest quality.
- 6.52 Particularly it is relevant to consider how the design successfully and respectfully responds to its surroundings. The backdrop to the site in this view is the rear of St George's Place. Consider the images below.





- 6.53 It can be seen in the images above that the design successfully responds to the scale, rhythm, geometries and fenestration of the rear elevations, outriggers and roofing in the locality. The design is a successful contemporary interpretation of the themes of the surroundings. It would sit comfortably beside these buildings without competing and without any sense of pastiche imitation.
- 6.54 Simultaneously, the extension honours the height, scale and building lines of the host building. Thus, the extension marries the themes of the surrounding built form and achieves a successful transitional design between the flanking buildings of Gloucester Street to one side and St George's Place to the other.
- 6.55 Considering the policy and guidance context - contemporary guidance for extensions in heritage situations favours understated, minimalistic, geometric designs that remain visually distinct from the host without competing or detracting. They stand respectfully against the host, maintaining a recognisable break between old and new, and without undermining the dominance of the adjoining and/or surrounding heritage assets.
- 6.56 The NPPF states that good design is a key aspect of sustainable development:
'Planning policy and decisions should ensure that developments function well and add to the overall quality of the area, be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change' (Paragraph 127).
- 6.57 In this instance the proposal clearly adopts a contemporary design approach, however, the design would not conflict, but instead complement, the existing surroundings.
- 6.58 Although differing from the overall prevailing architectural character, we have identified above how the design imitates the rhythm, geometries and detailing of the surroundings architecture. Together with the proposed materials and finishing, such a design would actually complement the existing properties and provide a positive contribution to the wider area without competing or detracting from adjacent built form, thus remaining sympathetic.

- 6.59 Particularly, the rear extension could not readily be appreciated within the same view as the main street facing elevation of the host property.
- 6.60 It's very location to the rear of Gloucester Street inevitably results in development which could not become a centre piece or focal point.
- 6.61 A contemporary approach should not in itself be a reason for refusal and full appreciation of the site's context within the Conservation Area has been considered. As referenced above, the NPPF guides that innovation or change should not be prevented by decision-makers where designs are sympathetic.
- 6.62 We present a series of images below to support the discussion of appropriate design, including award-winning contemporary schemes and examples from recent design codes (as taken from the Design and Access Statement where further discussion can be found).
- 6.63 In these examples, contemporary developments sit successfully against heritage assets by virtue of their minimalistic designs, understated material palette, and by echoing design features of the adjoining buildings and according with their key building lines.



Above: Examples of minimalistic contemporary designs that successfully sit alongside heritage assets (as presented in the Design and Access Statement).

- 6.64 In terms of design, Policy CP12 of the Brighton and Hove City Plan seeks to ensure that all new development raises the standard of architecture and design in the City. In tandem with this, Policy CP14 of the City Plan seeks to encourage higher densities of development provided developments will, amongst other things, respect, reinforce or repair the character of a neighbourhood and contribute positively to its sense of place.
- 6.65 In this regard it can be noted that the proposed design is clearly an improvement upon the existing arrangement of piecemeal rear extensions. Many of the other rear extensions around this locality also have a poor design quality that does not contribute positively to the Conservation Area. The proposed scheme will serve to raise the quality of design within the diverse array of rear development at this locality.
- 6.66 We also note that DM26 Section 2.208 states that:
- ‘Contemporary and innovative design approaches in conservation areas will be supported where they meet the policy. Such approaches may be most appropriate in those conservation areas that are diverse in character and appearance.’*
- 6.67 In this regard it is relevant to note the existing architectural diversity within the North Laine conservation area. The proposal will contribute positively towards the distinctiveness and diverse character of area.
- 6.68 In conclusion, the proposal represents an improvement to the Conservation Area and an opportunity to raise the standard of architecture in the city.

Impact on setting of Listed Buildings

- 6.69 The relevant information relating to nearby listed buildings has been presented in section 3. There would not be any unacceptable impact on the setting of listed buildings.
- 6.70 The site only appears within one view - the front of the building appears in the background of the view to west of the southern end of the listed terrace of St George’s Place.
- 6.71 Regardless, the current application site does not contribute positively to the rear setting of St George’s Place.
- 6.72 The proposal would improve the rear of the site and enhance the setting (as detailed above) in accordance with DM29 – *‘Opportunities should be taken to enhance the setting of a heritage asset through new development’*.

IMPACT ON NEIGHBOURING AMENITY (DM20)

- 6.73 As noted above, the protection of neighbouring amenity is a primary consideration in the assessment of this proposal.
- 6.74 The relevant policy is CPP2 DM20 Protection of amenity - DM20 states that *‘Planning permission for development...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.'

- 6.75 The proposal makes no significant material alterations to the front of the property facing Gloucester Street. Therefore, there could be no material harm to outlook or daylight for the properties on the opposite southern side Gloucester Street.

Outlook

- 6.76 The immediate neighbour to the west, No.6 St George's Mews, lacks east facing windows and would not be impacted. The area to the north of the site is a car park.
- 6.77 Regarding the lower floors and rear outriggers of St George's place, it is relevant to note that the extension would remain well set back from the eastern boundary of the site (approx. 5m) and again approx. 13m from the main rear elevations. Owing to the position of the proposal, there would not be any impacts on outlook from any residential properties in the vicinity.
- 6.78 The eastern/end elevations of the rear outriggers of No.1-2 are without windows. Windows are only present on the south facing elevations of these outriggers. The development would similarly be peripheral to the west facing views from the rear outriggers of No.1A and No.4.

Privacy

- 6.79 Window openings have been carefully considered throughout the design stage.
- 6.80 No overlooking impacts have been identified.
- 6.81 If any overlooking issues were alleged (actual or perceived), then any resulting degree of overlooking must be considered acceptable within a densely developed city centre location, especially given existing characteristics of the locality.

Sunlight/daylight

- 6.82 Please refer to page 8 of the Design and Access Statement (Alter), where it can be seen there would not be any unacceptable overshadowing impacts.

Amenity Summary

- 6.83 In summary, there are not any unacceptable impacts on neighbouring amenity.

OCCUPANT AMENITY

Occupant amenity

- 6.84 All units meet or exceed the Nationally Described Space Standards as identified in the design and access statement.

6.85 It is noted that all residential units have a functional layout with appropriate circulation space.

6.86 Noting that only some units benefit from external amenity, this situation is generally accepted in dense city centre locations. The proximity to ample outdoor amenity space is noted.

SUSTAINABILITY/SUSTAINABLE TRANSPORT

6.87 The site is in highly sustainable central location with excellent proximity to services, facilities, employment and amenity space.

6.88 The site is within proximity to public transport routes, including both the train and bus station.

6.89 There are cycle lane connects directly adjacent the site which lead to the wider cycle network.

7 RELEVANT APPLICATIONS AND APPEALS

7.1 The following applications and appeals are relevant to this application.

Appeals allowed due to the 'Weight' of housing supply in the balance

7.2 In considering how the 'weight' of such policies should be applied, it is pertinent to consider how the Inspectorate has interpreted the weighting of the BHCC Development Plan, in particular when there is no 5YHLS.

7.3 One such example, is the allowed appeal Ref: APP/Q1445/W/19/3226265 'Richmond House, 1-3 Richmond Place, Brighton BN2 9NA' (Conservation Area, Brighton). Please note this decision is attached as an appendix (Appendix A).

7.4 In concluding, the Inspector states:

'Conclusions

18. I am required to determine these proposals in accordance with the development plan, unless material considerations indicate otherwise. The starting point is therefore that the development would result in some limited conflict with Policy HE3 of the "Brighton & Hove Local Plan 2005" and Policy CP15 of the "Brighton & Hove City Plan Part One 2016" which amongst other things state that development will not have an adverse impact on the setting of listed buildings.

19. As to whether material considerations indicate that the permission should be allowed, the Framework is one such consideration. In view of the Council's housing land supply position, those policies which are the most relevant for determining the application are out-of-date. Not only does this reduce the weight that I can attach to these policies in the overall balance but it also engages the default position identified in paragraph 11 d) of the Framework.

20. The effect of this is that the planning balance shifts in favour of the grant of consent. Only if the Council is able to demonstrate; harm which "significantly and demonstrably" outweighs

the benefits of the development or if heritage policies in the Framework provide a clear reason for refusing the development, should consent be refused. On the latter issue I have already concluded that the development passes the paragraph 196 balancing exercise. Footnote 6 to paragraph 11 is not therefore engaged. There are no other matters which weigh against the development, which could not satisfactorily be addressed by conditions. It therefore follows that the development passes the tilted balance in paragraph 11 d) of the Framework. I consider this to be a significant material consideration sufficient to outweigh the development plan conflict.

21. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should succeed.

7.5 Thus, the limited weight of the Development Plan Policies are identified – and, it is acknowledged that consent should only be refused if the Council can demonstrate harm which ‘significantly and demonstrably’ outweighs the benefits of the development.

7.6 With reference to the appeal in question– we do not consider that such harm has been identified by the LPA.

7.7 Further, Appeal Decision APP/Q1445/W/19/3234764 (Appendix B) (Conservation Area, Brighton) again highlights the stance which should be applied in the absence of the 5YHLS:

‘There is no dispute that the Council does not currently have a five year housing land supply. In this light and considering the importance attached to the objective of significantly boosting the supply of homes set out in The Framework, the benefits associated with additional housing units are a public benefit which attracts significant weight.’

7.8 In Appeal Decision APP/Q1445/D/22/3301047 (Appendix C) (Conservation Area, Brighton) again, the Inspector acknowledges that:

‘17. I am informed the Council is unable to demonstrate a five year supply of deliverable housing sites. In accordance with Footnote 8 of the Framework, this means that the policies which are most important for determining the proposals are out of date. Paragraph 11d) of the Framework states that in such circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.’

7.9 Given the above, it can be seen that NPPF Paragraph 11d) and Paragraph 69 carry full weight whilst CPP1 and CPP2 policies cited in the reasons for refusal on carry only limited weight.

7.10 Further, the following extract from the recent Appeal Decision APP/Q1445/W/22/3305137 (Appendix D) is relevant. Noting the Inspector did not find harm, the final sentence of paragraph 15 is entirely relevant:

‘15.... The Officer’s Report says that the 5-year housing land supply (as adjusted) for Brighton is currently 2.2 years. Accordingly, because of this shortfall the presumption in favour of sustainable development in paragraph 11d) of the Framework is invoked. However, as I have

concluded that the appeal scheme would not be harmful, there is no balancing exercise to be carried out. Be this as it may, the significant deficiency of supply merits substantial weight and supports the argument for a development of an additional dwelling in this highly sustainable location.'

7.11 Ultimately, even if there was an identified harm arising from the application under appeal, this harm could only carry limited weight in the balance – no harm has been identified that would weight so significantly and demonstrably against the benefits of the proposal.

8 CONCLUSION

8.1 In conclusion, it can be demonstrated that:

- The proposal results in a net gain of 11no C3 units including 2no family units;
- The proposal appropriately optimises the site;
- These considerations carry significant weight within the planning, given the existing context of a dramatic housing supply shortfall (just 1.8 years);
- A commercial unit street front unit is retained on the GF;
- There would be no harm to the conservation area;
- The rear extension would undoubtedly raise the standard of design;
- There would be no unacceptable or uncharacteristic impact on neighbouring amenity;
- There exists a Class MA permitted development fall-back position for much of the site.

8.2 Accordingly, we respectfully urge the LPA to issue planning permission without delay.

8.3 **In the spirit of Paragraph 38 of the NPPF, should the LPA wish to discuss any aspects of the proposal, please contact the agent directly.**

CMK

PLANNING