

**SUBSTANTIAL OR CONTROVERSIAL DEVELOPMENT OR DEPARTURES  
FROM POLICY**

<b><u>No:</u></b>	<b>BH2008/00792</b>	<b><u>Ward:</u></b>	<b>HANOVER &amp; ELM GROVE</b>
<b><u>App Type</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Former Nurses Accommodation, Brighton General Hospital, Elm Grove</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing buildings and redevelopment of site to provide 95 residential units and a community facility within three buildings of varying heights between 3-6 storeys and associated car parking and landscaping.</b>		
<b><u>Officer:</u></b>	<b>Kate Brocklebank, tel: 292175</b>	<b><u>Received Date:</u></b>	<b>05 March 2008</b>
<b><u>Con Area:</u></b>	<b>None</b>	<b><u>Expiry Date:</u></b>	<b>05 August 2008</b>
<b><u>Agent:</u></b>	<b>Savills (Kay Collins/John Romanski), Lansdowne House, 57 Berkeley Square, London, W1J 6ER</b>		
<b><u>Applicant:</u></b>	<b>Southern Housing Group, C/O Agent</b>		

**1 RECOMMENDATION**

That the Committee has taken into consideration and agrees with the reasons for the recommendation and resolves to **REFUSE** planning permission for the following Reasons and Informatives:

**Reasons:**

1. The proposed development, by virtue of its excessive height, mass and site coverage would appear over dominant and visually intrusive, and would detract the prominent historical hill top setting and views of and from the adjacent listed Brighton General Hospital which is a key landmark with city wide importance, and the setting of and long views from the Valley Gardens, Round Hill and West Hill Conservation Areas, contrary to policies QD1, QD2, QD3, QD4, HE3, HE6 of the Brighton & Hove Local Plan.
2. The proposed form, massing, layout, design and materials do not relate well to its surroundings. The horizontal emphasis is in stark contrast with the vertical emphasis of the adjacent hospital buildings and the smaller semi-detached houses to the west accentuating the buildings' visual prominence in the landscape. The development is unsympathetic to the character of surrounding development and fails to preserve the existing setting or create an appropriate new setting for the nearby listed hospital buildings, contrary to policies QD1, QD2, QD4 and HE3 of the Brighton & Hove Local Plan.
3. The design and layout of the scheme fails to provide good connectivity through the site, to the adjacent Brighton General redevelopment site and the surrounding location and services. Access routes through the site are poorly observed with large areas of inactive frontage. The access roadway dominates the layout of development and landscaped areas are

poorly integrated and are not designed for any particular use providing undefined areas of limited usability. The development has failed to provide short, safe, attractive and direct routes through the site for wheelchair users. Access through the site is also impeded for cyclists and buggy users the existence of steps through the central area and at the north eastern access to the site. The applicant has failed to demonstrate that access to all communal facilities including refuse and landscaped areas, is adequate for wheelchair users. Direct access to Blocks B and C and what appears to be the main entrance the community facility is not possible from Pankhurst Avenue for a wheelchair user. The proposed development would be contrary to policies QD1, QD2, QD3, QD5, QD7, QD15 and TR8 of the Brighton & Hove Local Plan.

4. The proposed development fails to make adequate provision for well integrated outdoor recreation space, including equipped play space for children in an area acknowledge as having a deficit of such facilities, relying wholly on off-site provision. A large number of the balconies have outward opening doors and therefore appear too small to be usable particularly for a wheelchair user. The toddlers play area is inappropriately located where it is poorly observed and beyond the access road impeding its usability. The development has therefore failed to meet the needs of and provide adequate living conditions for future occupiers, contrary to policies QD1, QD3, QD15, HO5, HO6 and QD27 of the Brighton & Hove Local Plan.
5. The applicant has failed to demonstrate that the proposed community facility will meet the needs of the community where no such facility exists at present, ensure its accessibility to all members of the community and include demonstrable benefits to people from socially excluded groups. No provision has been made for dedicated cycle and car parking with no provision for those with disabilities. The proposed development would be contrary to policies HO19, HO21 and HO25 of the Brighton & Hove Local Plan.
6. The applicant has failed to demonstrate that the development will accord to Lifetime Homes Standards contrary to policy HO13 of the Brighton & Hove Local Plan and Planning Advice Note 03 Accessible Housing and Lifetime Homes.

Informatives:

1. This decision is based on drawing nos. SHG01 submitted on 6<sup>th</sup> May 2008, SHG02 and SHG03 submitted on 30<sup>th</sup> April 2008, unnumbered location plan submitted 5<sup>th</sup> March 2008, AL.140 rev P, AL 100 rev P, AL-110 rev P – AL16 rev P, ,AL-118 rev P – AL-121 rev P, AL-126 and AL-126 rev P, AL-130 rev P - AL-133 rev P submitted on 29<sup>th</sup> June 2009. Supplementary information: indicative ‘birds eye views’ – AL-145 rev P – AL-148 rev P submitted on 29<sup>th</sup> June 2009, Sustainability Statement, report on tree inspections, Transport Assessment, framework travel plan, Tall Buildings Statement, Daylight and Sunlight Survey submitted on 5<sup>th</sup> March 2008, Design and Access Statement, Heritage appraisal and Visual appraisal submitted on 29<sup>th</sup> January 2009, Internal daylight report,

revised planning statement, reptile survey and photomontages submitted on 29<sup>th</sup> June 2009.

## **2 THE SITE**

The application site is situated adjacent to the listed Brighton General Hospital Site and comprises 5,163 sq m of former Nurses Accommodation, which is now surplus to requirements. The main Brighton General Hospital Building and its later blocks, including the Nurses Accommodation Block, the subject of this application, form a prominent group of landmark buildings on the high ridge on the east side of Brighton. The site occupies an elevated position with extensive viewpoints across the City.

The main Brighton General Hospital Building, the Arundel Block, is a Grade II listed building and was formerly used as the City's workhouse. The three 1880s Infirmary and Workhouse Blocks, immediately adjacent to the application site to the east, are located within the curtilage of the principal listed building and are thus also listed.

The existing Nurses Accommodation and the site that this application addresses are located beyond the listed building curtilage, defined by a brick and flint wall on the eastern boundary of the application site. The Nurses Accommodation is a 1930s red brick block, 6 storeys in height, with a slated pitch roof, fronting onto Pankhurst Avenue but set back from the street. There is a 1980s, 2 storey building located to the front of this block, facing Pankhurst Avenue. The site is open car parking at the rear and the ground falls away to the southwest, towards Elm Grove. The site is characterised by a number of mature trees on the southern, eastern and western boundaries, some of which are protected by a Tree Preservation Order. Vehicular access to the site is currently from Elm Grove with pedestrian and cycle access from Pankhurst Avenue. The site area under this application is 0.8ha.

The surrounding area is characterised by uniform and low density 1920s red brick, semi-detached housing centred on Pankhurst Avenue, incorporating remnants of 19<sup>th</sup> and 20<sup>th</sup> century buildings on the Brighton General Hospital site.

## **3 RELEVANT HISTORY**

**BH2002/01306/FP:** Nurses Home, Brighton General Hospital – Erection of Linen Store. Approved 8/7/2002.

**94/1200/FP:** Erect 6 storey clinical ward block, refurbish and erect 2 storey ext to A and E dept, 4 storey post grad education centre, 4 storey car park for 360 cars with clinical block over and extension to out-patients dept. Approved 16/5/1995.

## **4 THE APPLICATION**

The application seeks full planning permission for the demolition of the existing nurse's accommodation on the Brighton General Hospital site, and the redevelopment of the site to provide 95 residential units within three

buildings of varying heights, a new community facility (D1 use) and associated car parking and landscaping.

The proposed accommodation would be provided in three blocks, as follows:

*Block A*

3 storey block, increasing in height to a 4 storey block, located in the southeast corner of the site, fronting Pankhurst Avenue, comprising 33 flats:

- 9 x 1 bed units
- 17 x 2 bed units
- 3 x 3 bed units
- 2 x 1 bed wheelchair accessible units
- 2 x 2 bed wheelchair accessible units
- Undercroft parking for 26 cars
- 32 secure cycle parking spaces at ground floor level

*Block B*

5 storey block located centrally within the site comprising 27 flats:

- 6 x 1 bed units
- 13 x 2 bed units
- 2 x 3 bed units
- 5 x 1 bed wheelchair accessible units
- 1 x 2 bed wheelchair accessible unit
- Undercroft carpark for 19 cars, motorcycle parking
- 102 sq m community centre (D1 use) at ground floor level
- 29 secure cycle parking spaces at ground floor level

*Block C*

5 storey block located at the northern end of the site, comprising 35 flats:

- 12 x 1 bed units
- 20 x 2 bed units
- 3 x 3 bed units
- 40 secure cycle spaces at ground floor level

It is intended that 80% of the proposed 95 residential units would be secured as affordable housing, with the remaining 20% on site delivered as additional shared ownership units however the applicant wishes to only secure 80% through a S106 agreement.

The buildings would be faced in a mixture of dark grey multi stock brick on lower floors with a pale cream rain screen terracotta tiles on the middle floors and verdigris green metallic panelling for parts of the top storeys and between windows. Loose stone filled gabions with grey and sandy coloured stone are proposed for the retaining walls and basement parking walls around the undercroft carpark on Blocks A and B.

Private amenity space would be provided for residents in the form of individual balconies with communal landscaped gardens and a new children's

play area located on the far southern edge of the application site.

A new crossover onto Pankhurst Avenue and an internal access road to serve the three blocks would be created, with parking provision for 53 cars, 9 of which would be designated disabled bays, motorcycle parking and 138 cycle parking spaces.

#### Amendments to the Scheme

Through continued negotiation and Officer advice the scheme has been amended twice and has been subject to two rounds of re-consultation. The amendments followed negotiations with Design and Conservation regarding a reduction in the scale and height of Block C from 7 to 5 storeys and a resultant reduction in the number of residential units from 107 as originally proposed to 95. The residential density of the scheme is reduced from 130 dwellings per ha to 119 dwellings per ha. The applicant has submitted further detailed and amended photomontages to assess the visual impact of the proposal in strategic views and in relation to the setting of the Brighton General Hospital listed Infirmary buildings. This follows reductions in the height of Blocks A and C in particular to bring them under the tall buildings threshold as defined by SPGBH 15: Tall Buildings (18m from ground level). The revisions to the scheme incorporate minor changes to the elevational treatment of the Blocks, notably the increased coverage of grey multi stock bricks.

## 5 CONSULTATIONS

### **External:**

**Neighbours:** (*1<sup>st</sup> amendments to scheme*): One representation received from **Estates Dept, Brighton General Hospital**, raising the following objection:

- The proposed block plan shows steps leading onto the Hospital Site along the east side. The boundary wall construction and height need to be confirmed. With 103 units being constructed, there will be insufficient parking.

(*2<sup>nd</sup> amendments to scheme*): Four objections received from **86 and 94 Pankhurst Avenue, 38 Clayton Road and Estates Dept, Brighton General Hospital** on the following grounds:

- Insufficient parking along Pankhurst Avenue for existing residents;
- Pankhurst Avenue is at capacity. Lack of parking within the proposed site for residents and visitors will create parking problems in Pankhurst Avenue;
- Back garden leads onto the site – unaware of application;
- Level of cycle storage is a waste of facilities;
- Further details requested on community facility and construction of new boundary wall;
- Concerns regarding security, privacy, overlooking, loss of privacy, noise and vehicle pollution.

One letter of support received from **South Downs NHS Trust**.

**CAG:** (*Original scheme*): The group did not feel there was sufficient information submitted with this application to judge the impact on the listed building. The group would have liked to have seen the important relationship between the old and new and the effect of new materials in long and medium distance views. The group requested this application be brought back to them once this information is submitted.

(*2<sup>nd</sup> amendments to scheme*): The group were unhappy with the horizontal emphasis of the architecture of the proposed buildings and the proposed materials which would not blend with the gault brick and stone coloured render of surrounding buildings and agreed to support the Conservation Officers comments on this application and recommend refusal.

**Sussex Police:** (*Original scheme*): The site is within a medium/high crime risk area. Site Layout: the proposed layout as a cul-de-sac creates defensible space. This is removed however, with the provision of the footpath link to the east elevation of Elm Grove. On grounds of crime prevention, this route should be omitted or fitted with a digital lock. Suggest the north elevation is enclosed with a 1.5 metre high metal hooped railings and topping the east elevation with similar. Further recommendations relating to Blocks A, B and C:

- All external final access doors need to conform to PAS024. They will need to have access control and trade buttons should be coded and not timed;
- All ground floor windows must conform to BS7950 and if openers, they should have restrictions fitted;
- Glazing to all final exit doors/sidelights must be laminated;
- There are numerous outward opening final exit doors, all of which would benefit from hinge bolts to protect the hinge side;
- Access to both lower ground floor carparks will need to be controlled and care needs to be taken over the access points from the carpark – all routes need to be integrated;
- Individual flat entrance doors must conform to PAS024 and have door chains/viewers fitted;
- Refuse stores should be secured to accord with BS8820, using locks to BS3621;
- Lighting will be an important consideration around the blocks and carpark.

(*2<sup>nd</sup> amendments to scheme*): The reduction to the number of units/storeys is noted. No further comment.

**Southern Water:** (*Original Scheme*): We request that should this application receive planning approval, a condition is attached requesting details of the proposed means of surface water drainage and an informative to advise of a formal application for connection to the public sewer.

(*2<sup>nd</sup> amendments to scheme*): Inadequate capacity exists in the local network to provide foul sewerage disposal and surface water disposal to service the proposed development. The proposed development would increase flows to the public sewerage system and existing properties and land may therefore



be subject to increased flood risk.

If planning permission is granted, conditions should be attached requesting details of the proposed means of foul sewerage disposal and the proposed means of surface water disposal, to be submitted and agreed in writing by Southern Water prior to commencement.

**Environment Agency:** (*Original Scheme*): No objection, subject to planning conditions to deal with contaminated land and an informative regarding the protection of controlled waters.

(*2<sup>nd</sup> amendments to scheme*): No objection in principle.

**East Sussex Fire & Rescue Service:** (*Original Scheme*): Means of escape is in compliance with requirements B1 (means of escape) of Building Regulations 2000. Access for fire appliances and fire fighting is satisfactory. The installation of sprinkler systems is recommended for residential and domestic buildings.

**EDF Energy Networks:** (*Original Scheme*): No objection.  
(*2<sup>nd</sup> amendments to scheme*): No objection.

**Southern Gas Networks:** (*Original Scheme*): Supplied extracts from the mains records, together with a comprehensive list of precautions for guidance. Notes presence of low/medium/intermediate pressure gas main in proximity to the site and advises that no mechanical excavations are to take place above or within 0.5 metres of the low and medium pressure system and 3 metres of the intermediate pressure system.

**Internal:**

**Planning Policy:** (*1<sup>st</sup> amendments to scheme*):  
*Summary*

In general terms the proposal is well received and will make an important contribution to the city's housing needs. The proposal social rented and shared ownership is felt to accord with the S106 Agreement which seeks 100% low cost housing on the assumption all the units will be managed by the registered social landlord (RSL) and normal nomination rights accorded with. Housing Strategy will need to confirm the acceptability of the housing mix, wheelchair accessible units and nomination rights. In terms of demand for outdoor recreation space, the proposal generates a need for provision in accordance with policy HO6 and an equipped children's playground should be provided on-site and the remaining shortfall addressed via a financial contribution.

HO1 – The site is part of the larger Brighton General Hospital mixed use allocation in the adopted BHLP. HO1 gives an indicative allocation of approximately 200 residential units and that overall 80% of these should be affordable across the site. The proposal is for part of the larger site (former

nurses' accommodation) and is for 103 units. The general principle of the development is accepted in accordance with the BHLP allocation. There is a legal agreement affecting the land which requires this site to be made available for low cost housing once the land becomes surplus to health care requirements.

HO3 and HO13 – Housing mix. The proposal is for 103 flats/apartments of which 37 are 1 bed units; 57 are 2 bed units most of which are to a larger specification suitable for family accommodation and 9 units are 3 bed. All units need to be to lifetime homes standard in accordance with HO13. Under policy HO13, the general requirement is for 10% of affordable units to be designed to full wheelchair accessible standard – the revised proposal includes 10 such units (9.6%). Overall, the mix will provide for a range of different household types and sizes and this is to be welcomed. The Access Consultant should be consulted to confirm the proposal meets lifetime homes and the wheelchair accessibility requirements.

HO4 – The proposal is high density at 130 dph and each of the criteria of HO4 need to be addressed. Design/architecture issues need to be addressed. The housing mix is considered satisfactory; the site reasonably well served by public transport, local services and a new community facility. Much of the proposed development will be suitable for family accommodation and will therefore require the provision of an appropriate play area.

HO5 – requires the provision of private useable amenity space in new residential development where appropriate to the scale and character of the development. The Planning Statement indicates that all properties will be provided with an area of private amenity space in the form of balconies or a terrace. Balconies must be 'useable' as required by HO5.

HO6 – Due to the extent of development and the topography of the area it is felt that, as a minimum, an equipped childrens playground should be provided on site. This should meet the requirements of a Local Equipped Area for Play (LEAP). Regard should also be given to innovative solutions to the provision of sports facilities e.g. a green gym with a sports co-ordinator etc. The shortfall in on-site provision should be addressed via a financial contribution. The applicants' assertion that the private and shared amenity spaces address HO6 requirements is unfounded. The policy makes it clear that the provision of outdoor recreation space is in addition to incidental amenity and landscaped areas. The applicant should submit clear plans to assess the proposed casual/informal provision, buffer areas and the impact on residents (eg noise and disturbance) however; the current proposal fails to provide an equipped playground as sought above which may need to be located on this informal area. It is important to ensure that provision is appropriately located.

HO8 – resists the net loss of units of residential accommodation. Exceptions are provided in criteria a) to e). In terms of the current proposal the loss of the 141 bedroom accommodation is considered to be offset by the gain in



affordable housing units (criteria d).

A new community facility is proposed in accordance with BHP policy HO25, HO19 and HO21. Full details on how this will be managed should be supplied to ensure it is sustainable, meets the needs of the future residents and is capable of serving the wider residential area, where no such facilities exist at present. Without evidence to demonstrate the future management of this space is secured, compliance with the policies cannot be demonstrated.

The draft guidance note for this site raised that HO20 applies to hospitals sites and that the nurses' accommodation is considered to be ancillary to this main use. It also reflected that there used to be a tennis court by the application of SR20. However on balance subject to the securing of the proposed community facility and compliance with policy HO6 it is not felt this proposal raises policy conflicts with HO20 and SR20.

The applicant's provide a Transport Assessment, Sustainability Statement and Site Waste Management Plan to support their application. These need to be assessed in terms of the relevant transport policies and key sustainability policies: SU2, SU4, SU13, SU16.

*(2<sup>nd</sup> amendments to scheme):*

*Summary*

As detailed in previous comments, the general principle of this proposal is well received and will make an important contribution to the City's housing needs. Whilst it is recognised the number of residential units has been reduced to 95 units, the previous policy comments for this application remains relevant respectively. The key outstanding policy issues are felt to be the lack of reference to the provision of 100% low cost/affordable housing on this part of the General Hospital Site (by virtue of an existing legal agreement) and subsequent lack of clarity on the percentage provision of affordable housing, the lack of a children's play area and the location and design of the toddler and informal play areas.

Policy HO1 in the Brighton & Hove Local Plan allocates the wider Brighton General Hospital site for housing and details an indicative affordable housing figure of 80%. This indicative affordable housing reflects the fact that parts of the wider hospital site are subject to a legal agreement seeking 100% low cost housing. In respect to the remainder of the site national and local plan policy requirements would apply which would suggest only 40% affordable housing could be sought.

When considered with EM1 which allocates the site for 'mixed uses – general industrial uses and/or medical uses including veterinary hospital, some housing' and the potential location of housing, the indicative figure of 80% affordable housing is felt reasonable for the wider hospital site. It should not therefore be assumed that the indicative 80% figure applies to individual parts of the wider site such as this application site. Indeed the legal agreement applies to this site and was referenced in the informal planning guidance

made available when the site was put up for sale. It is therefore felt the 100% low cost housing requirement should be sought.

On this basis, subject to confirmation from the Legal Team, it is felt low cost housing equates to affordable housing so 100% affordable housing on this site should be secured.

Policy H06 - As raised before due to the extent of development and the surrounding topography affecting access to existing facilities an equipped children's playground should be provided on-site as a minimum. This provision should meet the requirements in HO6 and BHSPG9 'A Guide for Residential Developers on the Provision of Outdoor Recreation Space' (available on the council's website). A contribution of £168,969.47 has been calculated based on 95 units to address the shortfall.

In addition to this the Open Space, Sport and Recreation Study shows this site to currently offer open space it is therefore important this site retains an offer of open space (See Appendix G in the Open Space, Sport and Recreation Study for the plan identifying open spaces). Indeed the plan attached to the legal agreement clearly shows a tennis court which would have provided a sporting facility for the nurses accommodation if not the wider site it is not unreasonable to ensure this site continues to provide for its residents.

Whilst the provision of toddler and informal play areas would be welcome no details on this offer have however been provided and the proposed toddler area is not felt to be appropriately located. It is separated from the buildings by the main access road and tucked behind the main entrance within trees this is not considered a safe location and will affect its effective use. As raised before regard should be given to innovative solutions to the provision of sports facilities e.g. a green gym and/or sports co-ordinator etc. It is important to ensure that high density developments provide effective useable open spaces as appropriate to the demands generated.

**Design & Conservation: (1<sup>st</sup> amendments to scheme):**

*Summary*

The site is situated adjacent to the listed Brighton General Hospital site. The proposals are contrary to policies QD2, QD4 and HE3 of the Local Plan, as they are excessive in height and site coverage and over dominant and visually intrusive and detract from the prominent historical hill top setting and views of the Listed Brighton General Hospital, which is an important landmark, and from views from conservation areas. Its form, layout and materials do not relate well to its surroundings and it fails to create an appropriate new setting for the listed buildings. The revised drawings do not overcome the fundamental objections to the scheme. A radical redesign at a lower density is required. This requires a substantial reduction in site coverage and heights, a more sympathetic form and alignment of the new development and more locally appropriate external materials. Moreover the

development should provide greater visual permeability through the site and the adjoining hospital grounds.

*(2<sup>nd</sup> amendments to scheme)*: These comments address the changes to the scheme (and amended plans submitted 29<sup>th</sup> June 2009) and the additional information provided and in particular the additional and amended photomontages and should be read in conjunction with previous comments made on the 6<sup>th</sup> March 2009. Where the scheme has not changed, the previous comments still apply. Detailed comments on the photomontages are appended to this report.

A Revised Zone of Visual Influence plan showing revised areas of Field Verification showing built form and topography restrict verified areas where the site is visible has not been submitted. It would appear from the additional photomontages that the areas shown are not accurate.

The principal change is that the northernmost Block, Block C has been reduced in height by one storey, so that it is now one storey below the eaves level of the north 19<sup>th</sup> C Infirmary Wing. This is a significant reduction in height and bulk of this Block. As a result the development now scales down the hillside from south to north more. As revised, the proposals would not break the rooflines of the existing listed curtilage buildings in long views. In almost all views it would not obstruct long views of the original Workhouse building, except perhaps in views from the south-west, although none have been identified so far.

The reduction in height of Block C also reduces its impact on the setting and views from the original Workhouse building which is the principal and most important listed building on the site. Nevertheless, it would still be visible from the forecourt area of that building and from its front windows. It is likely that limited oblique views of Block C would be afforded from within the Workhouse Building. The development would thus still intrude significantly into the setting and views from the original Workhouse Building.

It is anticipated in the Masterplan produced for the hospital site that the low modern buildings in front of the Workhouse building would be cleared away to open up views out of the site from that building and its environs. This would also open up views of Block C. One would expect new development within a 180 degree arc of view from the front façade of the original Workhouse building to be kept relatively low, so that the panoramic views out across the town and also views back in of the original Workhouse building would be maintained.

The development would also be visible from Elm Grove. In views from there, the photomontages demonstrate that the development will be a very prominent building and significantly more visible and prominent than the existing 1930s Nurses Accommodation Building, which is to be demolished. This of itself is not necessarily something that would be harmful to the setting

and views of the listed buildings as seen in these views, provided that its design and materials were sympathetic to and complemented the historic hospital buildings.

The photomontages demonstrate that the design of the scheme has a very strong horizontal emphasis, due to its design and flat roofs and the horizontal bandings of different contrasting materials and colours. These are very different from the materials of the surrounding buildings. This makes the buildings stand out in contrast with the topography of the hillside on which they would sit and the surrounding area's buildings. The proposal's strong horizontal emphasis is in stark contrast with the strong vertical emphasis of the late 19<sup>th</sup> C hospital wings to the east of the site. Its slab-like appearance contrasts with the upright forms of the hospital wings and the smaller semi-detached houses to the west. This accentuates the buildings' visual prominence in the landscape. The effect is unsympathetic to the characters of both the smaller housing to the west and the hospital buildings to the east behind.

The materials - gabions with grey and sandy coloured stone for the retaining walls and basement parking's walls, dark grey multi stock brick for the lower storeys, a pale cream rainscreen terracotta tiling for the middle storeys and a verdigris green metal panelling for parts of the top storeys, are in sharp contrast to the pale buff gault bricks of the late 19<sup>th</sup> C listed hospital wings, and the lighter grey-brown stone colour of the renderwork of the original Listed Workhouse building. The cream terracotta tiles in the submitted photo look very pale. Usually these tiles are a strong yellow-buff colour and samples are required to confirm their colour as computer printouts are not a reliable guide to colour. These materials make the building stand out on the hillside against both the adjoining hospital buildings and the lower density housing to the west. They are not materials and that are characteristic of this part of Brighton or indeed of the wider Sussex Downs and coastal area.

Were a more vertical emphasis taken in the design of the building's facades, and materials used that sympathised and responded to the adjacent hospital buildings, i.e. Gault bricks, stone coloured render and slate roofs, the development would be significantly less prominent on the hillside and would tend to blend in with the 19<sup>th</sup> C hospital wings behind in long views.

**Urban Design:** (*Original Scheme*): The site lies within the **Pankhurst and Craven Vale** neighbourhood, which is described in the Urban Characterisation Study as an 'urban post-war housing estate incorporating remnants of 19<sup>th</sup> century development. A mix of building type, quality and density range. Poor urban environment with limited access to quality open space and local services. Weak architectural cohesion.' The study further identifies the character area in which the development lies as '**Race Hill**: a mixed area near the ridgeline with a clear identity, split mainly between the uniform and low density 1920s public semi-detached housing centred on Pankhurst Avenue and the large scale 19<sup>th</sup> and 20<sup>th</sup> century buildings of the

Brighton General Hospital’.

The amended proposals for this site do not fall within the requirements of Supplementary Planning Guidance 15, Tall Buildings provided that no part of the development, including plant and lift shafts, is more than 18 metres above ground level. A condition on this could be included.

The density proposed is very high – in excess of 130 units per hectare. A density is achieved of 100 dwellings per hectare on a smaller site with a 3 storey development on the corner of Pankhurst Avenue and Freshfield Road. In an area of low densities (gross density for the wider area of 24 dwellings per hectare) this scheme was considered to make good use of the corner site, and a thoughtful transition with the neighbouring 2 storey houses.

The wider hospital site has an important listed building, the Brighton General Hospital, which is a prominent landmark from long views across the city. Its original use as a workhouse justified the location and dominance, and the prominence of the building is considered to be a major factor in the listing of this building. Further long views have been provided by the applicant, which show the new proposal in context with the existing listed building. The Conservation Officer and Conservation Advisory Group may have a view on whether or not the proposed new development would be detrimental to the setting and the impact of the listed building.

A masterplan of the hospital site was produced on behalf of the health authority in consultation with City Planning. Although in different ownership, this plan shows the application site to be part of the wider site. The masterplan also shows the future intentions for the rest of the site. As this forms part of the original hospital site, it is considered that this masterplan is relevant to this application, and regardless of which came first, future intentions for the whole site will have an impact on this proposal. This document is therefore considered to be relevant in terms of the possible future urban grain of the area, and how a new development will fit in as part of the wider townscape.

The form and design of the buildings in relation to the site and the wider area is considered to be poor, and without an apparent coherent design intention. The applicant has not taken any particular form or element of the overall hospital site as a generator for the design, nor apparently any examples of good design elsewhere as inspiration. The buildings could therefore be considered to be designed in isolation, without regard to connections to, nor the character of, the neighbourhood.

The landscaping is considered to be made up of ‘left over’ land rather than as part of a more comprehensive and accessible design. There is a great amount of road surface, which could be minimized by reconsidering the access to and positions of the car parking. It is considered to be more important that children’s play and pedestrian routes are overlooked, rather than parked cars. Furthermore, the main pedestrian route through the site



remains inaccessible to wheelchair and buggy users.

There is a particular concern that the access to the rear of the site is shown with steps, which would not provide access for wheelchair users. Wheelchair access across the site is generally considered poor as the main pedestrian routes through the site contain only steps.

Physical and visual connection would be expected between the site and the adjoining future developments. The physical and visual connections are considered to be weak. The Applicant claims to have followed 'Secured by Design' advice on the layout, but has given no information on how, and what aspects cover what parts of the advice, nor what advice has been given. The connection to the street at Pankhurst Avenue is weakened by retaining most of the high wall. Safe, direct, overlooked and well-lit routes leading through the site to Elm Grove, open around the clock would be expected. It is particularly important to connect to the bus routes on Elm Grove. Visual connections to the rest of the site, including the listed buildings, are not considered adequate.

The proposals for the public realm show large areas of windowless retaining walls at ground level, no seating, and little evidence of how the public spaces could be used. The policy officer has already commented on the play and open space provision. The applicant describes the site as being within walking distance of Queens Park, Sheepcote Valley and Brighton seafront even though the seafront is 1.5 miles away. The other recreation areas named are over 10 minutes walk away. In an area which is considered to have limited access to recreation space, a development of this scale and density would be reasonably expected to provide useable recreation space for all age groups on site. The open space provided is however largely overlooked.

*(2<sup>nd</sup> amendments to scheme):* The density proposed is high for the area, 119 dwelling per hectare, but not necessarily inappropriate for the site. This density could be achieved by an appropriate development.

**Housing Strategy:** *(Original Scheme):* Supports the application, given its capacity to deliver a significant proportion of new affordable homes and in meeting local priorities and housing need. Scheme will provide in total 103 new affordable homes, 80% secured as affordable housing, with the remaining 20% on site delivered as additional shared ownership units.

Under Policy HO3 the Council will seek to secure a tenure mix of 55% affordable housing units for rent and the remaining 45% for shared ownership.

#### *Design*

The scheme should comply with Housing Corporation Design Code and Quality Standards (2007); be built to Lifetime Homes standards; meet Secure by Design principles; provide private outdoor amenity space in the form of



balconies and terraces, plus ideally access to ground floor space, including play areas.

*Affordable Units Sizes*

All the units should be built to our minimum internal space standards, to ensure they are genuinely compliant with Lifetime Homes. We are pleased to see that all the units meet, and in most cases, exceed our minimum sizes.

*(2<sup>nd</sup> amendments to scheme)*: It is understood that Southern Housing Group aim to deliver the remaining 20% as affordable, intermediate housing, given current market conditions, subject to grant being available.

The significant number of new homes on this part of the site and the significant proportion of affordable all contribute to meeting housing need and to delivering choice in terms of tenure as well as size and type, contributing toward a more mixed, balanced community.

**Education: Capital Strategy:** *(Original Scheme)*: The site is in an area where we have pressure on both primary and secondary school places. Consequently, education contributions will be sought in respect of both under a Section 106 Agreement to the sum of £144,328.

*(2<sup>nd</sup> amendments to scheme)*: Education contributions are sought for education infrastructure for all housing development over 10 dwellings wherever they are in the city, as the pressure on school places is no longer limited to parts of Hove. The amended sum equates to £138,089.

**Highway Authority:** *(Original Scheme)*:

*Site and Access Layout*

A Section 278 agreement will be required for the new access onto Pankhurst Avenue. The building of this access will require the relocation of the existing eastbound bus stop and this should be funded by the applicant in addition to the other contributions required. Within the site, the proposed footway should be widened from the proposed 1.2m to 2m.

*Vehicular Parking*

44 general parking spaces are proposed compared to a maximum allowed by SPG4 of 161. The possibility of displaced parking is not considered in the applicant's Transport Assessment but this is not a major issue as there are no severe parking problems locally at present but nevertheless it is intended that the area around the site will be included in the forthcoming consultation on the possible extension of residents parking to include the Hanover area. 9 disabled parking spaces are proposed compared to a requirement of at least 10. There is no provision for parking by disabled visitors and it is proposed to require that 1 of the proposed parking bays in the south west of the site should be changed to disabled parking.

### *Cycle Parking*

At least 143 cycle parking spaces are required compared to a proposed provision of 138 and 5 extra should be required. The layout of the cycle parking does not always meet best design practice and the standard condition requiring submission and approval of details should be attached to any consent. The proposals include provision of vertical cycle parking for residents and this is considered inappropriate as it is not useful for less fit and strong people.

### *Traffic Impact*

The applicants have demonstrated using the standard technical methodology that it is very unlikely that congestion would be caused at local junctions by the small traffic impact of the development.

### *Sustainable Modes*

The applicants have reviewed the quality of provision for sustainable modes around the application site. This is generally reasonable but there are shortfalls notably in the scope for improvement of bus stops in Freshfield Rd. and Elm Grove. Convenient access to the bus stops in Elm Grove depends on the availability of the private pedestrian route from north to south across the hospital site to the immediate east of the application site, but it is understood that the Police want the gate controlling this to be on a coded lock, which the applicants hope to agree should be locked only at night. It is suggested that a condition requiring this should be applied if appropriate.

### *Financial Contribution*

Application of the standard formula suggests a contribution of £80,250 would be appropriate in this case. The applicants argue (among other points) that an allowance should be made for the trips previously generated by the nurses home and on their TRICS based calculations this could reduce the potential contribution to as little as £12,300. A discount should be made depending on the time since the previous use stopped- which is not clear from the application- and any other planning considerations which seem relevant.

A framework travel plan has been submitted by the applicant and approval of the detailed plan should be required by condition prior to occupation of the development. A construction management plan detailing routes and times to be used by construction traffic should also be required by condition.

*(2<sup>nd</sup> amendments to scheme):* A Section 278 Agreement will be required for the new access onto Pankhurst Avenue. 44 general parking spaces are proposed compared to a maximum allowed by SPG4 of 142. 9 disabled bays are proposed, consistent with SPG4. No provision for disabled visitor parking; 1 of the proposed parking bays in the southwest of the site should be changed to disabled parking. 126 sheltered secure and accessible cycle spaces are required, compared to a proposed 101 secure spaces and an additional 37 for visitors. Contributions would normally be sought for a use which will generate new trips. In this case information is available which

indicates that the previous use as a nursing home would be expected to generate more trips, and the use ceased recently so a requirement for contributions would be inappropriate.

The TA does not consider parking for the community use. The issue has been raised with the applicant's transport consultants and the reply was 'Community facility would have no dedicated parking and is intended for use by the residents vicinity of the site'. There are 8 visitors parking spaces and one of several conditions it is suggested that an additional disabled bay should be provided by converting a bay already proposed ( this would require an increase in size) to provide disabled visitors parking.

**City Clean:** (*Original Scheme*): The following information is required from the applicant:

- Dimensions of each refuse area;
- Are there any reasons, apart from space restrictions, to explain why refuse storage is apart from recycling, away from the main building – they should be together;
- Dimensions of the turning hammerhead;
- Confirmation of their strategy to restrict parking along the access route to ensure free access at any time.

(*2<sup>nd</sup> amendments to scheme*): All the refuse and recycling areas have sufficient floor space for waste containment, collection and are future proof. Double exit doors are required on the recycling areas in the build. The drawing only provides single doors currently which are not adequate. Parking restrictions will be needed to allow our vehicles to use the access road. If road access is blocked or becomes difficult, collection may not take place. Confirmation is sought to ensure the turning head has clear parking control measures to allow our vehicle to turn around. Cityclean can refuse to collect from this development if vehicle access problems are experienced under section 46 of the Environmental Protection Act 1990. Yellow lines and clear signage notifying resident not to park is recommended.

**Public Art:** (*Original Scheme*): The revised application has incurred in approximately a 33% increase in the gross internal floorspace of the development (from 8,183 sq m to 10,885 sq m) in relation to the previous application.

As a result, it is suggested that the public art element for this application is £100,000 in order to reflect the increase in floorspace.

(*2<sup>nd</sup> amendments to scheme*): The revised application has incurred a reduction in the gross internal floorspace for the development (from 10,885 to 9,889 sq m) in relation to the previous scheme. As a result, it is suggested that the public art element for this application is revised down to £90,000 in order to reflect the decrease in floorspace.

**Environmental Health:** (*Original Scheme*): No comment.

**Ecologist:** (*Original Scheme*): The Sustainability Statement concludes that a nature conservation report is not necessary. Consequently, the potential presence of reptiles is not addressed and potential to enhance the nature conservation value of the proposed development is mentioned in general terms.

There is likelihood that a small part of the site (an area of rough grassland and rubble to the north of the site) is suitable for Common Lizard and Slow Worm, both of which are protected under the Wildlife and Countryside Act 1981. A survey should be carried out by a suitably qualified ecologist, before the application is determined.

No detail is provided on how the nature conservation value of the site will be maximised. If minded to approve, a report should be conditioned to address this, to be submitted prior to commencement of works, which takes account of the requirements of Appendix 6 of the draft SPD Nature Conservation and Development.

(*2<sup>nd</sup> amendments to scheme*): Agree with the main findings and recommendations of the reptile survey. However, the proposed reptile translocation would involve a receptor site outside the development site boundary. A S106 Agreement rather than a planning condition is recommended, the agreement could require submission of a detailed methodology for approval by the Council, and a payment based on standard costs.

**Arboriculture:** (*Original Scheme*): No objection. There are many trees on site, some of which are protected by TPO (No.2) 2001. Should permission be granted, 6 trees will be lost, 5 of which are covered by the TPO: 3 are Hawthorns, of little stature, in a central location and not visible from outside the grounds; 1 Atlas Cedar, which is bifurcated (the main body has split into two); 1 Poplar has already been removed on the grounds of health and safety; 1 mature Elm would be lost that will be too close to the proposed development. 9 further Elms are in close proximity to this specimen and therefore the impact of its loss would not be great.

The following conditions are recommended: remaining trees on site are protected to BS5837 (2005) Trees on Development Sites; drainage runs in the vicinity of trees are laid in accordance with BS5837 (2005) and NJUG 10; a landscaping plan is submitted to show at least 14 replacement trees for the 7 trees that will be lost on this site.

**Sustainability Consultant:** (*Original Scheme*): None received.

(*2<sup>nd</sup> amendments to scheme*): As an application that originally came in prior to the adopting of SPD08 Sustainable Building Design, these proposals have been evaluated against SU2 and SPG21 BHCC Sustainability Checklist (now

superseded). The development comfortably meets these standards for most sections – importantly the energy, water and BRE assessment sections, but fall short of improving ecological value and does not demonstrate use of sustainable materials.

If assessed against SPD08 the main difference would be that the standard expected would be Code level 4 whereas the current commitment is to Code level 3 only for the 95 residential units. Proposals have also not demonstrated a reduction in heat island effect and would benefit from greening of the buildings and site through e.g. living walls and planting of trees and shrubs on site.

There are some positive energy proposals which include communal heating systems with a total of 183m<sup>2</sup> of solar panels. However, building fabric and passive solar design could deliver further carbon reductions through increasing energy performance.

**Access Officer:** (*Original Scheme*): The plans are at insufficient detail to comment. Larger scale plans are required to show door swings, bathroom fittings etc. The wheelchair accessible units don't have anywhere obvious to store and charge a scooter.

(*2<sup>nd</sup> amendments to scheme*):

General

The footpath from Pankhurst Avenue seems to be excessively steep, particularly over the section between Pankhurst Avenue and the north west corner of the access road near the entrance to the Block B car park. Given the scale of this development consideration should be given to providing more suitable wheelchair access to the entrance to Blocks B and C from the main site entrance.

Lifetime Homes

The bathrooms in all general use units need to be sized so that it would be possible to rearrange the fittings so that a wheelchair user would be able to close the door and achieve side transfer from a wheelchair to the WC. That does not appear to be the case in any of the units currently proposed.

Confirmation should be provided that the balconies will be wheelchair accessible.

A 300mm clear space should be provided at the leading edge of all doors opening towards the user. This is missing in the following situations:

1 bed, Type 2 – living room

2 bed, 3 person – living room

2 bed 4 person Types 1, 2 & 3 – bedroom 2 in each.

Wheelchair accessible units:

Provision does not appear to have been made for the storage and charging of an electric wheelchair/scooter in any of the wheelchair accessible units. A

space 1.7m X 1.1m open on the long side and clear of the general circulation space is required.

A clear circulation space 1.8m deep x 1.5m wide is required inside the entrance door to the wheelchair accessible units. This has certainly not been provided in the 1 bed Type 1 unit and it looks doubtful in the other 1 bedroom types and in the 2 bedroom type.

The secondary WC in the 2 bed 4 person type is not of a suitable size or layout.

Wheelchair users should be able to access and use all communal areas and facilities (such as the recycling area, community area, gardens etc). This currently looks like it might not be possible.

## 6 PLANNING POLICIES

### Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
TR4	Travel Plans
TR5	Sustainable transport corridors and bus priority measures
TR7	Safe development
TR8	Pedestrian routes
TR13	Pedestrian network
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU5	Surface water and foul sewage disposal infrastructure
SU8	Unstable land
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU11	Polluted land and buildings
SU13	Minimisation and re-use of construction industry waste
SU14	Waste management
SU15	Infrastructure
SU16	Production of renewable energy
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods.
QD4	Design – strategic impact.
QD5	Design – street frontages
QD6	Public art
QD7	Crime prevention through environmental design.
QD15	Landscape Design
QD16	Trees and Hedgerows
QD17	Protection and integration of nature conservation features
QD20	Urban open space



QD25	External lighting
QD27	Protection of amenity
QD28	Planning obligations
HO1	Housing sites and mixed use sites with an element of housing
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO6	Provision of outdoor recreation space in housing schemes
HO7	Car free housing
HO8	Retaining housing
HO13	Accessible housing and lifetime homes
HO19	New community facilities
HO21	Provision of community facilities in residential and mixed use schemes
HO25	Brighton General Hospital
EM1	Identified Employment
SR20	Protection of public and private outdoor recreation space
HE3	Development affecting the setting of listed buildings

East Sussex and Brighton & Hove Waste Local Plan

WLP11	Reduction, re-use and recycling during demolition and design and construction of new developments
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Supplementary Planning Documents

SPD 03	Construction and Demolition Waste
SPD 06	Trees and Development Sites

Supplementary Planning Guidance Notes

SPG BH4	Parking Standards
SPG BH9	A guide for residential developers on the provision of recreational space.
SPG BH16	Renewable energy and energy efficiency in developments
SPG BH 21	Sustainability checklist

Planning Advisory Notes

PAN03	Accessible Housing and Lifetime Homes
PAN05	Design Guidance for the Storage and Collection of Recycle Materials and Waste

**7 CONSIDERATIONS**

The main considerations of the proposal are:

- The principle of development, having regard to the Brighton General Masterplan 2007;
- Design and the impact on the historic character and setting of the Grade II listed Brighton General Hospital buildings and strategic views;
- The standard of accommodation to be provided and impact on neighbouring amenity
- The provision of new community facilities;

- The impact on the highway network and parking;
- The impact on trees and biodiversity;
- Sustainability;
- Infrastructure.

During the course of this application, continued negotiation has resulted in three sets of amended plans and three rounds of consultation.

#### Principle

The proposal seeks planning permission for the demolition of the existing building and the erection of 95 residential units, 80% of which will be affordable with a split of 75:25 between social rent and shared ownership tenures; the planning statement submitted with the application states that of the remaining 20% of units it is intended to provide shared ownership (which would alter the ratio to 60:40) although confirmation of this cannot be provided by the applicant at this stage and due to funding issues they do not wish to be tied into securing 100%. In addition to the proposed residential element, a community facility is proposed which will provide 102sqm of D1 floorspace; at this time the applicant does not have an end user and as such has only been able to refer to similar schemes where childcare and facilities for older members of the community have been provided.

At the time this portion of the Brighton General site was put up for sale, the LPA issued a draft note of informal guidance. In brief the guidance detailed the site specific issues as well as providing general policy guidance. The site is described as being in a prominent and elevated position within both the setting of a listed building and an identified view of high visual importance. The note draws attention to the fact that the site allocation of 80% affordable housing differs from a S106 legal agreement, which is a supplemental agreement connected to an implemented permission that secures any housing development on this portion of the hospital site for 100% affordable. In relation to the existing planning obligation, the draft guidance note states that in the interests of providing a more mixed development, the opportunity to provide up to 20% open market housing is allowed by the policy and that alterations to the agreement should be discussed with the Council as part of any planning application.

The note also draws attention to the fact that the site would not be viewed in isolation from the larger hospital site and that it will be for the applicant to discuss the implications of their proposal if they are seeking to provide only part of the planned mix of this part of the site and to discuss the implications for the redevelopment of the rest of the site with the owner(s) of the balance of the site; it also states that this information must be provided with any application.

In relation to this, it should also be noted that a masterplan for the hospital site was produced on behalf of the health authority in consultation with City Planning. The plan is not adopted however it sets out principles for redevelopment of the site as a whole and is relevant in terms of the possible

future urban grain of the area and how new development will fit in as part of the wider townscape.

The site is identified in the Local Plan as part of the wider Brighton General Hospital site for mixed uses under policies EM1, HO1 and HO25 including employment, housing and community facilities. Policy EM1 relates to identified employment sites which are identified primarily for industrial and business use under use class B1 and B2. Policy HO1 relates to housing sites and mixed use sites with an element of housing. The application site forms only part of the whole allocated site, across the entire hospital site an indicative number of units is set at 200 with 80% affordable housing. Policy HO25 states that a new community centre will be created as part of any residential development at Brighton General Hospital which will have the benefit of serving the wider residential area, where no such facilities exist at present. The indicative affordable housing provision of 80% was based on the aforementioned S106 agreement in 1996 securing portions of the hospital site for 100%; one of these portions is the current application site.

Concern has been raised by the Council's Policy Officer in respect of the proposed 80% affordable housing provision with reference to the S106 requirement and the potential deficit which could prevail without the full provision on this element of the site being secured. In addition, the burden could then fall on other areas of the site to provide additional affordable housing units. No detail has been provided by the applicant, contrary to the guidance note, regarding amending the S106, they instead simply state compliance with HO1 at 80%.

The applicant intends to provide the remaining 20% of units as affordable, intermediate housing, owing to existing market conditions. Advice has been sought on the issue from Housing Strategy who have supported the provision of 80% affordable housing noting the applicant intends to provide the remaining 20% as affordable, intermediate housing. The Officer considers that the significant proportion of affordable units on this site all contribute to meeting housing need and to delivering choice in terms of tenure as well as size and type, contributing toward a more mixed and balanced community.

The S106 is now 13 years old and policy HO1 relates to the entire site making an indicative provision 80% affordable housing based on 200 units. The provision of 95 units at 80% with the intention of providing the remainder as affordable is considered acceptable and it is considered that it would not be possible to justify a reason for refusal based on the S106 requirement when the development accords with HO1. The S106 agreement would however have to be varied accordingly if the application were approved.

The existing nurses' accommodation on site became vacant circa 2007. HO8 resists the loss of units of residential accommodation, exceptions are provided in criterion a) to e) and in terms of the current proposal the loss of 141 bedroom accommodation is considered to be offset by the gain in

affordable housing units in relation to criterion d).

The new community facility is proposed in accordance with policies HO25, HO19 and HO21; the applicant is however unable to provide the LPA with details of how this will be managed to ensure it is sustainable, meets the needs of the future residents and is capable of servicing the wider residential area where no such facilities exist. This issue will be considered later in this report.

For the reasons stated above the principle of development on this site as proposed is considered acceptable.

#### Design and layout

Although PPS1 and PPS3 seeks to ensure the more effective and efficient use of land, the guidance also seeks to ensure that developments are not viewed in isolation and do not compromise the quality of the environment. PPS3 states that considerations of design and layout must be informed by the wider context, having regard not just to any immediate neighbouring buildings but the townscape and landscape of the wider locality. PPS1 seeks amongst other things to protect and enhance the quality, character and amenity value of urban areas including the historic environment.

Policy QD3 of the Local Plan seeks the more efficient and effective use of sites, however, policies QD1 and QD2 require new developments to take account of their local characteristics with regard to their proposed design.

In particular, policy QD2 requires new developments to be designed in such a way that they emphasise and enhance the positive qualities of the local neighbourhood, by taking into account local characteristics such as height, scale, bulk and design of existing buildings, impact on skyline, natural and built landmarks and layout of streets and spaces.

As well as securing the effective and efficient use of a site, policy QD3 also seeks to ensure that proposals will be expected to incorporate an intensity of development appropriate to the locality and/or prevailing townscape. Higher development densities will be particularly appropriate where the site has good public transport accessibility, pedestrian and cycle networks and is close to a range of services and facilities. Policy HO4 relates to the acceptability of higher dwelling densities in areas where it can be demonstrated that the proposal exhibits high standards of design and architecture.

When applying this policy, in order to avoid town cramming, the planning authority will seek to secure the retention of existing and the provision of new open space, trees, grassed areas, nature conservation features and recreational facilities within the urban area.

The Urban Characterisation Study describes the architecture of the area as, an *'urban post-war housing estate incorporating remnants of 19<sup>th</sup> century*

*development. A mix of building type, quality and density range. Poor urban environment with limited access to quality open space and local services. Weak architectural cohesion.*’ The study further identifies the character area in which the development lies as *‘Race Hill: a mixed area near the ridgeline with a clear identity, split mainly between the uniform and low density 1920s public semi-detached housing centred on Pankhurst Avenue and the large scale 19<sup>th</sup> and 20<sup>th</sup> century buildings of the Brighton General Hospital’.*

The Study notes that the Brighton General hospital is listed for its architectural and historical interest and is described as a key landmark with city wide importance which can be seen from all over the city and is seen as an important potential gateway into the city when approaching from the Downs.

In relation to open space the study notes that there are *‘no parks or children’s play space within the neighbourhood. The large but fragmented areas of close-mown amenity grassland, that are characteristic of much of the neighbourhood, prohibit ball games and are low in species diversity.’*

The Study also notes that the scale and density fluctuate across the neighbourhood, resulting in a gross density of 37 dwellings per hectare. The proposed development in contrast proposes a density of 119 dwellings per hectare which is considerably higher than is characteristic; it is however noted that a newer development at the corner of Pankhurst Avenue and Freshfield Road has achieved a density of 100 dwellings per hectare.

The site and in particular the listed hospital and curtilage buildings are in a very prominent location featuring in many important views across the city making the redevelopment of this site particularly difficult. The site is the first of the Brighton General Hospital site to come forward for development and as such it is considered important that any proposal pays regard to the masterplan in relation to matters including planning uses, design, layout and connectivity to the site as a whole as well as the wider area. The masterplan, which was developed by the NHS Trust in conjunction with the Council, although not adopted sets out coherent intention for the hospital site as a whole following good urban design principles.

The particular form of the building indicated on this site within the masterplan has been focused upon and criticised by the applicant. However, little regard has been given to the site’s connectivity to the rest of the hospital and local area beyond appearing to have been conceived in isolation. The area is not particularly well serviced by public transport links or other facilities which emphasises the importance of good links to any facilities which are present in the area. In relation to the community, the masterplan also promotes the creation of an open and permeable layout to achieve an enhanced sense of public ownership reinforced through the incorporation of community facilities and public street and open spaces. This issue is considered to be further emphasised by the apparent disregard of the built form which surrounds the development by way of layout and materials. It is noted that the applicants



design intention is to move away from what is described as the ‘utilitarian materials...large drab buildings...(and) exceptionally dull area’.

On assessment of the layout of the scheme, as stated by the Council’s Urban Designer, the landscaping does not appear to be integrated into the scheme and instead appears to be formed of the ‘left over’ space surrounding the buildings. The applicant has promoted this provision as informal amenity space, concern is however raised over the true usability of this space, although overlooked is unlikely to be fully utilised to the sites potential.

CABE guidance ‘Building for Life’ in relation to open space states that the space around the buildings is as important as the buildings themselves, that good public space is usually planned for a particular use and not just the area left once the buildings have been planned. Policy QD15 requires development to consider landscaping as an integral part of the design process at an early stage, where appropriate should retain and include nature conservation enhancements.

The road layout and siting of the buildings is not considered to make the best use of the site; owing to the site contours there is a significant amount of road surface which loops round the buildings and as stated by the Council’s Urban Designer, which could be minimized by reconsidering the access to and positions of the car parking. It is considered to be more important that children’s play and pedestrian routes are overlooked, rather than parked cars. In addition, the location of the toddlers play area is of concern, sited across the access road away from flats within the trees, as such is poorly observed and accessed; the issue was raised during the course of the application however no amendment has been made to its location. Issues relating to open space and play equipment will addressed later in this report.

The layout of the scheme also presents concerns in respect of access, the main pedestrian route through the site which remains inaccessible to wheelchair and buggy users. A particular concern is raised regarding the access through the site which is shown with steps, which would not provide access for wheelchair users. Wheelchair access across the site is generally considered poor as the main pedestrian routes through the site contain only steps. In addition to this should a wheelchair user wish to traverse the site, access would be gained via the roadway which only has a pavement width of approximately 1.2m which would prohibit a companion walking on the pavement beside the chair, the issue has been raised during the course of the application however the pavement has not been widened. The layout is dominated by the access roadway and therefore is likely to be dominated by the car, particularly as access for those in wheelchairs or who are less able are likely to be encouraged to drive due to the difficulties of accessing parts of the site any other way.

Owing to the contours of the site, the access road from Pankhurst Avenue slopes down to the lower most northerly point and slopes up again towards



the pedestrian access which also slopes up towards the community centre and Block B entrance. It is however noted that occupants of the flats could utilise the lifts from the basement however it is not clear whether they will be accessible to visitors of the community centre. Access in a wheelchair through the site cannot be achieved and with a buggy or on a bike would be inhibited by the stairs at the exit point at the south of the site. Indeed as a pedestrian accessing the site at the lower point is made less desirable by the siting of the refuse store next to the entrance.

The Council's Urban Designer also raises concerns regarding the physical and visual connection that would be expected between the site and the adjoining future developments and the physical and visual connections are considered to be weak. The Applicant claims to have followed 'Secured by Design' advice on the layout, but has given no information on how, and what aspects cover what parts of the advice, nor what advice has been given. The connection to the street at Pankhurst Avenue is weakened by retaining most of the high wall. Safe, direct, overlooked and well-lit routes leading through the site to Elm Grove, open around the clock, would be expected. The Officer also considers that it is particularly important to connect to the bus routes on Elm Grove and visual connections to the rest of the site, including the listed buildings, are not considered adequate.

CABE guidance 'Building for Life' relates to assessing a housing scheme in order to promote good design. In relation to overlooking public areas the guidance references 'Safer places, the planning system and crime prevention (ODPM and Home Office)' stating, '*Design has a crucial role to play in creating places that not only feel safe, but are safe. Developments should be planned in a way that makes sure buildings overlook all public spaces, roads and footpaths to increase surveillance.*'

The proposals for the public realm show large areas of windowless retaining walls at ground level, no seating, and little evidence of how the public spaces could be used. If a wheelchair user for example wished to travel through the site from Pankhurst Road without a car this would have to be done via the access roadway, not being able to travel through the central point, it is considered that the lack of window openings at ground floor would make this route feel very unsafe at dusk or at night due to the lack of passive surveillance. Particular concern is raised over the lower part of the access way which is poorly observed owing to the gabion retaining walls and openings to the undercroft car parking which is likely to make this area of the site in particular feel very unsafe, providing opportunities or perceived opportunities for people to hide and emerge from, the issue is reinforced by the acknowledgement by the Police that the site is within a medium/high crime risk area.

On this point it should also be noted that access to the main entrance to the community facility does not appear to be feasible for anyone in a wheelchair travelling directly from Pankhurst Road, instead one would be required to

travel round the road way and up through the central area; the plans do show a single smaller door on the southern elevation however it is not clear whether this would be a fire exit or wheelchair accessible.

Impact on historic character, the setting of the listed buildings and strategic views.

Policy HE3 restricts development where it would have an adverse impact on the setting a listed building, through factors such as its siting, height, bulk, scale, materials, layout, design or use. Policy QD4 seeks to preserve or enhance strategic views, important vistas, the skyline and the setting of landmark buildings by insisting that all new development displays a high quality of design. Development that has a detrimental impact on any of these factors and impairs a view, even briefly, due to its appearance, by wholly obscuring it or being out of context with it, will not be permitted. The policy refers to view from within conservation areas and the setting of listed buildings and locally well known landmark buildings of townscape merit as being of strategic importance. The scheme has been assessed by the Council's Conservation and Design Officer who has also been heavily involved in continuing negotiations on the scheme with the intention of resolving outstanding concerns.

In reference to the most recently amended plans the principle change to the most recent amendments to the scheme is to Block C which has been reduced in height by a storey. It is now one storey below the eaves level of the north 19<sup>th</sup> C Infirmary Wing. The Conservation Officer notes that this is a significant reduction in height and bulk of this Block and notes that as a result the development now scales down the hillside from south to north more. As revised, the proposals would not break the rooflines of the existing listed curtilage buildings in long views. In almost all views it would not obstruct long views of the original Workhouse building, except perhaps in views from the south-west, although none have been identified so far.

The reduction in height of Block C is also considered to reduce its impact on the setting and views from the original Workhouse building which is the principal and most important listed building on the site. Nevertheless, the Officer notes that it would still be visible from the forecourt area of that building and from its front windows and it is likely that limited oblique views of Block C would be afforded from within the Workhouse Building. The Officer therefore considers that due to the unsatisfactory design of the proposed development, it would still intrude significantly into the setting and views from the original Workhouse Building.

The Officer also notes that the development would be visible from Elm Grove and as demonstrated by the photomontages the development will be very prominent and significantly more visible than the existing building. It is therefore essential that the design and materials of the proposal are sympathetic to and complement the historic hospital buildings in order to preserve the setting and views of the listed buildings.

The photomontages however demonstrate that the design of the scheme has a very strong horizontal emphasis due to its design and flat roofs and the horizontal bandings of different contrasting materials and colours which has not been overcome by the relatively minor alterations to the elevational treatment undertaken by the applicant during the course of the application.

This concern is reinforced by the Conservation Advisory Committee; the group stated that they were unhappy with the horizontal emphasis of the architecture of the proposed buildings and the proposed materials which would not blend with the gault brick and stone coloured render of surrounding buildings and agreed to support the Conservation Officer's comments on this application and recommend refusal.

The Conservation Officer also notes that the materials proposed in the scheme are very different from the materials of the surrounding buildings. This makes the buildings stand out in contrast with the topography of the hillside on which they would sit and the surrounding area's buildings. The proposal's strong horizontal emphasis is in stark contrast with the strong vertical emphasis of the late 19<sup>th</sup> Century hospital wings to the east of the site. Its slab-like appearance contrasts with the upright forms of the hospital wings and the smaller semi-detached houses to the west. This accentuates the buildings' visual prominence in the landscape. The effect is unsympathetic to the characters of both the smaller housing to the west and the hospital buildings to the east behind.

The development will appear overly dominant and visually intrusive detracting from the hilltop setting and view of the Listed Brighton General Hospital, which is an important landmark, and from views within Valley Gardens, Round Hill and West Hill Conservation Areas. Its form, layout, design, materials and colours do not relate well to its surroundings and fail to create an appropriate new setting for the listed buildings. The proposal is considered to be contrary to policies QD1, QD2, QD4 and HE3 in this respect.

The materials proposed include gabions with grey and sandy coloured stone for the retaining walls and basement parking's walls, dark grey multi stock brick for the lower storeys, a pale cream rainscreen terracotta tiling for the middle storeys and a verdigris green metal panelling for parts of the top storeys, are in sharp contrast to the pale buff gault bricks of the late 19<sup>th</sup> Century listed hospital wings, and the lighter grey-brown stone colour of the renderwork of the original Listed Workhouse building.

The proposed materials make the building stand out on the hillside against both the adjoining hospital buildings and the lower density housing to the west. They are not materials and that are characteristic of this part of Brighton or indeed of the wider Sussex Downs and coastal area.

The Conservation Officer's comments are noted and it is considered on the basis of the advice given that although the impact on the listed curtilage

buildings has been reduced particularly by the reduction in the heights of the scheme, the development will intrude significantly into the setting and views from the principal and most important listed building the original Workhouse Building. This intrusion fails to preserve the setting and views of the listed building due to the horizontal emphasis of the materials and elevational treatment which fails to be sympathetic or complement the listed historic hospital buildings. Further, the proposed materials will make the development more prominent on the hillside in contrast to surrounding development.

The layout of the proposed Blocks coupled with the horizontal emphasis results in the development (Blocks A and B in particular) appearing as a single mass in a number of views from the west of the site across the City.

Standard of accommodation and impact on amenity.

Policy QD27 of the Local Plan will not permit development which would cause a loss of amenity to adjacent residents/occupiers. The most immediate neighbouring dwellings are sited to the west of the site at a minimum distance of approximately 16m between Block B and 38 Clayton Road; this distance is increased to 20m to the closest habitable windows with terraced areas in front. It is not considered that this proposal would give rise to adverse overlooking with said separation distances even with the increased height of the scheme. A sunlight/daylight assessment has also been submitted with the application which assess the impact on neighbouring dwellings as well as the internal daylight of the proposal. In addition as part of the tall buildings statement a shadow study was undertaken and it is considered that the development would not have an adverse affect on neighbouring dwellings in this respect.

Local Plan policy HO5 requires that new residential development provides adequate private and usable amenity space for future occupiers, appropriate to the scale and character of the development. HO6 relates to provision of outdoor recreation space in housing schemes.

Each flat has access to a private balcony or terrace and although a number of them are quite small and with outward opening doors, their usability is questionable, it does not appear that a table and chairs could not be placed on the smaller balconies without being obstructed by the doors. This is of particular concern in respect of the disabled units with smaller balconies. It is also considered that the private terraces would be better utilised by the units capable of family occupation (two and three bedroom units) rather than one bedroom units. It is therefore considered that the applicant has failed to demonstrate that all the balcony areas are usable contrary to policy HO5.

Brighton & Hove Local Plan policy HO6 requires that new residential development provides outdoor recreational space, specifying that 2.4 hectares per 1000 population accommodated within the development should be provided. This is not provided within the site. In recognition that development schemes will seldom be capable of addressing the whole

requirement on a development site, the policy allows for contributions towards the provision of the required space on a suitable alternative site.

The layout of the scheme results in areas of open space across the site which the applicants describe as informal play areas, a toddlers play area is also proposed at the southern end of the site within the trees. The applicant also describes the site as being within walking distance of Queens Park, Sheepcote Valley and Brighton seafront even though the seafront is 1.5 miles away. The other recreation areas named are over 10 minutes walk away. In an area which is considered to have limited access to recreation space, a development of this scale and density would be reasonably expected to provide useable recreation space on site. The deficit in this location is also noted within the Urban Characterisation Study.

The Council's Policy Officer notes due to the extent of development and the surrounding topography affecting access to existing facilities an equipped children's playground should be provided on-site as a minimum. This provision should meet the requirements in HO6 and BHSPG9 'A Guide for Residential Developers on the Provision of Outdoor Recreation Space' (available on the council's website). There is no statutory duty on a local authority to provide such open spaces and due to the findings of the Open Space, Sport and Recreation Study it is important developments provide such space to meet the demands generated by the proposal otherwise the quality of life of existing and future residents will be affected. In addition to this the Open Space, Sport and Recreation Study shows this site to currently offer open space it is therefore important this site retains an offer of open space. The Officer also notes that the plan attached to the 1996 legal agreement clearly shows a tennis court which would have provided a sporting facility for the nurses accommodation if not the wider site it is not unreasonable to ensure this site continues to provide for its residents.

The Officer continues stating whilst the provision of toddler and informal play areas would be welcome no details on this offer have however been provided (eg buffer treatment to prevent disturbance to nearby properties and parked cars etc) and is considered to be in an inappropriately location. It is separated from the buildings by the main access road and tucked behind the main entrance within trees this is not considered a safe location and will affect its effective use. As detailed in the local plan policies open spaces, including recreation space, should be considered and included within the initial design stages to ensure they will be effective provision rather than spaces left over after development which are often not best located for their respective users.

As raised before by the Policy Officer regard should be given to innovative solutions to the provision of sports facilities eg a green gym and/or sports co-ordinator etc. It is important to ensure that high density developments provide effective useable open spaces as appropriate to the demands generated. The shortfall in on-site provision could be addressed via a financial contribution however it is not considered satisfactory to rely solely on a financial



contribution with a scheme of this scale in an area with limited recreational facilities and on a site which is large enough provide an equipped children's playground. The applicants' assertion that the private and shared amenity spaces address HO6 requirements is unfounded.

In the absence of such provision on-site, children would be required to seek alternative supervised play area in the local area. There is not considered to be sufficient provision for external amenity space needs given the site location and surrounding context and the proposal for family accommodation. It is therefore considered that the proposed development fails to provide adequate outdoor recreation space to meet the needs of future occupiers and this would be to the detriment of the living conditions of any future residents of the scheme and contrary to policies HO6 and QD27 of the Brighton & Hove Local Plan.

Brighton & Hove Local Plan policy HO13 requires that all new residential development is constructed to Lifetime Homes standard, and that a proportion of new dwellings are constructed to wheelchair accessibility standards. Policy TR8 requires development proposals to provide for the needs of pedestrians by creating short, safe, attractive and direct routes for walking and take account of and improve links within and outside the site boundaries between pedestrian routes and public transport facilities.

The plans as originally submitted failed to detail enough information to assess the scheme fully against Lifetime Homes criteria. The applicant has since submitted a selection of more detailed floor plans which have been assessed by the Council's Access Consultant. The plans are labelled 1:100 at A3 however they appear to be drawn at 1:200, at such a small scale it is difficult to assess the scheme for compliance as the degree of error is greater.

The bathrooms in all the general units do not provide sufficient space the fittings to be rearranged so that a wheelchair user to close the door and achieve side transfer from a wheelchair to the WC. A number of the units fail to provide 300mm clear space at the leading edge of all the doors opening towards the user.

The applicant has therefore failed to demonstrate the scheme is capable of fully according to Lifetime Homes standards. The external access arrangements for wheelchair users or those who are less able is of concern due to the indirect access across varying contours around the site which is poorly observed in places. The Council's Access Consultant also notes that the footpath from Pankhurst Avenue seems to be excessively steep, particularly over the section between Pankhurst Avenue and the north west corner of the access road near the entrance to the Block B car park. The Officer considers that given the scale of this development consideration should be given to providing more suitable wheelchair access to the entrance to Blocks B and C from the main site entrance.



Within the wheelchair units provision does not appear to have been made for the storage and charging of an electric wheelchair/scooter and the circulation space at the entrance does not appear sufficient. In addition, the Officer notes that wheelchair users should be able to access and use all communal areas and facilities (such as the recycling area, community area, gardens, etc) however it does not appear that this would be possible.

The scheme is therefore not considered to adequately accord to policies TR8 and HO13.

#### Community facilities

Local Plan policy HO19 relates to new community facilities and states that planning permission will be granted where it can be demonstrated that the four criteria can be met. Criterion a) requires the facility to be accessible to all members of the community and include demonstrable benefits to people from socially excluded groups, the provision of suitable childcare and toilet facilities; b) requires demonstration that residential and surrounding amenity is protected; c) that the location is readily accessible by walking, cycling and public transport; and d) that adequate car and cycle parking, including provision for people with disabilities is provided. HO21 relates to provision of community facilities in residential and mixed use schemes and HO25 to provision of a new community centre being sought as part of any large scale housing residential development at Brighton General Hospital.

The planning statement submitted by the applicant states in relation to this issue that while there is no specific use at this stage, Southern Housing (the applicant) have developed other schemes which have included community space for childcare, elderly community use and sometimes small sports use. The objective stated is of providing the space to promote community integration while retaining flexibility of the space to be used in a way that will support and promote a sense of the community in this location and it is stated that a suitably worded condition to regarding the use and for the provision of the required in formation prior to occupation would be acceptable.

In relation to this issue, a letter of representation has been received from the Community Development Worker for Queen's Park and Craven Vale who contest the applicant's notion that the site is well served stating that there is no GP, dentist, secondary school, bank, free cashpoint or shops selling fresh produce. The Community Worker also states that although a small community facility is being provided at the Guinness development close by to the site on Pankhurst Avenue, she considers that local people feel a further community space would be welcome, but that the new facility should be considered carefully to complement the Guinness provision. If the application were acceptable in other respects a suitably worded condition would be recommended to ensure an appropriate facility were provided.

In respect of criterion a) of policy HO19 no detail has been submitted to address the policy requirement and demonstrate that the proposed facility will

be accessible to all members of the community and include demonstrable benefits to people from socially excluded groups and the provision of suitable childcare facilities. It is noted that an end user has not been found at present however as a minimum it is expected that the applicant should demonstrate that the facility is accessible to all and as previously noted, access to what appears to be the main entrance to the unit is significantly impaired for those who are less able or in a wheelchair from Pankhurst by the stairs. Further, the lack of detail on the plans does not demonstrate that toilet facilities will be provided. However, due to the location and scale of the proposed facility it is not considered likely to cause harm to amenity and the hours of use and soundproofing measures could be secured by condition (criterion b)).

The site is considered to be accessible by walking, cycling and public transport in respect of criterion c); however as noted elsewhere in this report the links to the public transport corridor of Elm Grove, which has the benefit of more frequent bus services, is poor. Criterion d) requires demonstration that adequate car and cycle parking, including provision for people with disabilities is provided. On evaluation of the Transport Assessment (TA) and plans, it is not clear that any provision has been made for the community facility apart from potentially the 10 cycle spaces to the front of the doors to the unit which are labelled '10 visitor cycle space'. However it is not clear that these spaces are dedicated to the facility and on assessment of the TA the level of parking (cycle and car) is based on the residential units only.

It is noted that the unit numbers have reduced since the submission of the TA which will relieve some pressure on parking however the provision is not at its maximum and car parking is likely to be competed for by the residents over users of the community facility visiting. Without knowing what the end use of the facility it will be it is not possible to accurately assess the parking need. If the application were considered acceptable in all other respects a condition requiring the parking spaces adjacent to the unit to be disabled parking and details of direct access from there could be required.

As noted by the Council's Policy Officer without details of the proposed facilities or on how it will be managed compliance with HO19, HO21 and HO25 cannot be fully demonstrated.

#### Sustainable Transport

Policy TR1 of the Local Plan requires development proposals to provide for the demand for travel which they create and maximise the use of public transport, walking and cycling. Policy TR7 will permit developments that would not increase the danger to users of adjacent pavement, cycle routes and roads. Policy TR19 requires development to meet the maximum parking levels set out within Supplementary Planning Guidance Note 4 'Parking Standards'. The site is not within a Controlled Parking Zone (CPZ).

The Council's sustainable transport officer has been consulted on the application and has raised concerns regarding the width of the pavement

which should be widened from 1.2 to 2m in width which is desirable, particularly owing to the indirect access for wheelchair users of the site. The pavement at the current width would not permit a companion to walk alongside a wheelchair user, the applicant is also advised that the footway should be made continuous over sections crossed by vehicles by provision of coloured surfacing. The applicant is also advised that a Section 278 agreement would be required for the new access onto Pankhurst Avenue, the building of the access will require relocation of the existing eastbound bus stop and this would be funded by the applicant.

No objection has been raised to the proposed level of parking on site; a maximum provision is not proposed, some of the internal parking layout does not accord to best practice and there is no provision for parking by disabled visitors however it is considered that this could be resolved via an appropriately worded condition if the application were considered acceptable in other respects. Concern is also raised regarding the vertical cycle parking provision which is considered inappropriate for those who are less fit and strong.

The impact of the scheme on the highway network in the area is not considered likely to be detrimental, the applicants have demonstrated using the standard technical methodology that it is very unlikely that congestion would be caused at local junctions by the small traffic impact of the development. In respect of sustainable modes of transport, the applicants have reviewed the quality of provision for sustainable modes around the application site. The officer notes that this is generally reasonable but there are shortfalls notably in the scope for improvement of bus stops in Freshfield Road and Elm Grove.

It is noted that convenient access to the bus stops in Elm Grove depends on the availability of the private pedestrian route from north to south across the hospital site to the immediate east of the application site, but it is understood that the Police want the gate controlling this to be on a coded lock, which the applicants hope to agree should be locked only at night. This advice is in conflict with good urban design principles which would recommend avoiding gating a development in such a manner. CABE 'Building for Life' guidance states that, '*Streets and footpaths should be connected to existing routes and neighbourhoods, creating a district that is accessible and easy to get around. A well-designed development should be easy to get to and move through, making the most of existing or proposed facilities in the area. This needs roads, footpaths and public spaces which link into well-used routes.*'

A financial contribution was originally recommended at £80,250 however based on the allowance for the trips previously generated by the nurses home and on their TRICS based calculations the transport officer has agreed that no contribution could be requested.

A framework travel plan has been submitted by the applicant and approval of

the detailed plan would be required by condition prior to occupation of the development if the scheme were considered acceptable along with a construction management plan detailing routes and times to be used by construction traffic.

#### Trees and biodiversity

Policies QD15 and QD16 relate to landscape design, trees and hedgerows and require that proposals for new development must submit details to show that adequate consideration has been given to landscape design at an early stage in the design process, including open space provision, the spaces around and between buildings, making effective use of existing trees and hedgerows and where appropriate existing nature conservation features retained and new suitable ones created.

Policies QD17 and QD18 relate to protection and integration of nature conservation features and species protection, features should be integrated into the scheme at the design stage to ensure they are appropriately located and fully integrated.

The Council's Ecologist raised concern over the potential existence of Slow Worms and Common Lizard on site when the initial application was submitted, the applicant has since submitted a survey. The survey concludes that a small population of Slow Worm are present on site and recommends that they are captured and translocated outside of their hibernation to a suitable receptor site rather than maintained on the application site. The Council's Ecologist agrees with main findings and recommendations of the survey however notes that the receptor site would be out of the boundary of the site and therefore recommends that this should be secured via a S106 agreement requiring the submission of a detailed methodology for approval.

The Officer also notes that no detail has been provided on how nature conservation potential for the site will be maximised. Although the site proposes to retain a large amount of green space, not detail has been provided regarding ecological enhancement on the site.

The Council's Arboriculturalist has been consulted on the application and states that there are many trees on site, some of which are protected by TPO (No.2) 2001. Should permission be granted, 6 trees will be lost, 5 of which are covered by the TPO; those are 3 are Hawthorns, of little stature, in a central location and not visible from outside the grounds; 1 Atlas Cedar, which is bifurcated; 1 Poplar has already been removed on the grounds of health and safety. It is noted as regrettable that 1 mature Elm would be lost that will be too close to the proposed development however 9 further Elms are in close proximity to this specimen and therefore the impact of its loss is not considered to be significant.

If the application were considered acceptable conditions requiring the remaining trees on site are protected to BS5837 (2005) Trees on

Development Sites, drainage to run in the vicinity of trees are laid in accordance with BS5837 (2005) and NJUG 10 and a landscaping plan to submitted to show at least 14 replacement trees for the 7 trees that will be lost on this site.

#### Sustainability

Policy SU2 seeks to ensure that development proposals are efficient in the use of energy, water and materials. Proposals are required to demonstrate that issues such as the use of materials and methods to minimise overall energy use have been incorporated into siting, layout and design. The proposal is for new build development and as such it is required to meet a minimum of a 'very good' BREEAM rating or level 3 of the Code for Sustainable Homes (CSH). Policy SU13 relates to minimisation and re-use of construction and demolition waste, the policy requires the submission of details to demonstrate how the development will prevent the unnecessary diversion of construction waste to landfill sites.

SPGBH16 and SPGBH21 have been superseded by SPD08 Sustainable Building Design; however at the time the current application was submitted the SPD had not been formally adopted, as such the application will be not be assessed against the recommendations set out in SPD08.

As an application that originally came in prior to the adopting of SPD08 Sustainable Building Design, these proposals have been evaluated against SU2, SPGBH16: Renewable energy and energy efficiency in developments and SPGBH21: Sustainability Checklist (now superseded) by the Council's Sustainability Consultant. The development comfortably meets these standards for most sections – importantly the energy, water and BRE assessment sections, but falls short of improving ecological value and does not demonstrate the use of sustainable materials.

If assessed against SPD08 the main difference would be that the standard expected would be Code level 4 whereas the current commitment is to Code level 3 only for the 95 residential units; the community floor space has not been assessed and cannot be under CSH, if the application were acceptable a condition requiring the community space to achieve a 'Very Good' BREEAM standard would be recommended. The proposal has also failed to demonstrate a reduction in heat island effect and would benefit from greening of the buildings and site through e.g. living walls and planting of trees and shrubs on site.

There are some positive energy proposals which include communal heating systems with a total of 183m<sup>2</sup> of solar panels. However, building fabric and passive solar design could deliver further carbon reductions through increasing energy performance.

On assessment of the Sustainability Statement in respect of energy the proposals include a communal gas fired heating system for each of the 3



blocks, improving efficiency over individual boilers, supplemented by a shared system of solar panels on each block. A total of 183m<sup>2</sup> of solar panels will provide an estimated 98,303kWh and reduce CO<sub>2</sub> by 18.7tonnes /yr. This is predicted to meet the 15% renewable energy provision required in SPG21 Sustainability Checklist and also meets SU2 requirements for on site renewables. As stated by the Sustainability Consultant the communal systems will offer the benefit that all units will have equal access to heating benefits.

The scheme is aiming to meet Code Level 3 which requires a 25% reduction in carbon emissions in relation to Building Regulations standards. Energy efficiency details refer to improved insulation and air tightness against Building Regulations standards, but the overall carbon reduction through building fabric improvements is disappointing at 13%. Proposals could have gone further in reducing carbon emissions through improved fabric and passive design. It is positive however, that the proposals indicate an overall CO<sub>2</sub> reduction of 28% which is an improvement on the 25% required for Code level 3.

Water efficiency measures are proposed through low use water fixtures and fittings. Mandatory Code water standards will ensure these are implemented to 105litres/person/day. Water butts and underground storage tanks are mentioned for irrigation purposes meeting SU2 standards for water efficiency.

Ecological proposals do not meet standards recommended through SPG21, a nature conservation report has not been submitted and an ecologist has not been commissioned to write an ecological report. However a survey has been undertaken during the course of the application on the advice of the Council's Ecologist as stated above in the Ecology section of this report. Only 'minor positive change' is proposed to the ecological value of the site, with no new nature conservation habitats being created and the existing Slow Worm population is to be translocated off the site. The intention to retain a number of the mature trees on the site and the provision of a 'green wall' on the retaining wall of Block C is noted. The scheme does not propose to enhance the ecological value of the site by creating new nature conservation habitats and is therefore not considered to meet the ecology standards of SPG21. If the application were acceptable in all other respects, recommended conditions would include those requiring the scheme to achieve Code Level 3 and 'Very Good' BREEAM rating for the community facility, some sustainability measures outlined in the sustainability statement and ecological enhancements.

## **8 CONCLUSIONS**

Officers have continued to work with the applicants with the aim of resolving the outstanding objections to the scheme. A draft briefing note was issued at the time the site was initially put up for sale setting out the issues relating to the redevelopment of the site. Continued efforts have been made through extensive negotiation, written advice and meetings; the reduction in the height



of the scheme is an improvement, however very limited amendments have been made to the overall design and layout of the proposal to take account of the advice given and overcome objections to the development.

The proposed development, by virtue of its excessive height and site coverage would appear over dominant and visually intrusive, and would detract from the prominent historical hill top setting and views of the adjacent listed Brighton General Hospital and views from within Valley Gardens, Round Hill and West Hill Conservation Areas. The proposed form, layout and materials do not relate well to its surroundings and the proposal fails to create an appropriate new setting for the listed buildings.

The design and layout of the scheme fails to provide good connectivity through the site, to the adjacent Brighton General redevelopment site and the surrounding location and services. The routes through are poorly observed and impeded for cyclists those with a buggy by the use of steps, access for wheelchair users is particularly poor. The layout is dominated by the roadway and the green space provided is poorly integrated and therefore likely to be underused.

Outdoor recreation space has not been provided, the toddlers play area is poorly located and observed and a number of the balconies are too small to be used this is compounded by the inclusion of outward opening doors particularly for wheelchair users and the accommodation does not meet Lifetime Homes Standards. The applicant has failed to demonstrate that the proposed community facility will meet the policy requirements. The application is therefore recommended for refusal.

## **9 EQUALITIES IMPLICATIONS**

The development is not fully Lifetime Homes Compliant and access across the site and into the community facility for members of the community who are less able or wheelchair users is poor.

# BH2008/00792 Former Nurses Accommodation, Brighton General Hospital, Pankhurst Avenue



Date: 09/09/2009 11:36:36

Scale 1:1250



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<b><u>No:</u></b>	<b>BH2009/00551</b>	<b><u>Ward:</u></b>	<b>MOULSECOOMB &amp; BEVENDEAN</b>
<b><u>App Type</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>University of Brighton, Falmer Campus, Village Way, Brighton</b>		
<b><u>Proposal:</u></b>	<b>Provision of 8 floodlit tennis/netball courts with fencing, 9 lighting columns and associated access.</b>		
<b><u>Officer:</u></b>	Aidan Thatcher, tel: 292265	<b><u>Received Date:</u></b>	04 March 2009
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	08 October 2009
<b><u>Agent:</u></b>	King Sturge LLP, 30 Warwick Street, London		
<b><u>Applicant:</u></b>	University of Brighton, c/o Agent		

## 1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 9 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

### Conditions

1. BH01.01 Full Planning
2. Prior to the commencement of development, full details of the paint/colour of the floodlights, columns and fencing hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in strict accordance with the agreed details.  
**Reason:** In the interests of the visual amenity of the Sussex Downs Area of Outstanding Natural Beauty/South Downs National Park and in accordance with policies QD1, QD2, QD26, NC6, NC7 and NC8 of the Brighton & Hove Local Plan.
3. The netball/tennis courts hereby approved must be provided and available for use prior to the demolition of the existing tennis/netball courts within the University of Brighton Falmer campus.  
**Reason:** To ensure the continued provision of sports facilities at the university and to comply with policy SR17 of the Brighton & Hove Local Plan.
4. Prior to the floodlights hereby approved being brought into use, the floodlights shall be tested and adjusted and/or any remedial works undertaken to minimise light spillage, impact upon nearby Halls of Residence and impact upon the Sussex Downs Area of Outstanding Natural Beauty/South Downs National Park to the satisfaction of the Local Planning Authority. The lights shall be maintained in the approved position thereafter to the satisfaction of the Local Planning Authority.  
**Reason:** In the interests of residential amenity and visual amenity of the Sussex Downs Area of Outstanding Natural Beauty/ South Downs National Park and in accordance with policies QD1, QD2, QD26, NC6 and NC7 of the Brighton & Hove Local Plan.

5. The floodlights hereby approved shall only be used between the hours of 09.00 and 22.00 Monday to Friday between 1 October – 30 April, and between 09.00 and 21.00 Monday to Friday between 1 May and 30 September and the hours of 09.00 and 18.00 on Saturday and Sundays (all year round).  
**Reason:** In the interests of residential amenity, to protect nature conservation features and the visual amenity of the Sussex Downs Area of Outstanding Natural Beauty/South Downs National Park and in accordance with policies SU9, QD2, QD26, QD27, NC4, NC6, NC7 and NC8 of the Brighton & Hove Local Plan.
6. BH11.01 Landscaping/planting scheme.
7. BH11.03 Landscaping/planting (implementation/maintenance).
8. No development shall commence until fences for the protection of the trees to the south and east of the development have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the area enclosed by such fences.  
**Reason:** To protect the trees which are in close proximity to the site in the interest of visual amenities and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.
9. Prior to the commencement of the development, a method statement detailing how any contamination will be effectively dealt with upon the site shall be submitted to and be approved in writing by the Local Planning Authority. All works shall be carried out in strict accordance with the approved method statement.  
**Reason:** The site is in a very sensitive location with respect to groundwater and in order to protect the quality of drinking water supplies the working methods will need to be carefully considered and in accordance with policies SU3 of the Brighton & Hove Local Plan.
10. BH15.06 Scheme for surface water drainage.
11. BH05.08 Waste minimisation statement.
12. No development shall commence until full details demonstrating that 20 convenient, sheltered and secure cycle parking spaces are available, and if these are not, then a plan shall be submitted to the Local Planning Authority to provide the required provision. Either option shall be submitted to and approved in writing by the Local Planning Authority and be developed in strict accordance with the approved details and thereafter retained as such.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
13. Prior to development commencing on site, a Community Use Agreement Statement shall be submitted to and approved in writing by the Local Planning Authority. The facility shall be run in full accordance with the details within the approved statement unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure the facility provides benefit for the wider community and to comply with policy SR20 of the Brighton & Hove Local Plan.

14. Within 3 months of the commencement of the works hereby approved, details of a Conservation Management Plan for the adjacent SCNI (Westlain / Hog Plantation) shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall be implemented within 6 months of the commencement of the works hereby approved and thereafter maintained.

**Reason:** In order to provide mitigation against adverse impact on the Site of Nature Conservation Interest and to improve biodiversity value and to accord with policy NC4 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on design and access statement, Site Waste Management Plan, Biodiversity Checklist, Site Waste Management Plan, Light Survey, University of Brighton Corporate Plan and University of Brighton Sport and Recreation Service submitted on 04.03.09 and drawing nos. UOB\_FA\_C\_SIT\_001B, 002D, 003A, 004A, 005A, 006A, Planning Statement, Phase 1 Habitat Survey and Bat Survey Report and Falmer Campus Transport Assessment submitted on 09.07.09.

2. This decision to grant Planning Permission has been taken:

- i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below including Supplementary Planning Guidance:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR4	Travel plans
TR5	Sustainable transport corridors and bus priority routes
TR7	Safe development
TR8	Pedestrian routes
TR13	Pedestrian network
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU3	Water resources and their quality
SU4	Surface water run-off and flood risk
SU5	Surface water and foul sewerage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU15	Infrastructure
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD4	Design – strategic impact
QD6	Public art
QD15	Landscape design
QD16	Trees and hedgerows



QD18	Species Protection
QD19	Greenways
QD20	Urban open space
QD26	Floodlighting
QD28	Planning obligations
SR17	Smaller scale sporting and recreational facilities
SR20	Protection of public and private outdoor recreation space
SR23	Community Stadium
EM18	University of Brighton
EM20	Village Way North
NC4	Sites of Nature Conservation Importance (SNCIs) and Regionally Important Geological Sites (RIGS)
NC5	Urban fringe
NC6	Development in the countryside/downland
NC7	Sussex Downs Area of Outstanding Natural Beauty
NC8	Setting of the Sussex Downs Area of Outstanding Natural Beauty

Supplementary Planning Guidance Notes:

SPGBH4: Parking standards; and

ii) for the following reasons:

The development will provide additional sports and recreational facilities which will benefit the adjacent educational institutions. The flood lighting will not significantly harm the surrounding protected landscape and urban features of the area, whilst conditions can control light spillage, drainage and visual impact and to mitigate against any impact on biodiversity interests.

## 2 THE SITE

The application relates to land adjacent to the recently completed all weather sports pitch and the halls of residents buildings on the University of Brighton campus at Falmer. It is located upon an existing sports pitch adjacent to a heavily treed boundary designated as a Site of Nature Conservation Importance (SNCI). The campus lies on the north-eastern fringe of the city within the South Downs Area of Outstanding Natural Beauty (AONB). However, the campus is not within the current proposed South Downs National Park boundaries.

The site is relatively a flat area of grassed land which is upon a raised bank and is used within the campus as recreation space and sport facilities.

The site is surrounded to the east by halls of residence buildings, to the south by open space, grass sports pitches to the west and a recently completed all weather sports pitch to the north.

The campus comprises a number of buildings, some of which date from the original 1960's campus and others such as the library and adjacent medical school which are more recent. These comprise initial phases of a long-term

redevelopment strategy by the university.

### 3 RELEVANT HISTORY

**BH2009/00174:** Replacement car parking comprising 61 spaces adjacent (west) to existing copse car park – approved 09/06/09.

**BH2008/03893:** Erection of 2-storey building for sport, recreation and social facilities, with associated plant, access, disabled, coach and cycle parking - University of Brighton, Falmer Campus – approved 29/04/09.

**BH2008/01744:** Erection of new teaching accommodation set over five floors with associated plant and machinery (Revised scheme of those previously permitted under Reserved Matters Approval - BH2005/05962) – approved 22.09.08.

**BH2007/00747:** Construction of floodlit third generation artificial grass pitch with fencing and access paths – approved 20/04/07.

**BH2006/02464:** Reserved Matters application to determine Means of Access and Landscaping in relation to Outline application BH2003/00659/OA, for the erection of phases 4/5 for the provision of new teaching accommodation on five floors. Resubmission and minor revisions to previously approved Reserved Matters application BH2005/05962 to be determined in respect of Siting, Design and External Appearance – approved 03/11/2006.

**BH2005/5962:** Reserved Matters application for the erection of phase 4/5 for the provision of new teaching accommodation set over five floors, associated plant machinery, access and open space following on from Outline application BH2003/00659/OA. Not to include landscaping subject to further reserved matters – approved 16/01/2006.

**BH2003/00659/OA:** Demolition of 6 buildings in the north east corner of the site at Turnpike Piece. Construction of Phase 4/5 – Academic accommodation, Phase 6 – replacement gymnasium, Phase 7 – Replacement of sports pavilion, Phase 8 – Relocated floodlight netball and tennis courts, Phase 9 – All weather floodlight sports pitch and replace existing football pitch. Provision and relocation of car parking associated earthworks, landscaping and access roads – approved 14/01/2004.

**BH2003/00204/FP:** Demolition of Great Wilkins and erection of student accommodation – approved 03/04/2002.

**BH2002/00121/FP:** Demolition of Patcham House and erection of medical school, teaching and office facilities - approved 28/02/2002.

**BH1999/00846/RM:** Erection of new library - approved 07/09/1999.

### 4 THE APPLICATION

This application seeks consent for the erection of a 8 no. tennis/netball courts together with 9 no. floodlight columns together with fencing and associated pedestrian access.

The total area of the courts is to measure 80m deep x 75m wide. The fencing itself is to be 3.0m high, with the floodlight columns being 10.0m high, and the court surface is to be a fully porous macadam with green acrylic coating.

## 5 CONSULTATIONS

**External:**

**Neighbours:** None received.

**saveHOVE:** Brilliant to have tennis courts installed. I would caution seriously the floodlights and their impact on countryside wildlife and night sky along with the sense of further urbanisation of that area. Restrictions on hours and number of days per month or something would be necessary and advisable. I speak from experience of how floodlights installation was abused by Sussex County Cricket Ground. Without curtailing hours of use you could create amenity nuisance in violation of QD27.

**Sport England:** The site of the proposed development forms part of, or constitutes a playing field as defined in Article 10(2) of the Town and Country Planning (General Development Procedure) Order 1995 (as amended by SI 1996/1817 and SI 2009.453). Sport England has, therefore, assessed the application in light of our adopted Playing Fields Policy, A Sporting Future for the Playing Fields of England (1996).

The aim of this policy, which is embodied within PPG17, is to ensure that there is an adequate supply of quality pitches to satisfy the current and estimated future demand for pitch sports within the area. This policy states that:

*Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of, all or part of a playing field, or land last used as a playing field or allocated for use as a playing field in an adopted or draft deposit local plan, unless, in the judgement of sport England, one of five specific circumstances applies.*

Development which would lead to the loss of all or part of a playing field, or which would prejudice its use, should not normally be permitted because it would permanently reduce the opportunities for participation in sporting activities. Government planning policy and the policies of Sport England have recognised the importance of such activities to the social and economic well-being of the country.

This application proposes the development of an outdoor tennis and netball facility. The facility will provide 4 tennis courts and 8 netball courts on a fully porous macadam surface with special green acrylic colour coating with fencing and associated access.

The development of these courts forms part of a comprehensive masterplan (BH2003/00659/OA) for the redevelopment of the University of Brighton's Falmer Campus and will replace existing tennis and netball courts on the campus. This will then allow development of the Falmer Community Stadium to go ahead on the existing courts.

In January 2004 the outline planning application for the masterplan was approved for a range of developments that would take place through 9 different phases. Phases 1-3 and Phase 9 have now been completed and phase 4/5 is currently under construction. Phase 6 has also been granted planning permission (29.04.09). The subject of this planning application is Phase 8 of the outline planning permission, the provision to relocate the floodlit tennis/netball courts; as the time limits on the outline permission have now expired, a full application has been submitted.

The 2004 outline permission proposed to locate the tennis/netball facility to the north of the 3G pitch (phase 9). However as a result of greater demand for the 3G pitch the application has since been approved and constructed. This has resulted in this application now being located to the south of the 3G pitch. Although sited in a different location, no additional playing field land is lost or compromised.

It is understood that the existing netball and tennis courts on the campus are used by the wider community as well as the University. In order for this to continue, Sport England requests that a community use scheme be secured through a planning condition or planning obligation, as appropriate. The scheme shall be agreed with the local authority in consultation with Sport England before the facilities are brought into use.

In addition, to ensure continuity of sports provision, the courts should be provided and made available for use before the demolition of the existing courts.

Sport England therefore has no objections to this application and wishes to support this application.

**Natural England:** We have no comments to make on this planning proposal. However, we would like to stress that the absence of comments or direct involvement on individual plans or proposals is simply an expression of our priorities. It should not be taken as implying a lack of interest or indicating either support for, or an objection to, any proposal.

However, we would expect the Local Planning Authority to assess and consider the possible impacts resulting from this proposal on the following when determining this application:

#### AONB

If the proposal site is within an Area of Outstanding Natural Beauty (AONB) or potential National Park boundary, we recommend that you contact the relevant AONB unit or the South Downs Joint Committee, as appropriate, to ensure that planning issues regarding this proposal take into account any issues that may arise from this development as a result of this designation.

#### Local wildlife sites

If the proposal site is on or adjacent to local wildlife sites, e.g. Site of Nature Conservation Importance (SNCI) or Local Nature Reserve (LNR) the county ecologist and/or local Wildlife Trust should be contacted.

#### Protected species

Natural England refers you to our Standing Advice on protected species which states that where a protected species is likely to be impacted by a development, the council should consult their in house or trained ecologist.

#### Ancient Woodland

Natural England advises that the proposals as presented have the potential to adversely affect woodland classified on the Ancient Woodland Inventory. Natural England refers you to our Standing Advice on ancient woodland.

#### Biodiversity enhancements

The application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The Council should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 14 of PPS9. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

**South Downs Joint Committee:** The proposal site is within the Sussex Downs AONB, although it will be excluded from the South Downs National Park (final Ministerial confirmation of which is expected this autumn). The site is immediately south of a floodlit all-weather football pitch. Although it is possible to see the site from within the National Park, i.e. from Stanmer Park to the north (and Falmer Hill to the south – floodlighting only), any such views are in the context of the university campus and any vestigial 'natural beauty' on the proposal site is somewhat limited. I therefore have no objection to the location of the courts in this position, subject to perhaps a condition on the colour of the playing surface (black would be preferable, but the green suggested is better than some alternatives, particularly red which should not be used). The proposed floodlighting is of greater concern, as floodlighting can have various negative impacts on the AONB. However, in this particular case there are the following factors which would make the principle more acceptable:

1. The application is to replace existing floodlit courts, albeit in a different location;
2. The site is adjacent to an existing floodlit football pitch and is on the edge



of the University campus which contains additional lighting, with further lighting in the wider area, including the A27 and urban environment to the southwest;

3. Light spillage can be controlled to some extent by using baffles and directional lighting;
4. Visual impact of the columns during the daytime is limited due to the trees to the south.

Accordingly I have no objection to the proposed courts being floodlit subject to the following measures: Baffles/other uni-directional measures are included to control light spillage; the hours of use of the floodlighting be controlled by condition and ideally the poles and lighting surrounds should be finished in a dark colour.

**Southern Gas Networks:** Low/Medium/Intermediate Pressure gas mains are present in proximity to the site. No mechanical excavations are to take place above or within 0.5m of the Low pressure and Medium pressure system and 3 metres of the intermediate pressure system. Where required, the positions should be confirmed using hand dug trial holes.

**EDF Energy Networks:** No objection to the proposed works.

**Southern Water:** Does not wish to comment on the above application.

**Internal:**

**Planning Policy:** The proposed floodlit netball and tennis courts relate to the University of Brighton's Falmer Campus masterplan redevelopment and is in principle supported by policy EM18. The proposed Community Stadium (Policy SR23) requires this relocation, as it is to be partly located on the site of the current courts. Careful consideration should be given to the impact of this proposal particularly on the AONB and intended National Park.

The site lies outside the built up area boundary within the countryside and the designated Sussex Downs Area of Outstanding Natural Beauty. It lies adjacent to the intended National Park and a Site of Nature Conservation Importance (NC4). It falls within an indicative Greenway. Student accommodation lies to the east of the site.

The University of Brighton is currently implementing a masterplan at their Falmer Campus, submitted under outline application BH/2003/00659/OA (now time expired). This planning application relates to Phase 8 of the outline application which relocates existing tennis and netball courts. The proposed site for the tennis and netball courts does however differ to that included within the masterplan. Its location has swapped positions with a floodlit synthetic turf pitch approved in 2007 which is now in-situ. Many of the masterplan phases have been completed or are currently underway.

The general principle of this proposal is supported by policy EM18 (University

of Brighton). EM18 includes the need for development to take into account the cumulative effect of the other development proposals in the area, in particular the cumulative effect on transport and the natural environment of development proposals set out SR23, EM2, EM19 and EM20. Whilst the previous lapsed masterplan application is a material consideration, the time lapse enables a careful assessment and consideration of the impact of the now developed phases and nearby schemes (including the impact of the floodlit STP).

#### Policy SR23 Community Stadium

The existing tennis and netball courts lie within the approved Community Stadium site, SR23. The Community Stadium is of strategic importance and requires the tennis and netball courts to relocate rather than simply upgrade the existing facilities.

#### Policies QD20 Open Space and SR20 Outdoor Recreation Space

The retention of open space / existing outdoor recreation space, including relocation where appropriate, is supported by QD20 and SR20 respectively. By virtue of SR20 suitable access to the public should be created. The need for ensuring the use of open space is optimised and appropriately opened to the public is supported by the findings of the Open Space, Sport and Recreation Study. The increasing densities within the city require the full and effective use of all land, including open space (policy QD3).

#### NC5 Urban Fringe, NC6 Countryside and NC7 Area of Outstanding Natural Beauty

In order to minimise the impact on the urban fringe, countryside and especially the current AONB and intended National Park careful consideration should be given to this proposal especially the impacts of the amended location. The provision of intensive floodlit sports courts are not easily located within the countryside/AONB and potential conflicts need to be addressed to comply with these policies.

#### SU9 Pollution, QD25 External Lighting, QD26 Floodlighting and QD27 Amenity

Since the approval of the masterplan lighting technology is felt to have advanced. Particular regard should be given to minimising light pollution including from glare and reflection. In view of the sensitive location of this proposal it may be appropriate to obtain comments from a lighting expert to ensure the number of lighting columns and subsequent intensity of illumination minimises the impact (eg more columns enables the column height to be reduced and the angle and intensity of each light to be reduced which normally reduces light overspill and reflection). The light absorbency of the ground surface should be taken into account to ensure reflected light will not cause harmful light pollution and unnecessary skyglow. The impact on residential amenity, especially the student accommodation to the east, should be given.

The impact on road safety and ecology will be subject to the comments from the transport team and the council's ecologist respectively and other relevant consultees.

QD15 Landscape Design

Regard to effective and appropriate landscape design should be given especially in respect of minimising impacts.

SU3 Water Resources and Quality and SU4 Surface Water Run-Off

The provision of a porous surface is welcomed subject to compliance with SU3 and SU4.

**Sustainable Transport:** This proposal is for a replacement facility which would not be expected to generate extra trips and would have no highways impact. The development is part of the University's Master Plan and journeys to and from it should be considered as part of the travel plan for the Falmer Campus as a whole. Any relevant conditions from the outline consent should be 'carried forward' as part of any consent granted here.

The application does not refer to cycle parking and the Transport Assessment for the Master Plan only refers to it in general terms, and it is proposed that the applicant should be required by condition to demonstrate that 20 convenient sheltered and secure cycle parking spaces as required by SPG4 are available, or otherwise submit for approval a plan showing proposed new provision to this standard.

**Ecologist:** The development site lies adjacent to Westlain Plantation / Hog Plantation Site of Nature Conservation Importance and as such is protected from damage by policy NC4 of the Local Plan 2005. The woodland is also classified as 'ancient woodland' by Natural England.

The development proposal involves the construction of floodlit sports courts within 5.4 -10.8m of the fence line of the woodland. Bats are known to be affected by light pollution but in this case no significant bat activity has been detected in the vicinity of the application. There is planning precedence for requiring a 15m minimum buffer between development and ancient woodland. However the circumstances of the 15m buffer case are significantly different to this one as follows:

- The quality of the ancient woodland within Westlain Plantation / Hog Plantation is comparatively poor
- The context of this application is already urbanised with a significant degree of existing light pollution
- The existing habitat on the development site (outside the woodland) is of low ecological value.

Policy NC4 of the local plan presumes against development in the vicinity of SNCIs where an adverse impact on the nature conservation features of the

site is likely. However exceptions can be made where the proposal can be subject to conditions that will prevent damaging impacts on the nature conservation features and their setting and includes provision for the protection, enhancement and management of nature conservation features.

In this case the main potential impacts of the proposal are acute disturbance during construction and increased light pollution into the woodland thereafter. Although there is a level of existing light pollution from nearby buildings and bat activity was low during the applicant's survey, light pollution would significantly increase within the woodland if this application were to be implemented and detrimental effects on the ecology of the woodland are in my view therefore likely.

The requirements of policy NC4 can however be addressed by:

1. Limiting the use of floodlighting during the main period of woodland ecological activity. I would suggest a condition preventing floodlighting after 9pm from 1<sup>st</sup> May to 30<sup>th</sup> September.
2. Requiring the installation of strong temporary fencing between the courts and the woodland for the duration of the construction period. No materials, personnel, plant or machinery to be permitted beyond the fence at any time.
3. Requiring a commitment to write and implement a management plan for that part of the SNCI within 50m of the new development via a S106 agreement. The management plan should aim to maximise the biodiversity value of that part of the woodland for bats, nesting birds and ancient woodland ground flora.

**Environmental Health:** I note that the application area is very close to the student halls and that whilst there is a difference in height, the lighting report submitted is based on lux levels at a ground level footprint. To ensure consistency, discussion with the agent, John English from King Sturge identified that the soccer pitch immediately north recently had a lighting application for BH2007/00747 which had conditions for testing prior to use and hours of use. Both conditions should therefore be applied to this consent should the local planning authority see fit to grant approval.

Recommend approval subject to the following conditions:

1. The lighting scheme for the pitches shall be subject to the following hours of use:  
Monday to Friday 09:00 hours to 22:00 hours  
Saturday and Sundays 09:00 to 18:00 hours
2. Prior to the floodlights hereby approved being brought into use, the floodlights shall be tested and adjusted and/or any remedial works undertaken to minimise light spillage, impact upon nearby Halls of Residence and impact upon the Sussex Downs Area of Outstanding

Natural Beauty/proposed South Downs National Park to the satisfaction of the Local Planning Authority. The lights shall be maintained in the approved position thereafter to the satisfaction of the Local Planning Authority.

Informative

The grant of planning approval does not necessarily indicate that an investigation into statutory nuisance may be carried out.

**CityClean:** No comments to make on this application.

**6 PLANNING POLICIES**

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR4	Travel plans
TR5	Sustainable transport corridors and bus priority routes
TR7	Safe development
TR8	Pedestrian routes
TR13	Pedestrian network
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU3	Water resources and their quality
SU4	Surface water run-off and flood risk
SU5	Surface water and foul sewerage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU15	Infrastructure
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD4	Design – strategic impact
QD6	Public art
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species Protection
QD19	Greenways
QD20	Urban open space
QD26	Floodlighting
QD28	Planning obligations
SR17	Smaller scale sporting and recreational facilities
SR20	Protection of public and private outdoor recreation space
SR23	Community Stadium
EM18	University of Brighton
EM20	Village Way North
NC4	Sites of Nature Conservation Importance (SNCIs) and Regionally Important Geological Sites (RIGS)
NC5	Urban fringe



NC6	Development in the countryside/downland
NC7	Sussex Downs Area of Outstanding Natural Beauty
NC8	Setting of the Sussex Downs Area of Outstanding Natural Beauty

Supplementary Planning Guidance Notes:

SPGBH4: Parking standards

## 7 **CONSIDERATIONS**

The main considerations in this application are the planning history, the principle of the development, the impact on the Sussex Downs AONB and South Downs National Park, nature conservation interests, amenity issues, traffic issues, drainage and construction waste minimisation.

### Planning History

The planning history is significant in this case. Outline planning permission for the regeneration of the Falmer Campus including new sports facilities and general campus improvement was granted consent in January 2004. The outline permission was carefully considered as it allowed for the release of some of the land for the Falmer Community Stadium.

The Masterplan permission (BH2003/00659/OA) followed earlier approvals for a new library and a teaching block (phases 1-3). The application was specifically for 6 phases of development as follows:

- Phase 4/5 - Academic accommodation.
- Phase 6 - Replacement Gymnasium.
- Phase 7 - Replacement Sports Pavilion.
- Phase 8 - Relocated Floodlight Netball & Tennis Courts.
- Phase 9 - All Weather Floodlight Sports Pitch replacing existing football pitch.

The outline Masterplan has now expired but is considered a material consideration by reason that some phases of development (teaching and other sport facilities) have been granted permission.

The outline Masterplan sought that the application site be used to provide an all weather surface pitch (phase 9 of the Masterplan) located in the northern part of campus. However, application BH2007/00747 sought to swap the location of phases 8 & 9 and the all-weather pitch is now in situ. Therefore the current proposal is to provide the tennis/netball courts in the location originally intended for the all weather pitch. The change of locations and the change in order of the phases have been brought about by the delays in the Community Stadium facilities. At present the University cannot develop some phases of the development without confirmation that present facilities will be relocated due to the construction of the Community Stadium.

### Principle of redevelopment

Policy EM18 relates to the University of Brighton. It confirms that planning

permission will be granted for university uses including at Falmer, the redevelopment of the campus for a medical school, enhanced sports facilities and student accommodation. Any development should take into account the cumulative effect of the other development proposals in the area, in particular the cumulative effect on transport and the natural environment of development proposals set out in policies SR23 The Community Stadium, EM2 Falmer Business Park, EM19 Sussex University and EM20 Village Way North.

Therefore there is no objection to the redevelopment of the site for further sports facilities.

There is no objection to the relocation of the floodlit courts from that of the original siting approved in the expired campus master plan. The University changed the locations due to a previous higher demand for the all weather pitch and the fact that netball/tennis courts already exist within the campus. Both sites are similar in size and capable of housing the necessary sports equipment. It was envisaged that both facilities would be floodlit and it is not considered that the swapping of locations would undermine the regeneration of the campus or the release of land for the community stadium.

However the individual impacts of a floodlit sports facility in this location must be considered, which is dealt with below in this report.

Policy SR17 relates to smaller scale sporting and recreational facilities. It confirms that planning permission will be granted for smaller scale new sporting and recreation facilities provided that:

- a. It involved either the expansion of existing facilities or the provision of new facilities located close to the communities that they are intended to serve;
- b. They have good pedestrian and cycle links and are well served by public transport; and
- c. Intensification of facilities would not have a harmful impact on the local environment either visually (including artificial lighting), through additional noise and disturbance or impact on the natural environment.

The proposed netball/tennis courts are to replace existing courts within the university campus which require relocation to make way for the Community Stadium.

The proposed courts replace an existing grass football pitch. However, the existing pitch has already been replaced with the all weather pitch which would be used more intensively than before and will provide an all weather facility in the area. It is therefore considered that the replacing of the courts in this location is acceptable without causing any loss of available sports facilities.

The new courts will increase the standard of sport facilities within the campus, enable the further development of sporting programmes within the university and encourage further physical activity amongst the student body.

The new sports facility would therefore comply with policy SR17.

Impact upon the Sussex Downs and National Park

Policy NC7 relates to the Sussex Down Area of Outstanding Natural Beauty. It confirms that development will not be permitted within or adjacent to the Sussex Downs AONB. Exceptions will only be made where:

- a. The proposal conserves and enhances the visual and landscape quality and character of the AONB and complies with Policy NC6 'Development in the countryside/downland' and other policies in the Development Plan; or
- b. It can be demonstrated that the development is in the national interest and that there are no alternative sites available elsewhere.

Where exception 'b' applies, development will be required to keep the adverse effects on the AONB to a minimum and to demonstrate positive environmental enhancements.

In considering development proposals within the AONB, particular attention will be paid to the:

- i. Siting;
- ii. Scale;
- iii. Design;
- iv. Landscaping;
- v. Colour and type of external materials;
- vi. Screening;
- vii. Avoidance of noise disturbance and light pollution;
- viii. Integration of nature conservation features;
- ix. Improvement of public access where it is appropriate to the area and where it does not increase the need to use private motor vehicles; and
- x. Opportunities to enhance or reinstate the natural beauty and distinctive character of the area and wider landscape.

Policy NC8 relates to the setting of the Sussex Downs AONB and confirms that development within its setting will not be permitted if it would be unduly prominent in, or detract from views into, or out of the AONB (particularly from roads, rights of way or other public places), or would otherwise threaten public enjoyment of the AONB.

The site is located within the South Downs AONB, yet is outside the recently confirmed boundaries of the South Downs National Park (which are yet to be brought into effect). The University of Brighton Campus has been excluded from the National Park boundaries due to the harm it caused to this part of the

character and appearance of this part of the AONB.

The site is located within the Falmer campus of the University of Brighton and will be seen from within the South Downs in the context of the existing campus development. The campus is already lit at night and as such the campus has an impact upon the Downs from the resultant light pollution. Furthermore the A27 is located north east of the site and the A270 is located to the north, both roads are at least dual carriageways and are heavily lit in sections.

It is considered that the further light pollution from the proposed floodlighting will not severely impact upon the character and appearance of the Sussex Downs AONB and National Park. The proposed lighting is directional and the potential fall out of the light pollution is considered minimal. The site is located adjacent to a large university halls of residence complex and behind the main educational buildings visible from the adjacent highways. In addition, the existing all weather court sited immediately to the north of the site is also floodlit, subject to a restriction on hours of use.

Prior to the lighting being brought into use it is considered necessary for the system to be tested and adjusted if required to minimise floodlighting spillage. A planning condition can be imposed to ensure precautions to minimise light pollution.

#### Nature Conservation issues

Policy QD16 relates to trees and hedgerows and confirms that applications for new development:

- Should accurately identify existing trees, shrubs and hedgerows;
- Must seek to retain existing trees and hedgerows; and
- Wherever feasible include new tree and hedge planting in the proposals.

Where development is permitted in the vicinity of trees, adequate provision must be made for the protection of existing trees. Tree protection and all construction work carried out will need to comply with the advice of the current British Standard 5837 'Trees in relation to Construction' and any subsequent revision.

Policy QD18 relates to species protection and confirms that where it is evident that a proposal could directly or indirectly affect a species of animal or plant, or its habitat (including feeding, resting and breeding areas) protected under National legislation, European legislation or categorised as 'a declining breeder', 'endangered', 'extinct', 'rare' or 'vulnerable' in the British 'Red Data' books, the applicant will be required to undertake an appropriate site investigation.

Measures will be required to avoid any harmful impact of a proposed development on such species and their habitats. Where practicable, the

developer will be expected to enhance the habitat of the respective species. Where necessary, a condition will be imposed or a planning obligation sought in order to secure these requirements.

Permission will not be granted for any development, including changes of use that would be liable to cause demonstrable harm to such species and their habitats.

Policy NC4 relates to sites of nature conservation importance (SNCIs) and regionally important geological sites (RIGS). It confirms that planning permission will not be granted for a proposal within, or in the setting of, an existing or proposed SNCI or RIGS where it is likely to have an adverse impact, on the nature conservation features of the site.

Exceptions will only be made where:

- a. The proposal can be subject to conditions that will prevent damaging impacts on the nature conservation features and their setting and includes provision for the protection, enhancement and management of nature conservation features; or
- b. The proposal is: essential to meet social, environmental and/or economic needs; of more than local importance within the City; cannot be located anywhere else; and the following requirements have been met:
- c. The location, design and construction of the development is such that damage to nature conservation features is minimised and opportunities are taken for nature conservation gain;
- d. Compensating and equivalent nature conservation features are provided;
- e. Remaining features are protected and enhanced and provision made for their management; and
- f. Improvements to public appreciation of and access to the site are provided.

Conditions will be imposed or a planning obligation sought in order to secure these requirements.

The applicant's provided a Phase 1 Habitat Survey and Bat Survey Report with the application which concluded that there is little bat activity within the adjacent SNCI.

The proposed courts are located adjacent to the SNCI located at the Westlain Plantation / Hog Plantation on the southern part of the campus. It is not considered that the redevelopment of this site should have any long term impact upon the SNCI. However steps must be taken to ensure that the SNCI is protected during the construction of any buildings upon this site.

The Ecologist recommends that boundary with the SNCI be securely fenced prior to the commencement of any redevelopment and that a plan should be secured for ongoing management. There should be no access for



construction vehicles. No works, storage of materials or machinery should take place at anytime on the SNCI. Details of the precise location and construction details of the fence should be agreed in writing by the Local Planning Authority before works commence. This is to be secured by condition.

A management plan is required for the SNCI to improve the biodiversity value of this part of the woodland for bats, nesting birds and ancient woodland ground flora. This is to be secured by a condition as recommended as part of this proposal.

#### Amenity issues

Policy QD27 relates to amenity issues and confirms that permission will not be granted for proposals which cause material nuisance and loss of amenity to adjacent, existing or proposed occupiers.

The proposed courts are sited to the east of an existing cluster of halls of residence buildings, which include habitable rooms facing the development.

The courts are to include floodlighting with 9no. columns 10.0m in height. These have the potential to cause harm to the amenities of the occupiers of the halls of residence buildings. That said, the adjoining all weather sports pitch, which is also overlooked by the halls of residence buildings, includes floodlighting, and is subject to a condition restricting the hours of use of the floodlighting to 09.00 and 22.00 Monday to Friday and 09.00 and 18.00 on Saturday and Sundays. A condition is recommended on this application to restrict the floodlights to similar hours.

In addition, a further condition is recommended requiring the floodlights to be tested and adjusted and/or any remedial works undertaken to minimise light spillage prior to them being brought into use to ensure there would be no detrimental impact.

Therefore on balance, it is considered that there would be no detrimental impact to the occupiers of the adjacent halls of residents buildings.

#### Traffic issues

Policy TR1 relates to development and the demand for travel and confirms that development proposals should provide for the demand for travel they create and maximise the use of public transport, walking and cycling.

Policy TR14 relates to cycle access and parking. It confirms that in all proposals for new development and changes of use, applicants should provide facilities for cyclists in accordance with the parking guidance. These include:

- Safe, clearly defined and well lit access and approaches to, and circulation within, the development site; and

- Secure, convenient, well lit, well signed and wherever practical, sheltered cycle parking, close to the main entrance of premises, in accordance with the Council's approved parking standards.

The Sustainable Transport Team has no objection to the scheme on the ground that it would not be expected to generate any extra trips by virtue of it being a replacement facility and thus would have no highways impact.

Significant parking is already provided at the Brighton Health and Racquet Club, on the University Campus and at Falmer High School. Given the overall majority of the use will be from institutions located adjacent, and therefore the arrival of users will be from adjacent premises and it is not considered that additional parking should be provided, as the required levels of parking is provided from adjacent resources.

However, no indication of cycle parking has been provided and 20 spaces would be sought on a development of this nature. A condition is recommended requiring the applicants to demonstrate the 20 convenient, sheltered and secure cycle parking spaces are available either through existing provision within the campus or through new provision.

#### Drainage

Policy SU3 relates to water resources and their quality. It confirms that planning permission will not be granted for proposals which will result in an unacceptable risk of pollution of existing and/or proposed water resources, including surface and groundwater resources and the sea, or affect such resources by having an adverse impact on their:

- a. Water quality;
- b. Water quantity/potential yield;
- c. Nature conservation;
- d. Environmental value; and/or
- e. Recreational value.

Proposals within sensitive aquifer protection zones will not be granted if they pose an unacceptable risk of pollution to the aquifer or an adverse impact on the water quality/potential yield of the aquifer.

In the interests of minimising the risk of pollution, the planning authority will impose conditions on planning permissions to ensure that adequate pollution control measures are incorporated into new developments.

Policy SU4 relates to surface water run-off and flood risk. It confirms that development will not be permitted if:

- a. It would increase the risk of flooding;
- b. It is located in an area at risk from flooding; and/or
- c. The additional surface water run-off would be liable to harm people,

property or the environment.

Where appropriate, conditions will be imposed or a planning obligation sought in order to ensure that effective preventative measures are provided. The preventative measures used must be environmentally friendly, without detriment to the site, land elsewhere, people, animals, property and nature conservation.

The Environment Agency has not responded to the consultation. However previous experience with the site shows that the area is sensitive to pollution as the site does lie within an area of head deposits which are over the upper chalk formation. The area is classified as a minor aquifer overlying a major aquifer. The site lies within a source protection zone one for the Falmer public water supply as such the site is extremely sensitive and must be protected from pollution.

The Environment Agency has previously suggested a condition that a satisfactory scheme for surface water drainage should be submitted and approved before works may commence. It is considered necessary to impose this condition to ensure that the drinking water supplies are not contaminated.

#### Waste minimisation

Policy SU13 relates to the minimisation and re-use of construction industry waste. It confirms that planning permission will be granted for developments which reduce the amount of construction waste, which are otherwise in accordance with the other policies of the development plan.

The development will potentially result in a large amount of excavated material dependent upon the final levels of the development. A large quantity of top soil and turf will need disposal. It is clear that some of the excavation could be reused to fill in part of the site where a level base is not presently formed. Furthermore it is considered that there will be an excess of materials used in the construction and therefore some disposable waste.

It is considered that a waste minimisation statement is an appropriate measure to place on a development of this type to ensure there is an effective waste minimisation strategy in place. This can be secured by a planning condition.

## **8 CONCLUSIONS**

The development will provide a high quality replacement tennis/netball court facility for the university and provide improved sports facilities which are required due to the demolition of the existing facility to make way for the Brighton & Hove Albion Community Stadium.

The project displays a standard of design which is acceptable having regard to the type of facility with appropriate surfacing and the impact of the development is considered to be acceptable bearing in mind its present

AONB designation. Subject to conditions requiring hours of use of the floodlighting and a community use agreement the scheme would have an acceptable impact on amenities of the occupiers of the adjoining halls of residents building and would benefit the wider community more generally.

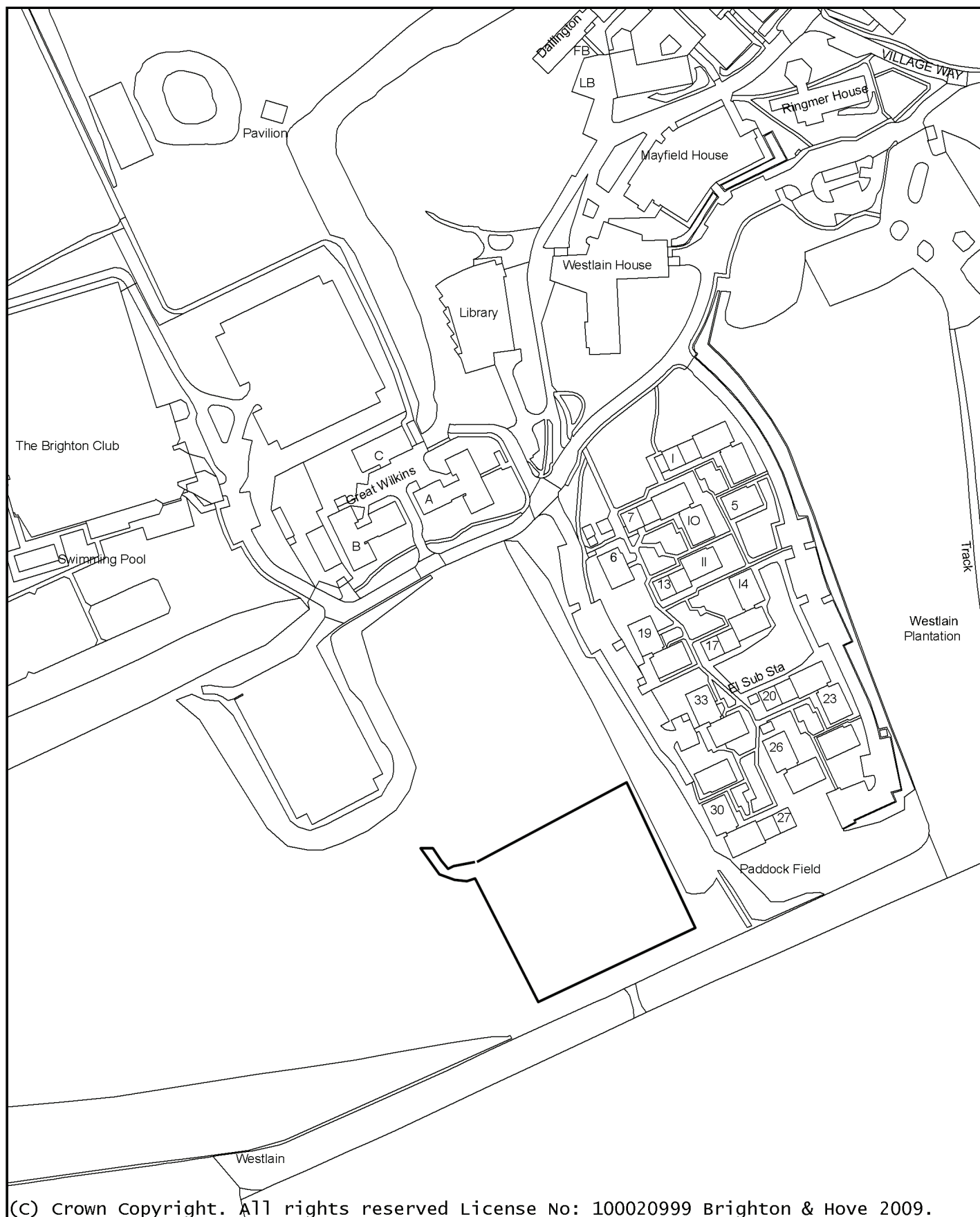
**9 REASONS FOR RECOMMENDATION TO GRANT PERMISSION**

The development will provide additional sports and recreational facilities which will benefit the adjacent educational institutions. The flood lighting will not significantly harm the surrounding protected landscape and urban features of the area, whilst conditions can control light spillage, drainage and visual impact and to mitigate against any impact on biodiversity interests.

**10 EQUALITIES IMPLICATIONS**

The facilities will have a ramped access and will be suitable for those with limited mobility.

# BH2009/00551 University of Falmer, Falmer Campus, Village Way



Date: 08/09/2009 10:57:35

Scale 1:2500



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<b><u>No:</u></b>	<b>BH2009/01498</b>	<b><u>Ward:</u></b>	<b>ROTTINGDEAN COASTAL</b>
<b><u>App Type</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Tiger Enterprise Ltd, 50 Marina Way, Brighton</b>		
<b><u>Proposal:</u></b>	<b>Temporary change of use for period of 5 years for the sale of surplus and reclaimed building materials, installation of portacabins and other ancillary structures and new site fencing (retrospective).</b>		
<b><u>Officer:</u></b>	<b>Anthony Foster, tel: 294495</b>	<b><u>Received Date:</u></b>	<b>22 June 2009</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>30 September 2009</b>
<b><u>Agent:</u></b>	<b>CJ Planning Ltd, 80 Rugby Road, Brighton</b>		
<b><u>Applicant:</u></b>	<b>Tiger Enterprise Ltd, Mr Dan Hill, C/O Agent</b>		

## 1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves it is **MINDED TO GRANT** planning permission subject to the completion of a Section 106 Obligation to secure:

An amendment to the existing TRO to allow right and left turn movements into the access off Marina Way.

### Conditions

- The use of the site and temporary buildings hereby permitted shall discontinue and be permanently removed from the site before 21 September 2014 and the land reinstated to its former condition.  
**Reason:** As the use and structures hereby approved are not considered suitable as a permanent form of development, permission is granted for a temporary period only and in accordance with policies QD1, QD3 and HO1 of the Brighton & Hove Local Plan.
- Notwithstanding the details provided on the approved plans, within 3 months of the grant of permission full details of the external materials (including colour of render paintwork or colourwash) to be used for the external surfaces of the storage containers and racking hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The external surfaces shall be painted thereafter in accordance with these approved details and shall be retained as such.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD1 and QD2 of the Brighton & Hove Local Plan.
- The use hereby permitted shall not be open except between the hours of 0900 and 1700 on Mondays to Fridays and 1000 and 1600 on Saturdays, Sundays and Bank or Public Holidays.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- No soils, hard core, sand and small or medium gravels or liquids

including fuels shall be stored or sold within the curtilage of the site without the prior written approval of the Local Planning Authority

**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

5. BH07.06 Control of outside activity.

Informatives:

1. This decision is based on drawing nos. PL01, PL02, PL03, PL04, Waste Minimisation Statement, Biodiversity Checklist and Planning, Design and Access Statement submitted on 22 June 2009

2. This decision to grant Planning Permission has been taken:

- i) having regard to the policies and proposals in the Brighton & Hove Waste Plan and Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance:

East Sussex and Brighton & Hove Waste Local Plan:

- |        |  |
|--------|--|
| WLP 11 | Reduction, Re-use and recycling during Demolition and Design, and Construction of New Developments |
| WLP 12 | Recycling as part of Major Development   |
| WLP 13 | Recycling, Transfer and Materials Recovery Facilities  |
| WLP 14 | Recycling and Recovery facilities for Construction and Demolition Waste                            |

Brighton & Hove Local Plan:

- |      |  |
|------|--|
| HO1  | Housing sites and mixed use sites with an element of housing |
| TR1  | Development and the demand for travel                        |
| TR7  | Safe development   |
| SU9  | Pollution and nuisance control                               |
| SU10 | Noise nuisance   |
| QD1  | Design – quality of development and design statements        |
| QD3  | Design – efficiency and effective use of sites               |
| QD27 | Protection of amenity; and                                   |

- ii) for the following reasons:

The proposed temporary use, subject to appropriate conditions, will not result in a significant impact on the amenity of adjacent properties or highway safety. In the short term the proposal also meets the wider sustainability aims of Brighton & Hove City Council by helping reducing demolition and construction waste.

**2 THE SITE**

The Gasworks site is bounded to the south and east by Marina Way, to the north by Bristol Gardens and to the west by Boundary Road. The site is located to the south of the gas storage holders and a small industrial estate. To the east of the site lies Marine Gate which is an 8 Storey C- shaped block of 1930's flats. To the west of the site lies a row of 3 storey terraced properties. This southern section of the gasworks site is allocated for housing within the adopted Brighton & Hove Local Plan and within Planning Advice

Note 4 Brighton Marina Masterplan, whilst the northern section of the gasworks site is allocated for employment uses. This application site relates to the south-eastern corner of the Gasworks site. The applicant is currently operating from the site whilst the remainder of the gasworks site is either used for its function as a gasworks site or has been cleared and is used for the temporary storage of commercial vehicles.

### 3 RELEVANT HISTORY

None.

### 4 THE APPLICATION

The application seeks part retrospective planning permission for a temporary change of use of the site for a period of 5 years for the sale of surplus and reclaimed building materials, the installation of two portacabins and additional structures including additional external racking and four additional storage containers. The portacabins are to be used for the offices of the business whilst the containers and racking are to be used for the addition storage of materials.

The application has been submitted as a result of an enforcement complaint which has been received regarding the use of the site.

### 5 CONSULTATIONS

**External:**

**Neighbours:**

Eight letters of objection have been received from the owners/occupiers of **A2 (x2), B2, F4 (x2), E9, G4, J14 Marine Gate**. They object on the following grounds:

- The site is an eyesore which is ugly and untidy with the visual appearance of junk yard. The site gives the appearance of materials being dumped and not being correctly stored which adds to the untidy look of the site.
- There is an increase in traffic, noise and disturbance at the site resulting from intermittent hammering, drilling and other construction noises
- There are a number of gregarious advert signs which are inappropriate and could well result in a traffic hazard
- The two storey portacabins which are on the site are not suitable for a temporary use of the site for 5 years
- The site should be developed for housing as it is already allocated for within both the Local Plan and PAN2
- There is no safe way for pedestrians to access the site neither is it safe for cars to access the site without endangering vehicles heading north along Marina Way and breaking traffic regulations.

A letter has been received from the **Marine Gate Action Group** objecting to the scheme on the following grounds:

1. Issues regarding the extent of consultation, a number of residents did not

receive a letter form the Council even though they are listed as being consulted.

2. The proposal is contrary to the Adopted Local Plan and PAN 04.
3. Policy HO1 in the Adopted Local Plan recommends this site as housing and not industrial/commercial use. Development on this site should be housing in accordance with Adopted Plan Policy QD1 (Quality of design) and QD3 (Effective and efficient use of sites)
4. Some employment may be desirable but located at the northern end of the site. The development in this location directly affects the amenity of the residents in the West Wing of Marine Gate including dust, noise nuisance and potential odour issues
5. Access to the site is hazardous for vehicles too the access from Marine Way. There is currently a TRO(1977) on the site entrance prohibiting right and left turns which is being ignored.

**Internal:**

**Planning Policy:** The site is allocated in the Local Plan for industrial and housing development and the site as shown appears to overlap the housing area. The LDF timetable envisages the housing site being available post 2015 so a temporary permission for 5 years would not affect housing delivery. There is no policy objection in principle of the temporary use of the site as long as it does not interfere with housing delivery.

(NB the housing may not be developable anyway until after the gasometers are decommissioned - for safety reasons.)

**Sustainable Transport:** There is no Highway Authority objection to the application. The junction is designed to a suitable standard and the local road network has sufficient capacity to accommodate the traffic associated with this proposal and there would seem to be sufficient space to accommodate the car parking demand of the site.

Site Access and Egress

There is a Traffic Regulation Order dated 1977 prohibiting right and left turn movements into the access off Rifle Butt Road, which was the name of the road that served the Gas Work site prior to the construction of the Marina and Marina Way. It is assumed that this Order was designed to restrict access and egress to the Gas Works because Rifle Butt Road was primarily a narrow residential street. It should also be noted that the Order does not include an exemption that allows the use of the access for emergencies or HGV's so the sign that mentions HGV access only is not valid.

It is assumed that when Marina Way was constructed the access into the Gas works was upgraded to the safe standard seen today but for some reason the Order was never revoked. If approved a condition should be included that requires the revocation of the existing TRO so that the access can legally be used.

### Parking Requirements

It is difficult to establish the likely parking demand that such a site would attract, as this is reputed to be the only business of its kind in the county. Having assessed the parking demand for a builder's merchant, which is the closest type of business use to this proposal it would seem that there would be sufficient car parking space to accommodate the demand. The latest version of the TRICS database contains information on the parking demand of 6 builder's merchants. This information suggests that 5 to 10 parking spaces is the maximum provision, with the maximum vehicle parking accumulation being 4 vehicles during the peak hour of 8am to 9am. Assuming that the patterns of business usage and attraction of customers would be similar to that of a builder's merchant there is sufficient space on site to accommodate the parking demand that would be created.

On balance it is felt that the traffic impacts of the proposal, would not have a material adverse impact on the operation of the surrounding highway network, would not affect public safety in any way, and that the car parking demand can be accommodated in the available space that has been provided. Subject to the inclusion of a condition requiring the revocation of the Traffic Regulation Order the Highway Authority would not wish to restrict grant of consent for this Application.

**Environmental Health:** I note that the department received two complaints of noise relating to the banging and clanking of scaffold poles from this site and the operation carried out by Mr Hill. However, these were unsubstantiated and contact with Mr Hill indicated that his operating hours were outside of those hours being complained of. The case was subsequently closed.

Complaints were also made about the potential dust from debris stockpiles, however further investigation identified that these were likely to be stockpiles of construction debris outside the control of the applicant and on land belonging to National Grid holdings. These upon visiting are confirmed as not having anything do with the applicants lease of the land.

With regards to contamination, it should not be forgotten that the site is a former gas works which has been partly remediated and is considered fit for use. This fit for use category was in 2003 when the site was unoccupied and secure. Remediation and demolition has occurred for other areas of the site and it is highly likely that contamination is present beneath the application area which will need to be reassessed at a later time if further land uses are applied to the site. The application form indicates that contamination is not an issue or past uses, however this is incorrect. Examination of an Atkins report dated July 2003 indicates a number of trial pits and boreholes which were carried out within the application area. The Atkins report goes onto state that the site is suitable for its existing use (unoccupied and secure). Residual contamination **does** exist within the upper chalk aquifer. BTEX (Benzene, Toulene, Ethylene benzene and Xylene) and ammonia and PAH (poly aromatic hydrocarbons) have been identified after analysis and free phase tar



is present within chalk fractures and fissures. These are typical contaminants one would expect from a gas works site.

Notwithstanding the above, I am satisfied having visited the site, that the site is all hard standing. The majority of materials are palletised and moved around by an electric fork lift truck. ISO style containers are also used to store materials, and porta-cabins are utilised as office accommodation. No sands or soils or fuels are kept or sold from the site. Activities carried out at the site are unlikely to mobilise contaminants, create accidental pathways or create any additional contamination. The applicant should be aware that the site is likely to have contamination underneath any hardstands and be advised not to carry out any intrusive drilling or digging on the site. A condition is necessary to prevent any hardcore, soils or liquids/fuels being retained on the site.

I am also satisfied that there is no floodlighting and only 3 security lights are present, for operations in the dark, and that only one of these three is on the Marine Gate façade. If this singular light posed a problem, sufficient provisions are available to deal with these under the Environmental Protection Act 1990.

With regards to the handling of waste, the Environment Agency should be consulted for a definitive opinion.

Recommend approval subject to the following conditions

1. The hours listed on the application form should be conditioned and these are as follows:  
Monday to Friday – 09:00 hours to 17:00 hours  
Saturday – 10:00 to 16:00 hours  
Sundays and bank holidays – 10:00 hours to 16:00 hours.
2. No soils, hard core, sand, s/m gravels or liquids including fuels shall be allowed on the site for sale.

## **6 PLANNING POLICIES**

### East Sussex and Brighton & Hove Waste Local Plan:

- |        |  |
|--------|--|
| WLP 11 | Reduction, Re-use and recycling during Demolition and Design, and Construction of New Developments |
| WLP 12 | Recycling as part of Major Development   |
| WLP 13 | Recycling, Transfer and Materials Recovery Facilities  |
| WLP 14 | Recycling and Recovery facilities for Construction and Demolition Waste                            |

### Brighton & Hove Local Plan:

- |      |  |
|------|--|
| HO1  | Housing sites and mixed use sites with an element of housing |
| TR1  | Development and the demand for travel                        |
| TR7  | Safe development   |
| SU9  | Pollution and nuisance control                               |
| SU10 | Noise nuisance   |

QD1	Design – quality of development and design statements
QD3	Design – efficiency and effective use of sites
QD27	Protection of amenity

## **7 CONSIDERATIONS**

The main considerations for this application relate to the likely impact of the the proposed temporary use upon the character of the area, protection of the amenity of the occupiers neighbouring residential properties, transport and sustainability issues. Consideration will also be given to the impact of the proposed use in relation to the brief for the future development of the Gasworks site.

### Principle of Development

The site is allocated within the Brighton & Hove Local Plan as an Identified Housing site. Policy HO1 seeks the development of these sites for residential use (C3 use class). The site and the surrounding area of land are allocated as being suitable for 80 units over the lifetime of the adopted plan. The recent Strategic Housing Land Availability Assessment (SHLAA) indicates that the site will be suitable for 147 units over a five year period starting from 2015. This long term projection for the redevelopment of the site results from the existing use of the site and the potential contamination issues which may surround its continuing use for gas storage. In terms of the principle of the development it is clear that the site has been earmarked for future development, however due the inherent constraints of the site this it is highly unlikely that the site will be comprehensively developed over the next five years.

It is therefore considered that in principle a temporary permission for 5 years on this site would not affect future housing delivery.

### Design Issues

The application site is in use as proposed. Building materials including bricks, tiles, wood and sanitary ware are currently stored within the site in rows upon the existing hard surfacing, it is appreciated that such storage methods may give an untidy appearance to the site. The applicant however wishes to address this issue by proposing additional storage containers and racking to ensure a more orderly appearance to the site.

Within the application site 3 racking shelves are as existing and additional 4 sets of racking shelves are proposed to be located in an east–west direction upon the site. The racking is proposed to be used for the storage of materials which may not be damaged by being stored exposed outside, materials such as bricks, paving, roof tiles and concrete blocks.

There are currently 2 storage contains located on the site, an additional 4 storage containers are proposed to ensure that materials including floorboards, doors, fireplaces and plumbing fittings such as toilets, baths, and basins are stored correctly for future use. If these types of materials were to

be stored in the open for a prolonged period of time, then they would not be suitable for reuse.

The site is viewed against the back drop of the industrial estate and gasometers to the north, the rear of the residential properties to the west and the slip road and Marine Gate to the east. The erection of a temporary two storey portacabin and additional structures for a period of 5 years as described is considered appropriate within the existing context of the site and its surroundings in accordance with policy QD1 and QD3 of the Local Plan.

No details have been provided as to the proposed finish of the containers or the racking, it is therefore considered appropriate that such details should be provided to ensure an appropriate finish for the site and their surroundings. A condition is recommended to such effect.

#### Impact on neighbouring amenity

Local Plan Policy SU9 relates to the control of development which is liable to cause pollution and nuisance, whilst Policy SU10 seeks to restrict development which will result in an additional noise nuisance. Policy QD27 of the Local Plan will not permit development which would cause a loss of amenity to adjacent residents/occupiers. Objections have been received stating that the proposal would be detrimental to residential amenity by way of overshadowing, loss of light and increased noise and disturbance.

Additional concerns have been raised by the sale of hardcore and gravel/sand type materials, due to the potential for dust particles to be blown across the site. There have been investigations made by the Council's Environmental Health Team into these previous incidents, these investigations were closed as the stockpiles which caused the nuisance fell outside of the applicants control. A condition has been added to ensure that such incidents do not occur in the future as a result of selling soils, sand or hardcore from the site.

PPG24 deals with noise issues associated with development, this includes an extension of opening hours. PPG24 identifies residential dwellings as noise sensitive development. Paragraph 12 of PPG24 indicates that noise sensitive development should not be permitted during the hours of 23:00 to 07:00, when people are normally sleeping. It is clear that the additional opening hours sought as part of this application would not intrude into what is considered to be normal sleeping hours and in this respect it is not considered that significant additional noise or disturbance would occur.

It is appreciated that some level of noise may be expected from the site given that in recent years the site has been vacant. The proposed hours fall within the guidelines published within PPG24 it is therefore considered that the proposed extension in opening hours adheres to Local Plan Policies SU9, SU10 and QD27. It is considered that the proposal due to their location will have a minimal impact in terms of overshadowing and/or loss of light upon the adjoining occupiers.

### Highway impacts

Policy TR1 of the Local Plan requires development proposals to provide for the demand for travel which they create and maximise the use of public transport, walking and cycling. Policy TR7 will permit developments that would not increase the danger to users of adjacent pavement, cycle routes and roads. The site is currently accessed from Marina Way which is subject to a Traffic Regulation Order dated 1977 prohibiting right and left turn movements into the existing access. This Order was designed to restrict access and egress to the Gas Works because Rifle Butt Road was primarily a narrow residential street. This historical TRO was inherited by Marina Way when it was created. It is assumed that when Marina Way was constructed the access into the Gas works was upgraded to the safe standard seen today but for some reason the Order was never revoked. The existing TRO could be revoked so that the access can legally be used. A Section 106 obligation pertaining to this is considered acceptable.

It is difficult to establish the likely parking demand that such a site would attract, as this is reputed to be the only business of its kind in the City and East Sussex. There is no allocated parking within the site however it is apparent that sufficient parking exists within the site for visitors to the site. On balance it is felt that the traffic impacts of the proposal would not have a material adverse impact on the operation of the surrounding highway network, would not affect public safety in any way, and that the car parking demand can be accommodated in the available space that has been provided.

### Sustainability

The proposal is considered to be in accordance with the relevant Waste Local Plan policies. Policy WLP 11 seeks a reduction in waste, and the re-use and recycling of materials during the demolition and construction of new developments. Policy WLP 12 seeks materials to be recycled as part of major development. Policy WLP 13 requires the provision of recycling and materials recovery facilities, including facilities for sorting, recovering and transferring waste materials, and Policy WLP 14 seeks the provision of facilities for the recycling of construction and demolition waste. Whilst the proposal is not an actual waste transfer station per se it does however provide the opportunity for the recovery and recycling of suitable building materials throughout the construction process.

Brighton & Hove SPD 03 promotes the sustainable use of materials during both the demolition of existing buildings and the construction of new buildings. Where possible materials should be reused within construction and waste should be kept to a minimum. Every year approximately 1.5 million tonnes of waste is generated in East Sussex and Brighton & Hove. In East Sussex and Brighton & Hove construction and demolition wastes (C&DW) amount to over half the total of all wastes produced. The proposal helps to meet the overall aims and objective of demolition and construction sustainability within the region. It is therefore considered that the proposal adheres to SPD 03 and the wider aims of the Waste Local Plan.

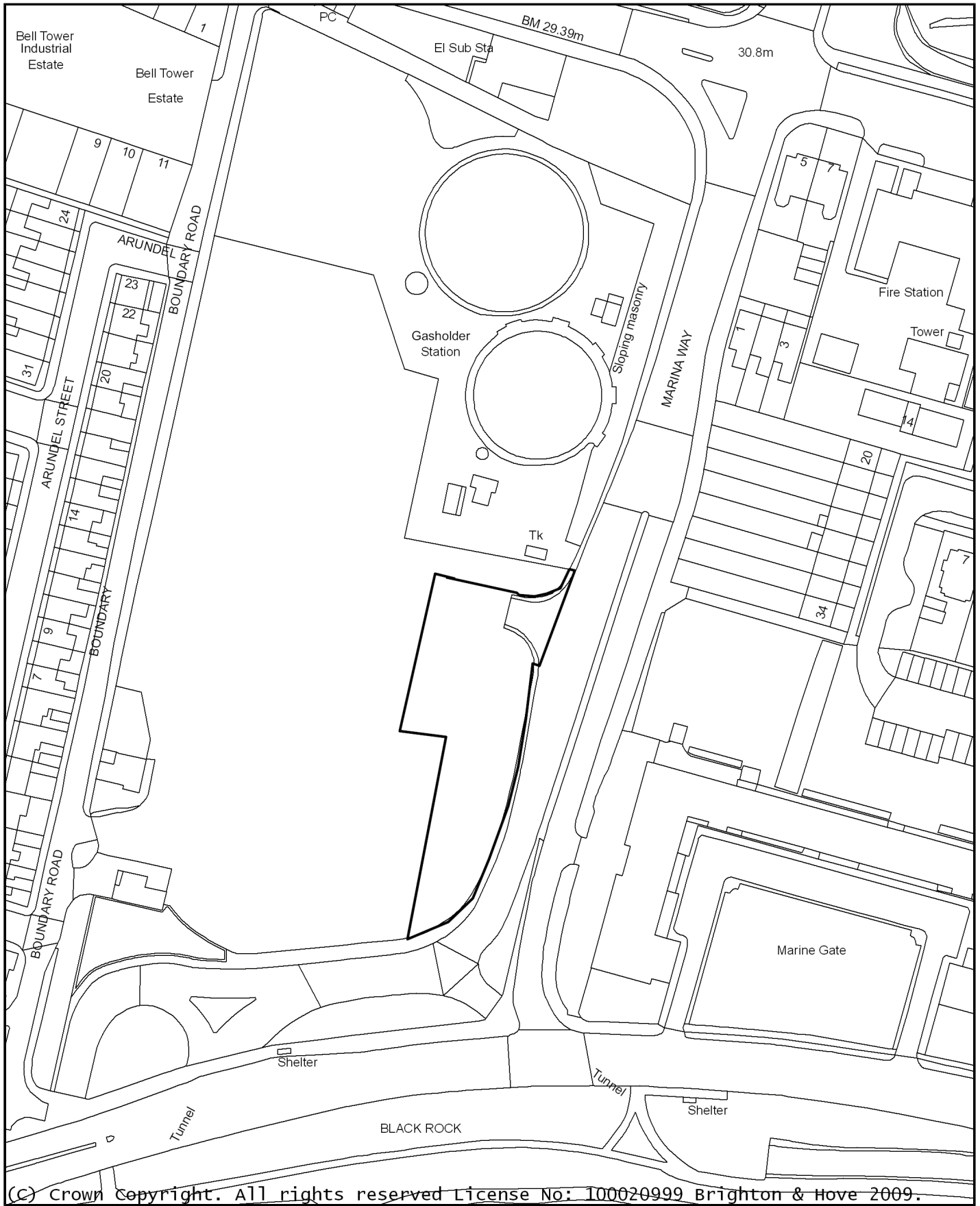
**8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION**

The proposed temporary use, subject to appropriate conditions, will not result in a significant impact on the amenity of adjacent properties or highway safety. In the short term the proposal also meets the wider sustainability aims of Brighton & Hove City Council by helping reducing demolition and construction waste.

**9 EQUALITIES IMPLICATIONS**

None identified.

# BH2009/01498 Tiger Enterprise, 50 Marina Way



Date: 17/08/2009 04:22:05

Scale 1:1250



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**LIST OF MINOR APPLICATIONS**

<b><u>No:</u></b>	<b>BH2009/01431</b>	<b><u>Ward:</u></b>	<b>EAST BRIGHTON</b>
<b><u>App Type</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>26 St Mary's Square, Brighton</b>		
<b><u>Proposal:</u></b>	<b>Installation of roof lights to front and rear roof slopes, alterations to front entrance, replacement doors to rear at ground floor level.</b>		
<b><u>Officer:</u></b>	<b>Chris Swain, tel: 292178</b>	<b><u>Received Date:</u></b>	<b>15 June 2009</b>
<b><u>Con Area:</u></b>	<b>East Cliff</b>	<b><u>Expiry Date:</u></b>	<b>24 August 2009</b>
<b><u>Agent:</u></b>	<b>Mr M J Lewis, 25 St Nicholas Lodge, Church Street, Brighton</b>		
<b><u>Applicant:</u></b>	<b>Mr N Jackson, 26 St Marys Square, Brighton</b>		

**1 RECOMMENDATION**

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions

1. BH01.01 Full planning.
2. BH12.02 Materials to Match - Cons Area.
3. BH12.05 Rooflights – Cons Area.
4. The ground floor patio doors to the rear hereby approved shall be painted white timber and shall be retained as such thereafter.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing no. A130/01, a proposed site waste management plan, a design and access statement, a site plan and a block plan submitted on 15 June 2009, a heritage statement submitted on 29 June 2009 and drawing no. A130/02D submitted on 21 August 2009.
2. This decision to grant Planning Permission has been taken:
  - i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance:
 

Brighton & Hove Local Plan:

    - QD1 Design – quality of development and design statements
    - QD2 Design – key principles for neighbourhoods
    - QD14 Extensions and alterations
    - QD27 Protection of Amenity
    - HE6 Development within or affecting the setting of conservation areas

SU13 Minimisation and re-use of Construction Industry Waste  
Supplementary Planning Guidance  
SPGBH1 Roof Alterations and Extensions, and

ii) for the following reasons:

The proposed development is not considered to detract from the appearance or character of the property or the surrounding area within the East Cliff conservation area. The proposal is not considered to impact significantly on the residential amenity of neighbouring properties.

## **2 THE SITE**

The site relates to a three storey terraced property located to the southern side of St Mary's Square. The property has a small garden to the rear of the property and is located within the East Cliff conservation area. The property is located within a private development of similar properties set around a central square. Permitted development rights were removed from the properties within St Mary's Square by a condition to the original 1988 planning consent.

## **3 RELEVANT HISTORY**

**88/781F:** 35 three storey dwellings with integral garages. Granted on 09/08/1988.

## **4 THE APPLICATION**

Planning permission is sought for;

- Installation of roof lights to front and rear roof slopes,
- Alterations to front entrance,
- Replacement doors to rear at ground floor level.

## **5 CONSULTATIONS**

### **External**

**Neighbours:** Objections have been received from **1(x2), 2, 4, 11, 12, 15(x2), 19, 20, 22, 23(x2), 25, 27, 28 St Mary's Square, 14(x2), 16 Chichester Place** and the **St Mary's Square Resident's Association** on the grounds of;

- Alterations would be out of character and detract from the appearance and character of the property and the square,
- Potential overlooking/loss of privacy to neighbouring properties,
- There are covenants on the development as a whole restricting development of the properties,
- Permitted development rights have been removed so alterations to properties prohibited,
- Noise disturbance.

### **Internal**

**Conservation and Design:** No objections to the application on conservation grounds.

## **6 PLANNING POLICIES**

Brighton & Hove Local Plan:

QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD14	Extensions and alterations
QD27	Protection of Amenity
HE6	Development within or affecting the setting of conservation areas
SU13	Minimisation and re-use of Construction Industry Waste

Supplementary Planning Guidance

SPGBH1 Roof Alterations and Extensions

**7 CONSIDERATIONS**

Consideration must be given to the impact of the proposed development upon the character and appearance of the building and the surrounding area within the East Cliff conservation area. Furthermore the effects upon the amenities of the neighbouring properties must also be assessed.

An amended drawing removing the proposed French style doors and associated balconies at first floor level was submitted on 21 August 2009 after concerns regarding loss of privacy and overlooking were raised with the agent.

Design and Visual Impact

The proposal involves the insertion of rooflights to the front and rear roof slopes. The rooflights will be in the traditional conservation style in accordance with the Supplementary Planning Guidance on Roof Alterations and Extensions (SPGBH1) adopted in 1999. The front rooflight is set down 0.6m from the ridge and aligned vertically with the double windows and garage below to ensure that it is as visually unobtrusive as possible. The rooflight is largely screened from views within St Mary's Square by the existing parapet wall to the front elevation and the party wall upstands separating the roofslope from the adjoining properties and is not considered to detract from the appearance and character of the property or the St Mary's Square street scene. The three rear rooflights are also conservation style, aligned with the respective windows below. Due to the height of the property and the shallow pitch of the roofslope the rooflights would not be visible from the rear gardens of the property or the path to the south of the gardens. The rooflights would only be visible outside the St Mary's Square development from the rear elevations of the properties directly south on Chesham Road and not from the public realm and they are not considered to detract from the appearance or character of the property or the surrounding area within the East Cliff conservation area.

Rooflights have also been approved on the adjacent property, No.25 St Mary's Square and solar panel and rooflights to No.14.

The front door is to be relocated 1.4m to the north so that it is flush with the front elevation of the property at ground floor level and the existing garage door. As the ground floor level is set well back (1.2m) from the front elevation

of the property and partially hidden from view by the existing support pillars the proposed alterations will not be highly visible from the street scene and are not considered to significantly detract from the appearance or character of the property or the wider views of St Mary's Square.

On the ground floor level to the rear the existing single door is to be infilled and the existing French doors are to be replaced with timber sliding doors, approximately 0.6m greater in width. These alterations would not be highly visible outside the property site due to the existing walls to the garden and are not considered to detract significantly from the appearance or character of the property.

It has been noted that objections were received stating that as the permitted development rights had been removed from the development that all alterations were prohibited. Permitted development rights were removed to ensure that alterations can be agreed by the Local Planning Authority if appropriate.

Other objections highlighted that covenants signed by the freeholders refused to allow some forms of development within St Mary's Square. Any legal covenant is separate from the planning process and is not a material planning consideration.

Overall the proposed alterations are not considered to detract from the property, the St Mary's Square street scene or the surrounding area within the East Cliff conservation area. The alterations to the front elevation are considered to be minor in scale, in keeping with the appearance of the property and are not highly visible in views from within the centre of the Square. The alterations to the rear are only partially visible from the communal path to the south and from the rear of the properties in Chesham Road and there is not considered to be any significant harm to the visual amenity of the property, the rear street scene or the surrounding area within the East Cliff conservation area.

#### Impact on Residential Amenity

Overall, the proposal is not considered to adversely impact the residential amenity of neighbouring occupiers.

The proposed rooflights are not considered to lead to any significant increase in overlooking or loss of privacy to neighbouring properties over and above current levels due to the existing windows at first floor level to the front and rear.

The alteration to the fenestration at ground floor level does not materially alter the rear elevation and is not considered to impact on the residential amenity of neighbouring occupiers.

The proposed porch infill will not extend beyond the front elevation of the

property and is not considered to impact on the residential amenity of the two neighbouring occupiers.

The deletion of the French doors and associated balconies from the proposed scheme has removed the potential for overlooking and subsequent loss of privacy towards the rear gardens of the neighbouring properties.

**8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION**

The proposed development is not considered to detract from the appearance or character of the property or the surrounding area within the East Cliff conservation area. The proposal is not considered to impact significantly on the residential amenity of neighbouring properties.

**9 EQUALITIES IMPLICATIONS**

The property would continue to have level access from street level.

# BH2009/01431 26 St Marys Square



Date: 18/08/2009 04:07:32

Scale 1:1250



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<b><u>No:</u></b>	<b>BH2009/01518</b>	<b><u>Ward:</u></b>	<b>GOLDSMID</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Sussex County Cricket Club, Eaton Road, Hove</b>		
<b><u>Proposal:</u></b>	<b>Erection of 3 single storey brick buildings comprising a toilet block, food and drink servery and a machinery maintenance and equipment store and office.</b>		
<b><u>Officer:</u></b>	<b>Paul Earp, tel: 292193</b>	<b><u>Received Date:</u></b>	<b>24 June 2009</b>
<b><u>Con Area:</u></b>	<b>Adjacent to Willett Estate</b>	<b><u>Expiry Date:</u></b>	<b>07 September 2009</b>
<b><u>Agent:</u></b>	<b>Miller Bourne Architects, 332 Kingsway, Hove</b>		
<b><u>Applicant:</u></b>	<b>c/o agent, County Ground, Eaton Road, Hove</b>		

## 1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

### Conditions:

1. BH01.01 Full planning permission.
2. BH03.01 Sample of materials non-conservation area.
3. BH07.03 Odour control equipment.
4. BH07.04 Odour control equipment – sound insulation.
5. BH11.03 Protection of existing trees (to relate to the Elm tree protected by TPO 10/2006).
6. No development shall commence until details of four trees to replace trees to be removed to facilitate development have been submitted to and agreed by the Local Planning Authority. Information should include details of species, size and location. The trees shall thereafter be planted in accordance with the agreed details within the first planting season following construction of the buildings hereby approved. Any tree which within a period of 5 years from its planting is removed, seriously damaged, diseased or dies 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 QD1 and QD15 of the Brighton & Hove Local Plan.

7. No development shall commence until fences for the protection of the Elm tree subject to TPO 10/2006 have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The scheme shall accord to standard BS 5837 (2005). The fences shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within areas enclosed by such fences.

**Reason:** To protect the tree which is to be retained on the site in the

interests of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.

8. Prior to the carrying out of any repair work to the roadway in front of the Elm tree subject to TPO 10/2006, an Arboricultural Method Statement shall thereafter be submitted to and approved in writing by the Local Planning Authority indicating how the tree is to be protected during works. The works shall be carried out in strict accordance with the approved statement.

**Reason:** To protect the tree which is to be retained on the site in the interests of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.

9. The food and drinks servery hereby approved shall only be used in connection with cricket matches only, unless express approval for other events is sought from and approved by the Local Planning Authority.

**Reason:** To protect the amenities of the occupiers of surrounding properties and to comply with policy QD27 of the Brighton & Hove Local Plan.

10. The compactor unit shall not be used before 8am Monday to Friday and 9am at weekends or on Bank Holidays.

**Reason:** To protect the amenities of the occupiers of surrounding properties and to comply with policy QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing no. AD-12C and the Masterplan Statement and Tree Report submitted on 24 June 2009, drawing no. J39.94/01/sheet 1 and the Design and Access Statement submitted on 13 July 2009, and drawing no. AD-11C submitted on 20 August 2009.

2. This decision to grant Planning Permission has been taken:

- (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance:

Brighton & Hove Local Plan:

QD1	Design – quality of development
QD2	Design – key principles for neighbourhoods
QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of amenity
SR22	Major sporting venues
SU13	Minimisation and re-use of construction industry waste

Supplementary Planning Documents:

SPD03: Construction and demolition waste; and

- (ii) for the following reasons:-

The proposed buildings will improve facilities at the ground, improve the appearance of the site, and with satisfactory odour control equipment will operate without nuisance to residential amenity. The proposal accords

with Development Plan policies.

## 2 THE SITE

The application relates to an area of land situated in the north-east corner of the cricket ground, adjoining the boundary of 90 to 93 (consecutive) and Cromwell Court, Cromwell Road, to the north, and within close proximity of 61, 63 & 65 Palmeira Avenue to the east. The cricket ground is surrounded by residential properties, primarily flats. The main entrance to the ground is at the southern end of the site, accessed from Eaton Road. The site, although not within a conservation area, adjoins the Willett Estate Conservation Area to the west and south.

## 3 RELEVANT HISTORY

Many applications have been granted for extensions and alterations to buildings within the site, none of which are in this part of the site.

Extant approvals for the ground consist of:

**BH2009/491:** Change of use of ground-level portacabin to a toilet block and replacement first floor portacabin with a new unit. Approved 7.5.09.

**BH2007/215:** Construction of two storey hospitality building and stand on site of existing Gilligan Building. Construction of 6 storey mixed use development on site of existing Southwest Stand, comprising of new partially covered 1296 seat stand, offices, food outlet, toilets, storage and plant room at ground level. Two floors of office accommodation with 3 floors of residential accommodation above, comprising 9 dual aspect flats. Demolition of part of bat factory building and re-landscaping of main entrance area. Approved 29.8.07.

Adjoining the site:

Land to the rear of 90 Cromwell Road

**BH2009/01203:** Demolition of existing single storey garages and erection of a single storey one bedroomed house. Application under consideration.

**BH2008/02452:** Demolition of existing single storey garages and erection of a two bedroomed mews house. Refused 15.12.08. Appeal lodged – still under consideration.

## 4 THE APPLICATION

The proposal is for:

- Removal of 3 large storage containers and a garbage compactor from the site.
- Construction of 3 single storey buildings to house the activities of the ground staff, including storage and maintenance areas, office and rest room, and to provide a servery and toilet block, situated 0.7m from northern boundary of site. Buildings consist of:

Maintenance block:

- “L” shaped building to measure 30.3m and 12.5m in length x 6.3m deep x 3m high / footprint 259m<sup>2</sup>. Building subdivided to form sections for tractor and buggies storage and maintenance area; ground staff rest room, office and shower; small machines and storage area; tractor mounted machines and rollers storage; fertiliser, chemicals, seed and soil storage; maintenance workshop.
- Open soil bay at southern end of building.
- Concrete surface wash bay 130m<sup>2</sup> to front of building.
- Design / materials: single storey flat buff brick building with 6 roller shutter doors (blue) and open soil bay at southern end. Flat roof (green), fascia board (white). 2 windows on side (west) elevation to office and restroom.

Toilet block:

- 12.4m in length x 6.3m deep x 3m high / footprint 78m<sup>2</sup>.
- Facility includes disabled toilets.
- Design / materials: single storey flat buff brick building with 4 timber doors and high level windows on front (south) elevation. Flat roof (green), fascia board (white).
- 2 air intake units situated on rear of building, 2m above ground floor level.

Servery building:

- Building 12.7m in length x 6.3m deep x 3m high / footprint 80m<sup>2</sup>.
- Layout: servery to front and cool area to rear.
- Design / materials: single storey flat buff brick building with 2 full height roller shutter doors (blue) on front (south) elevation, and shutter door and timber door on side (east) elevation and timber door on side (west) elevation. Fascia board (white).
- Flat roof (green) with 2 rooflights measuring 1.2m x 0.8m
- 2 air intake units situated on rear of building, 2m above ground floor level.

The toilet building and servery will only be in use on big match days and are to replace and improve the temporary facilities brought into the ground.

Other structures:

- Existing garbage compactor 2.4m wide x 5.9m deep x 2.7m high to be resited, to be located between maintenance building and toilet block.
- Wheelie bins: 1 x kitchen waste – 660 ltr; 3 x recycling 240 ltr, sited to side (east) of servery.

## 5 CONSULTATIONS

**External:**

**Neighbours:** 14 letters of objection from flats 1, 2, 3, 4, 6, 7, 12, 12a, 14, 19, 26, 31, 43, **Penthouse 2 Cromwell Court, Cromwell Road:** have been received objecting for the following reasons:

- Many comments state that whilst they do not object in principle to the proposal concerns are raised to the food outlet in particular abutting the garden of the adjacent flats.
- The location of the catering and toilet facilities close to the boundary of

residential properties to the north will be detrimental to residential amenity with, especially given the direction of the prevailing wind. The quiet and well maintained gardens adjacent to the proposed buildings will be ruined by food smells and noise from the block and the fans which will discharge close to the gardens.

- Already when big games take place the smell of fast food (burgers etc) is unpleasant. A permanent food outlet and toilet blocks would make the situation worse. Suggest an alternative siting of the buildings or at the least an alternative way of dispersing the unpleasant odours. Extract fans should face the ground or the sky.
- The current arrangement for waste disposal at the northern end of the ground should be looked at. It is noisy and intrusive with activity from 7.30 most mornings. A later time or an alternative site may be the answer.
- All residents are Council Tax payers and should be individually informed of planning applications and not by chance to see a notice on a lamp post outside of the building.

**90 Cromwell Road Management Limited:** No objection (on behalf of 5 households who own and manage 90 Cromwell Road): The Club has been exemplary in its open, frank engagement with its neighbours about its long term plans for development and about each aspect of those plans. Accordingly, understand that the proposed single storey buildings are essential to the subsequent improvements to the ground.

**Sussex Police:** No objection. The Design and Access gives details of the “Secure by Design” principles, particularly for the doors and windows, that have been considered in the design and layout.

**Internal:**

**Traffic Engineer:** No objection. At present, the existing fragmented nature of the buildings and temporary facilities inhibit the functioning of the club on day to day basis for all users. Given the nature of the proposals, it is anticipated that all of these person trips will be linked trips associated with the cricket club and as such the proposed development would not result in any additional trips to the site and therefore no contribution is required.

**Environmental Health:** No objection subject to conditions to ensure the satisfactory installation of odour control equipment and adequate sound insulation of the equipment.

**Arboriculturist:** No objection. Agree with the recommendation of the accompanying Arboricultural Report which relates to trees within the Cricket Ground as a whole.

The proposal involves the loss of 7 trees that are either of poor form or small stature that will be necessary to fell to facilitate this development. They are all Prunus / Sorbus etc and are not worthy of a Tree Preservation Order. It is stated in the Arboricultural Report that 3 of these trees have a short life

expectancy, leaving 4 trees that are of poor form that need to be removed. No objection to the loss of the trees subject to the replacement of 4 trees either within the grounds, or given the lack of areas suitable for planting, on streets nearby.

TPO (No. 10) 2006 covers the Elm to the east of this development that may be affected by this development. Request a condition that this tree is protected to BS 5837 (2005) Trees on Development Sites. Additionally, the roadway in front of this tree is in bad repair and it is likely that the Cricket Club may be looking to re-lay it while works are happening here. Request an Arboricultural Method Statement regarding any repair works to this road.

There is another Tree Preservation Order covering Sycamores in an adjoining property behind the proposed development. There is a substantial brick wall between the 2 properties, the Sycamore closest to the development is on a high bank, and the proposed development in this vicinity is on tarmac. These are all hostile to tree roots and it is unlikely that these trees will be affected.

## 6 **PLANNING POLICIES**

### Brighton & Hove Local Plan:

QD1	Design – quality of development
QD2	Design – key principles for neighbourhoods
QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of amenity
SR22	Major sporting venues
SU13	Minimisation and re-use of construction industry waste

### Supplementary Planning Documents:

SPD03: Construction and demolition waste

## 7 **CONSIDERATIONS**

The main considerations in the determination of the application relate to the impact of the proposed buildings on the visual amenities of the area, upon the residential amenities of the neighbouring properties, and upon nearby trees.

### Operational requirements

The proposal is for 3 single storey buildings within the northeast corner of the site, adjacent to the boundary of 90 to 93 (consecutive) and Cromwell Court, Cromwell Road, to the north, and within close proximity of 61, 63 & 65 Palmeira Avenue to the east. The area consists of a flat area of ground on which a garbage compactor and storage containers are sited. A brick wall with a mesh fence above approximately 3m in height separates the cricket ground from the gardens of the residential properties to the north. A tiered temporary seating stand is erected to the south of this area on match days.

Existing facilities are of an ad hoc and fragmented nature. The number of permanent toilet facilities is insufficient to cope with demand with temporary



toilets sited to the north end of the ground in summer months. There are currently no disabled toilet facilities at the north, east or south ends of the site. The majority of food outlets within the ground are from mobile vans, several of which are sited at the north end of the ground.

The proposed facilities are part of a larger scheme for the redevelopment of the ground to maintain the viability of the club for the future. This application marks the first stage of redevelopment, with applications for new lighting and new stands and hospitality buildings to follow. This application is to replace temporary facilities which are poor in terms of provision and visual amenity.

Impact on visual amenity:

Policy QD2 aims to ensure that new development enhances the positive qualities of the local neighbourhood.

This corner of the site houses 3 large single storey metal containers, 6m to 12m in length, which have been used for many years for storage, and a garbage compactor. The proposed buildings, which are larger than the existing in terms of footprint and height, occupy a similar location, and are to be in buff coloured brick with blue roller shutters and a green coloured flat roof.

The buildings will not be generally seen from outside of the site. The removal of the metal containers and replacement with the proposed permanent structures will improve the visual amenities of the cricket ground and will not affect the surrounding area.

Impact on residential amenity:

Policy QD27 aims to protect residential amenity.

The proposed facilities are to be used on match days only which is approximately 40 days a year and are to replace temporary portaloos and mobile food vans. The proposed buildings are to be sited 1.0m from the boundary of gardens to flats to the north. The food servery and toilet facilities indicate air intake grills to the rear of the building. The nearest property to the development is Cromwell Court, a 9 storey block of 48 flats. The nearest flat is approximately 8m from the boundary with the Cricket Ground. Other properties in Cromwell Court are set a minimum of 28m from the boundary. Public objections state that the servery will require extract facilities which will be located close to the boundary, and given the direction of the prevailing wind, will result in odours blowing towards the properties causing nuisance and preventing the enjoyment of the gardens. Environmental Health consider the proposal acceptable subject to conditions to ensure the adequate provision of odour control equipment and sound insulation of the equipment. It is also confirmed that there has not been any recent complaints against the existing facilities and that the proposed facilities, with adequate odour control equipment, will be an improvement on the existing situation. Additionally, it is unlikely that the provision could cause a statutory nuisance given the infrequent number of days they would be in use.

This development site is adjacent to a block of garages to the rear of 90 Cromwell Road. An application for the demolition of the garages and erection of a two bedroomed mews house was refused December 2008 as it was considered that the development would be incongruous in relation to the surrounding area. An appeal had been lodged which is still under consideration. Subsequent to the refusal a further application for the erection of a single storey one bedroomed house on the site has been submitted which is currently under consideration. At its closest the proposed dwelling would be 2.0m from the boundary of the cricket ground. The application under consideration and the ongoing appeal process should not preclude this application from being determined.

The existing boundary between the cricket ground and properties to the north consist of a brick wall with mesh fence above, approximately 3m in height, and with vegetation to parts of the boundary. The proposed buildings will be below the height of the boundary, which will provide screening, and given the distance from properties, will have no adverse effect on neighbouring properties.

Objections have been received stating that the compactor unit, which is to be resited in close proximity to the existing location as part of this application, operates from 7am, causing noise and disturbance to neighbouring residents. The Club state that they need to carry out this work early in the day, but to ameliorate the problem it is proposed by condition that its use be restricted to after 8am Monday to Friday and from 9am at weekends and bank holidays.

Trees:

The proposal involves the loss of 7 trees that are either of poor form or small stature that will be necessary to fell to facilitate this development. The Arboriculturalist confirms that most are fruit trees not worthy of Tree Preservation Order (TPO). The application is accompanied with an Arboricultural Report which states that 3 of these trees have a short life expectancy, leaving 4 trees that are of poor form that need to be removed. The Arboriculturalist raised no objection to the loss of the trees subject to the replacement of 4 trees either within the grounds, or given the lack of areas suitable for planting, on streets nearby, and to ensure adequate protection to a nearby Elm tree covered by a TPO; this is secured by condition.

Traffic implications:

Policies TR1 and TR7 aim to ensure that proposals cater for the demand in traffic they create, and do not increase the danger to users of adjacent pavements, cycle routes and roads.

The Traffic Engineer comments that given the nature of the proposal which is to replace existing ad hoc facilities and is not to increase capacity to the ground, the development would not result in any additional trips to the site. For this reasons no objections are raised to the proposal.

Sustainability and the minimisation and re-use of construction and industry waste:

Policy SU13 and the Construction and Demolition Waste SPD requires development proposals to demonstrate that the minimisation and reuse of construction industry waste has been sought in an effective manner through the preparation of Site Waste Minimisation Statement. Waste management options are outlined in the Design and Access Statement which states that demolition materials are normally the largest sources of waste material. No demolition is to take place and the existing storage containers to be removed are likely to be reused off-site. The reuse and recycling methodology for the new build is to separate waste at source, collected waste to be kept in one area, and the use of compartmented skips. The information is considered adequate given the scale of the development.

Conclusions:

At present, the existing fragmented nature of the buildings and temporary facilities inhibit the functioning of the club. This proposal is part of the larger vision for the redevelopment of the ground and is to replace temporary facilities for use for a maximum of 40 days per year, and not to increase capacity. The proposed buildings will improve facilities at the ground, improve the appearance of the site, and with satisfactory odour control equipment will operate without nuisance to residential amenity.

**8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION**

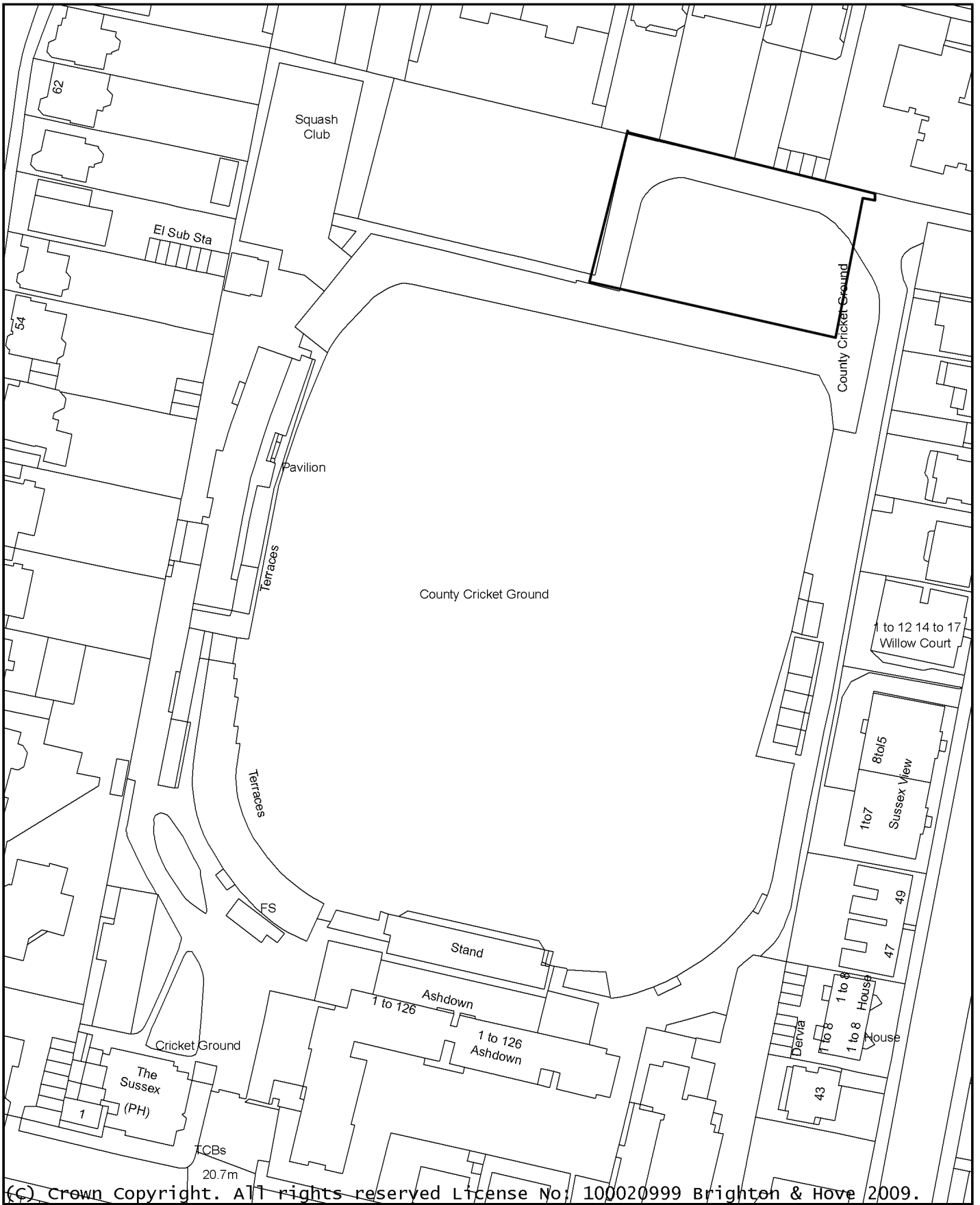
The proposed buildings will improve facilities at the ground, improve the appearance of the site, and with satisfactory odour control equipment will operate without nuisance to residential amenity. The proposal accords with Development Plan policies.

**9 EQUALITIES IMPLICATIONS**

The existing temporary portaloos are raised and accessed by several steps. The proposed toilet block includes a disabled toilet.

Provision of disabled facilities in this part of the site is to be welcomed.

# BH2009/01518 Sussex County Cricket Ground, Eaton Road



Date: 08/09/2009 10:22:33

Scale 1:1250



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<b><u>No:</u></b>	<b>BH2009/00820</b>	<b><u>Ward:</u></b>	<b>REGENCY</b>
<b><u>App Type</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>The Gallery, 12 Middle Street, Brighton</b>		
<b><u>Proposal:</u></b>	<b>Change of use from A1 retail to Sui Generis private karaoke based entertainment venue. Interior alterations including restoring of historic features.</b>		
<b><u>Officer:</u></b>	Christopher A. Wright tel: 292097	<b><u>Received Date:</u></b>	03 April 2009
<b><u>Con Area:</u></b>	OLD TOWN	<b><u>Expiry Date:</u></b>	25 June 2009
<b><u>Agent:</u></b>	N/A		
<b><u>Applicant:</u></b>	Mr Daniel Tonkin, Nine Rooms, 11 Chesham Place, Brighton		

## 1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

### Conditions

1. BH01.01 Full planning permission.
2. The use hereby permitted shall not be open to customers except between the hours of 5.00pm until 3.30am Monday to Friday, 2.00pm until 4.00am on Saturdays and from 2.00pm until 12 o'clock midnight on Sundays.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
3. The development hereby permitted shall not commence until a scheme for the soundproofing of the building has been submitted to and approved in writing by the local planning authority. The measures shall be implemented in strict accordance with the approved details prior to the development being brought into use and shall be retained as such thereafter.  
**Reason:** In order to minimise the environmental impact of the development and safeguard the amenity of neighbouring occupiers and residents and in order to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
4. Noise associated with plant and machinery incorporated within the development hereby permitted 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 of 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997.  
**Reason:** In order to minimise the environmental impact of the development and safeguard the amenity of neighbouring occupiers and

residents and in order to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on PP-00499293 Planning Application Additional Documentation Document 1 and Document 2 – Refusal Response submitted on 3 April 2009; the biodiversity checklist and drawing nos. 961/01 – Rev2, 961/02 – Rev2, 961/03 – Rev2 and 961/04 – Rev2 submitted on 30 April 2009.

2. This decision to grant Planning Permission has been taken:

i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD2	Design – key principles for neighbourhoods
QD14	Extensions and alterations
QD27	Protection of amenity
SR8	Individual shops
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Document

SPD03: Construction and demolition waste

Planning Advice Note:

PAN05: Design guidance for the storage and collection of recyclable materials and waste; and

ii) for the following reasons:

The proposed use is acceptable in principle and, subject to conditions, would not have an adverse impact on neighbouring occupiers' and residents' amenity.

iii) The applicant is advised the smoking area shown upon the approved plans does not comply with the Health Act 2006 in that the covered undercroft is considered part of the premises and therefore subject to the Smoke Free (Premises and Enforcement) Regulations. This undercroft is substantially enclosed and cannot be used as a smoking shelter.

iv) The applicant is advised a Premises Licence under the Licensing Act 2003 will need to be applied for. The applicant is advised the premises falls within the City Council's cumulative impact area.



## 2 THE SITE

The application relates to a ground floor premises within a three storey building comprising Brighton Media Centre and having a distinctive rusticated façade with three arches to the frontage with under-croft leading to parking at the back and commercial premises on either side, one of which being the application site.

The premises are presently vacant but were until recently in use as a retail shop.

The floor area of the premises is 93 square metres.

## 3 RELEVANT HISTORY

The application is a revised submission following the refusal of a similar proposal on 22 January 2009 (ref. **BH2008/03671**) for the following reasons:-

1. The shop unit is classified as an individual shop in the Brighton & Hove Local Plan. The proposal would be contrary to policy SR8 of the Brighton & Hove Local Plan which seeks to restrict the loss of individual shops unless it has been demonstrated that the use as an A1 shop is no longer viable, within easy walking distance of a local, district, town centre or the regional shopping centre or the development would not have a significantly detrimental impact on neighbouring amenity. Applicants are expected to demonstrate active marketing of the unit on competitive terms. Insufficient information has been submitted with the application to demonstrate the unit is no longer viable. Furthermore, inadequate information has been submitted to demonstrate the proposed use would not have a significant detrimental impact on neighbouring residential amenity.
2. Insufficient information has been submitted with the application to adequately demonstrate that the air handling unit/air conditioning unit or other machinery associated with the implementation of the development, along with the management of the external smoking area, would not be detrimental to the character and appearance of The Old Town Conservation Area and/or on neighbouring residential amenity by reason of noise and disturbance. The proposal is therefore contrary to policies SU10, QD27 and HE6 of the Brighton & Hove Local Plan.
3. The proposal is contrary to the objectives of current policy as there is inadequate information regarding provision for refuse and recycling storage facilities and without details of any means of enclosure the local planning authority cannot be assured the location of the bin storage would not lead to loss of amenity for nearby residents by way of noise and disturbance. The proposal is therefore contrary to policies SU2 and QD27 of the Brighton & Hove Local Plan.

**BH2006/00176:** Change of use from retail (Class A1) to Restaurant/Public House (class A3/A4) – refused on 3 April 2006.

**BH2000/01523/FP:** Variation of condition 2 of planning permission 95/1079/FP to increase opening hours until 1am on Fridays, Saturdays and Sunday mornings – approved on 9 August 2000.

**BH1997/01186/AD:** Internally illuminated projecting box sign at ground floor level, front elevation – approved 22 December 1997.

Advertisement consent was granted in July 1997 for the retention of a high level banner sign (ref: **BH1997/00572/AD**).

Planning permission was granted in April 1997 for partial changes of use including the first floor left to a cinema; ground floor to a retail unit and a public meeting room in the basement (ref: **96/1219/FP**).

Planning permission was granted in January 1996 for installation of external staircase at the rear, replacement of windows and minor alterations (ref: **95/1427/FP**).

Planning permission was granted in October 1995 for alterations, including new shopfronts and gates, to change the use of basement and part ground floor from offices to café/bar (ref: **95/1076/FP**).

#### **4 THE APPLICATION**

Permission is sought for a change of use from retail Class A1 to a *Sui Generis* land use comprising karaoke bar with six private karaoke booths, a servery and toilets.

A smoking area for 5 people is proposed off the south elevation beneath the undercroft.

A non-illuminated vinyl graphic window sign is proposed, similar to that of the Water Margin in the adjoining unit.

An external air conditioning unit is proposed on the southerly wall towards the back of the under-croft.

Bin storage is proposed at the opposite (west) side of the car park area.

#### **5 CONSULTATIONS**

##### **External:**

**Neighbours:** Representations have been received from **5 & 6 Ship Street Gardens; 32 & 38 Avalon; 18A Evelyn Mansions, Carlisle Place, London (owner of 46 Avalon); 227 Regency House, 91 Western Road; and 1 Daisy Court, 65 Middle Street, objecting** to the application for the following reasons:-

- Cumulative impact of number of bars and drinking establishments in Middle Street.
- Would result in four bars in an unbroken row. Combined with pubs and

clubs south of the rear of Tru, the entire south west side of Middle Street would be devoted to consumption of alcohol.

- Smoking on the street is noisy and can involve fighting.
- Alcohol fuelled street riots.
- Crime and disorder.
- Public safety.
- Public nuisance.
- Unsafe and unsavoury.
- Noise and disturbance.
- Late opening disturbs sleep.
- Small street with houses and apartments.
- Loss of value to property.
- Current laws are not enforced.
- Council unable to support Police.
- Loud music.
- Doors being left open.
- Shrieking and yelling.
- Anti-social behaviour.
- Litter.
- Adverse effects on residents' health.
- Vandalised cars.
- Exacerbate already critical situation.

A representation from **8 Ship Street Gardens**, objecting to the application, has been submitted care of Councillor Kitkat, as follows:-

- Additional impact in terms of noise, disturbance and anti-social behaviour created by another night time economy venue in the city centre.
- Neither residents of Ship Street Gardens nor Avalon have been considered by the developer, only those directly on Middle Street.
- Whilst Environmental Improvement Officers are looking at a gating order for Ship Street Gardens, it does not seem sensible to add to the problems residents are facing by allowing a change of use so another venue can open.
- The proposed location for plant at the rear of the site would directly affect residents of Avalon who already suffer from noise disturbance from all other sides of that development.

**Sussex Police Crime Prevention Design Adviser:** No objection. Various alterations to the internal layout are proposed to improve security and staff safety along with CCTV and the doors and windows meeting safety standards. Sussex Police supports diversification of evening entertainment venues away from vertical drinking establishments such as single use bars and nightclubs.

**Internal:**

**Sustainable Transport:** No comments.

**Environmental Health:** The plan outline for the position of the proposed smoking shelter does not comply with the Health Act 2006 in that the covered undercroft is considered part of the premises and therefore subject to the Smoke Free (Premises and Enforcement) Regulations. This undercroft is substantially enclosed and cannot be used as a smoking shelter.

Subways and tunnels whose purpose includes providing access to premises or facilities (e.g. car parking), the public will need to enter, not only in order to transit to and from the entrance/exit points, but also to gain access to the premises or facilities located therein, are to be considered parts of the premises.

Concerns are expressed as to the potential outbreak of noise generated by the activities that are proposed to be undertaken within the building, namely karaoke. Conditions should be used to ensure satisfactory sound proofing, maximum noise levels of plant and machinery and the number of persons permitted in the smoking area at any one time.

**Planning Policy:** The premises are a single shop to which policy SR8 applies which sets three tests for the release of the premises. The supporting evidence indicates that the unit has been vacant, advertised and unlet as a retail unit since 2005. It is within easy reach of the shops in the Regional Shopping Centre (within 300m) and thus two of the three policy requirements would be met for the release of the A1 unit in this particular location. The outstanding requirement of the policy is that there should be no *significantly detrimental* impact on amenity of adjacent residential property occupiers. It may be possible that noise attenuation measures, pollution control and hours of operation could be controlled by condition to protect residents from noise nuisance, especially the potential for alcohol fuelled noise nuisance in the early hours of the morning in order to address the policy requirements of SR8c.

**SR8c** seeks that the development would not be '*significantly detrimental*' to amenities of occupiers – e.g. noise (**SU10**) from coming and going to the premises, noise from the air conditioning and from the smoking area. Smoke pollution (**SU9**) may cause problems if there are adjacent residential properties and the comments of Environmental Health on both noise and air pollution are particularly relevant.

The Site Waste Management Plan is required under environmental legislation but to meet policy, an estimate of quantities is needed.

If there is to be any excavation for drains or other services, then this is an archaeologically sensitive area where the ESCC Archaeologist should be consulted.

## 6 PLANNING POLICIES

### Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD2	Design – key principles for neighbourhoods
QD14	Extensions and alterations
QD27	Protection of amenity
SR8	Individual shops
HE6	Development within or affecting the setting of conservation areas

### Supplementary Planning Document

SPD03: Construction and demolition waste

### Planning Advice Note:

PAN05: Design guidance for the storage and collection of recyclable materials and waste

## 7 CONSIDERATIONS

The determining issues in this application relate to firstly, whether the proposal accords with local plan policies; secondly, whether the proposal will have a detrimental impact on neighbouring amenity; thirdly, whether the proposal is acceptable on traffic grounds and finally whether the proposal preserves and enhances the character and appearance of the Old Town Conservation Area.

### Principle of change of use:

The property is located in close proximity to the Regional Shopping Centre and the surrounding area comprises of a mixture of residential, offices, bars, restaurants and night clubs. The building is not located within a defined retail area or within a parade and in terms of the local plan is classed as an individual shop. Policy SR8 relates to individual Shops permits the change of use of individual shops from Class A1 providing all of the following criteria are met:

- a) the shop is within easy walking distance of a local, district, town centre or the regional shopping centre and local residents within its catchment would still be within easy walking distance of a comparable shop;
- b) it has been adequately demonstrated that an A1 retail use is no longer economically viable in that particular unit;
- c) the development would not be significantly detrimental to the amenities of occupiers of nearby residential properties or the general character of the area.

A distance of approximately 170 metres separates the application site and the boundary of the regional shopping centre and this is considered easy walking

distance.

The supporting text accompanying the policy suggests that the indicators affecting economic viability which will be taken into account are:

- the characteristics of the unit;
- its location within the neighbourhood;
- the pedestrian activity associated with the unit and the locality as a whole; and
- the length of time that the unit has been actively marketed on competitive terms.

Applicants are expected to submit documentary evidence, including a comparison with units in a similar location, to demonstrate active marketing of the unit on competitive terms in support of the proposal.

The applicants have submitted a document addressing each of the three reasons for the refusal of the previous application, the first being based around policy SR8. The applicant contends the characteristic of the unit which restricts its viability is the location among numerous night-time establishments where no other shops are present.

Previous short-term tenants of the premises, a local arts group selling artwork, discontinued their ongoing tenancy citing lack of sufficient footfall to break even.

In terms of marketing, Carr & Priddle has marketed the unit since September 2005, reaching an audience of 4460 people and resulting in 23 viewings but no offers being made. Ellis & Partners has marketed the premises since June 2005 but has records only since 2007, since which time 758 parties have been sent particulars but no offers received. Ellis & Partners have no record of viewings. The applicant contends that marketing the unit at £30,000 p.a. is comparable with similar sized premises in the local Regency ward, although the Carr & Priddle data states one interested party considered the premises expensive. Moreover, the annual rental value is equal to another unit marketed by Ellis & Partners in Brighton Place in The Lanes. This is a prime location and suggests the asking rent for the application site is perhaps excessive.

A copy of an Ellis & Partners full page advertisement has been submitted. It is not clear where the advertisement has appeared. Curiously the advertisement describes the premises as having potential to become Class A3 or A4 use, but clearly this has not enhanced the attraction of the unit a great deal.

However, the fact of the matter is that the premises have remained vacant for over two years and have fallen into a state of decrepitude.

Planning policy is satisfied that the marketing of the unit has been sufficiently



adequate to comply with policy SR8.

Amenity:

The proposal to locate the smoking area beneath the undercroft would reduce the potential noise impact of smokers congregating in the street, but could present an opportunity for clientele to stray into the rear parking area, which would be detrimental to residential amenity. In an attempt to counter this, the applicant proposes to rope off the smoking area and limit the number of patrons to five at any one time, by operating a token system. It is not considered this could be effectively enforced if the subject of a planning condition

While not an issue falling within the remit of planning control, the smoking shelter does not satisfy Environmental Health requirements as per the internal consultation comment received. It may follow that smokers would need to use another area for smoking, such as the street - which could lead to amenity issues for residents. However, for planning reasons the use of the under-croft for smoking would be acceptable, mitigating the impact on residential amenity and the applicant is not obliged to provide a smoking area or shelter.

The application should comply with the requirements of policies SU10 and QD27 of the Brighton & Hove Local Plan. Policy SU10 states proposals are required to minimise the impact of noise on neighbouring properties and may be required to submit a noise impact study (see below).

Of other nearby licensed premises, the Licensing Team have advised the following drinking establishments have the following opening hours:-

- The Globe pub: Sunday – Thursday: 10.00 – 3.00, Friday & Saturday: 10.00 – 4.00
- Casablanca club: Sunday – Thursday: 10.00 – 4.30, Friday & Saturday: 10.00 – 6.30
- Water Margin club: Monday - Sunday: 00.00 - 23.59 (i.e. 24 hours)
- The Hop Poles pub: Monday - Sunday: 09.00 - 03.00

The karaoke venue would be open from 5pm until 3.30am Monday to Friday, 2pm until 4.00am on Saturdays and from 2pm until midnight on Sundays.

Therefore, during the week the karaoke venue would be open half an hour later than The Globe and The Hop Poles (next door) and on Fridays and Saturdays would be open an hour later than The Hop Poles. The karaoke bar would not be open as late as the Casablanca night club. As such the proposed opening hours are generally consistent with the other licensed establishments in Middle Street and to impose stricter controls using planning conditions could be seen as unreasonable.

The applicant has submitted an independently commissioned noise impact

study and indicates that each private karaoke booth would be sound proofed such that the only noise heard externally would be groups of people arriving and leaving the premises. The applicant does not refer to music being played in the servery area. Sussex Police comment that the provision of a variety of late-night establishments helps attract a more diverse range of visitors to the area and can help mitigate disorder, normally exacerbated by a surfeit of vertical drinking establishments.

Another source of potentially harmful noise would be from the proposed air conditioning machine at the rear of the premises. Following the previous application the location of the condenser has been changed.

The sole air conditioning unit would be situated below ground level on the wall of a void behind the basement level of the unit and near the bottom of external fire escape stairs. The unit would be near to the outdoor area behind The Hope Poles. Data submitted with the application indicates the air conditioning unit would expose the nearest residential unit to 27-33dB of noise, which is below the background noise level in this locality and close to the World Health Organisation's research stating that 30dB of background noise is ideal for a good night's sleep. In such a position, the air conditioning unit would not adversely affect the amenity of nearby residents in Avalon across the car park, and planning conditions can be used to make sure the air conditioning unit is switched off when the premises is closed.

Environmental Health is happy that noise levels can be controlled using planning conditions.

Having regard to potential loss of amenity through noise (by disposal of glass bottles and other waste related to the proposed use of the bin storage area at the opposite end of the car park behind the premises), the applicant has agreed with the council's Environmental Health department that all establishment related bottles and waste will be kept within the venue during the night, and waste and recycling will only be emptied between the hours of 10am and 6pm, to minimise the impact on local residents.

In view of the above, the amenity impact of the development is acceptable in the main, but the absence of provision of a satisfactory smoking area for customers raises amenity concerns if they are forced to convene on the street, in close proximity to residential uses.

#### Transport

Development should provide for the transport demand generated in accordance with policy TR1 of the local plan. Being a *Sui Generis* land use, the transport requirements of the karaoke use should be assessed on their merits. As a late night establishment on which alcohol is consumed, the majority of patrons are not likely to arrive by car – the site is within easy walking distance of the town centre and railway station, and is well served by buses. Off-street car parking cannot be accommodated within the site. The

Sustainable Transport Team have not objected to the scheme.

As such the application is considered acceptable in terms of impact on transport demand.

#### Impact on the conservation area

The existing façade is in a poor condition and one entrance door, having been smashed, is secured by way of a temporary metal door. In this condition, the façade does not make a positive contribution to the character and appearance of the area. Essentially, the applicant is proposing to make good the existing shopfront glazing, whilst retaining the same configuration. Adhesive vinyl lettering is proposed to the upper window over the double entrance doors. The repair of the damaged façade is welcomed and would improve the street scene, restore the character of the area and the setting of the Old Town Conservation Area. As such it would accord with policies QD14 and HE6 of the Local Plan.

#### Sustainable design

Policy SU2 of the local plan requires development to be efficient in the use of energy, water and materials. For non-residential development of less than 235 square metres Supplementary Planning Document SPD08: Sustainable building design, requires applications to achieve a reduction in energy and water use.

Paragraph 20.0 of the applicant's written submission describes energy and water minimisation of consumption measures. Sound and thermal insulation along with low energy light sources would be used in the development to minimise heat loss and noise break-out. The air conditioning unit would be energy efficient. Staff would be instructed to keep doors and windows closed and turn off the air conditioning when karaoke rooms are not being used.

In terms of water efficiency the applicant proposes a metered system with dual flush toilets, timed taps and water saving appliances.

Applicants must demonstrate that the minimisation and re-use of construction industry waste has been sought in an effective manner in order to meet the requirements of policy SU13 of the Brighton & Hove Local Plan. This can be achieved by maximising the re-use of buildings and promoting standards of design and construction which increase the life-span of the development, incorporating waste material into the design of the development and utilising construction methods which minimise the use of raw materials and maximise the use of secondary aggregates, recyclable and recycled materials where feasible.

The waste minimisation statement submitted is reasonably detailed and makes clear the preference for waste materials, including stud walls, plaster board, wood, electrical fittings and sanitary pipework, would be re-use in the development. If not re-used the materials would be kept by the contractor or

as a last resort, given to recycling. The applicant aims to use recycled material for the sound proof insulation and re-use timber in the construction. A condition should be imposed to ensure the waste minimisation statement is acted on.

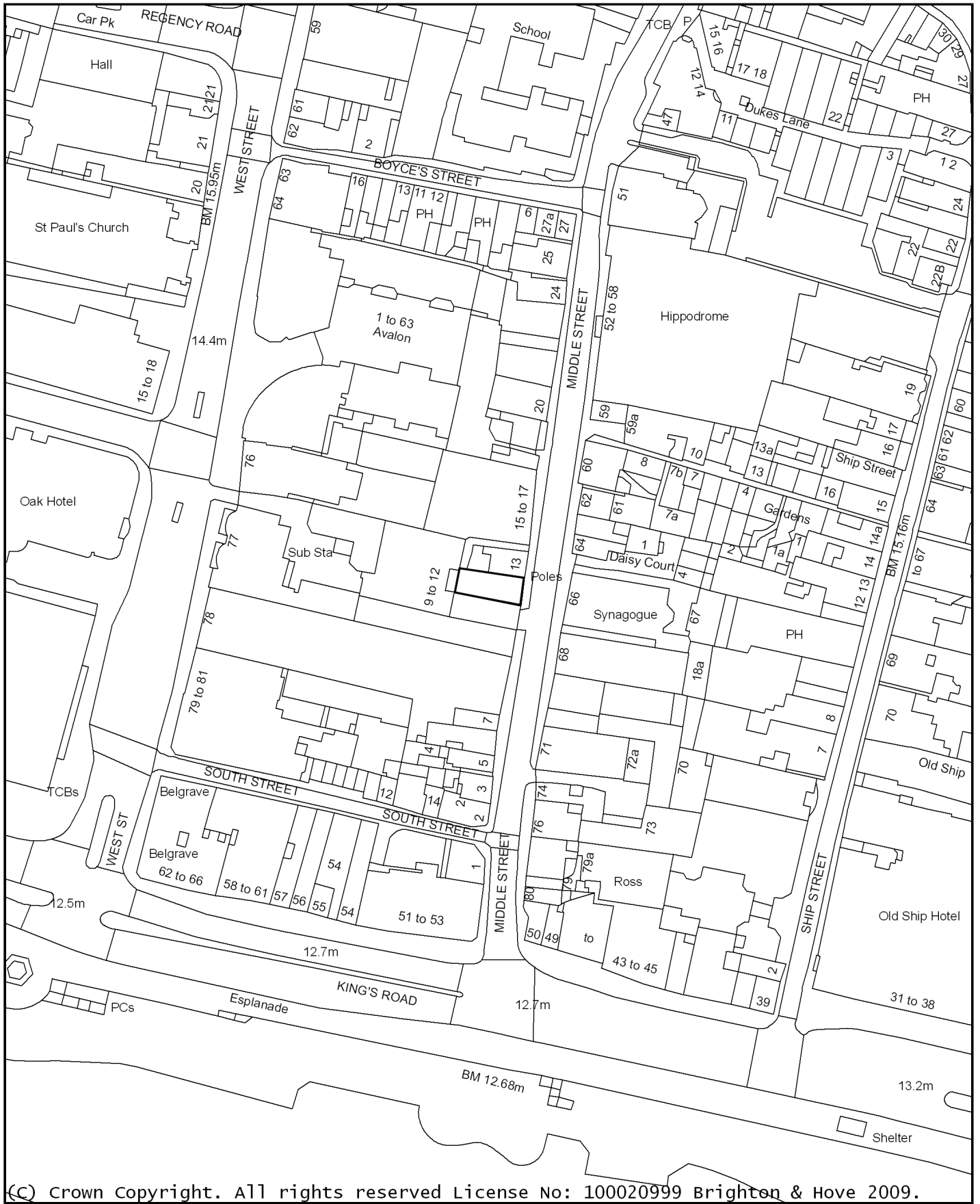
**8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION**

The proposed use is acceptable in principle and, subject to conditions, would not have an adverse impact on neighbouring occupiers' and residents' amenity.

**9 EQUALITIES IMPLICATIONS**

The developer should ensure the proposal meets DDA requirements.

# BH2009/00820 The Gallery, 12 Middle Street



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<b><u>No:</u></b>	<b>BH2009/00532</b>	<b><u>Ward:</u></b>	<b>SOUTH PORTSLADE</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>116 St Andrews Road, Portslade</b>		
<b><u>Proposal:</u></b>	<b>Change of use of premises from car showroom (sui generis) to furniture showroom (A1) and a storage container.</b>		
<b><u>Officer:</u></b>	Guy Everest, tel: 293334	<b><u>Received Date:</u></b>	06 March 2009
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	18 May 2009
<b><u>Agent:</u></b>	DMH Stallard, Queens Road, Brighton		
<b><u>Applicant:</u></b>	Tates, 94-106 Old Shoreham Road, Portslade		

## 1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the recommendation and resolves to **REFUSE** planning permission based on the following reason and Informative:

1. It has not been demonstrated that sequentially preferable sites within existing defined shopping centres are unsuitable for the proposed use; or that the proposed use would not be detrimental to the vitality and viability of the Boundary Road / Station Road district shopping centre. Furthermore the development is not intended to provide for an outlying neighbourhood or a new housing development with a local retail outlet for which a need can be identified. The proposal is therefore contrary to the aims of policies SR1 and SR2 of the Brighton & Hove Local Plan.

### Informatives:

1. This decision is based on an unnumbered elevational drawing submitted 12<sup>th</sup> March 2009; and drawing nos. 139/76/6 A & 8 A submitted 19<sup>th</sup> March 2009.

## 2 THE SITE

The application relates to a vacant site on the junction of St. Andrews Road and Church Road. The site comprises a glazed single-storey octagonal showroom building with surrounding surface parking. The surrounding area is predominantly residential.

## 3 RELEVANT HISTORY

Planning permission was refused in 2008 for a 'change of Use from car showroom (SG04) to A1 Retail (bulky goods only)' (ref: **BH2008/03341**). The reason for refusal was:-

1. *Insufficient information has been submitted to demonstrate that the change of use would not be detrimental to the vitality and viability of the Boundary Road / Station Road district shopping centre, and that there are no sequentially preferable sites within existing defined shopping centres.*



*Furthermore the development is not intended to provide for an outlying neighbourhood or a new housing development with a local retail outlet for which a need can be identified. The proposal is therefore contrary to the aims of policies SR1 and SR2 of the Brighton & Hove Local Plan.*

Planning permission was refused in 2006 for a 'change of use of car showroom (Sui Generis) to retail use (A1)' (ref: **BH2006/01745**) as no information was submitted with the application to demonstrate that the proposed retail unit would not adversely affect the vitality and viability of the existing established Boundary Road / Station Road district centre.

#### **4 THE APPLICATION**

The application seeks consent for a change of use of the existing car showroom to a retail use (approximately 245m<sup>2</sup>). Car showrooms are expressly referred to as *sui generis* uses by Article 3(6) of the Use Classes Order, as amended. A furniture showroom is for the display of goods for sale and therefore comprises a retail use within Class A1. The proposal therefore represents a change of use for which planning permission is required. It should be noted that permitted development rights for motor showrooms to change to shops (A1) uses were removed in 2005 as part of amendments to the General Permitted Development Order.

A storage container would be sited in the north-eastern corner of the site.

#### **5 CONSULTATIONS**

##### **External:**

**Neighbours:** 1 letter has been received from **56 Church Road** objecting to the proposal for the following reasons:-

- a furniture sales place would not benefit the area;
- furniture would be delivered on large lorries which would be very dangerous for children in the area as the property is on a corner;
- as the property is on a junction there would be a big build up of traffic in the area.

A letter has been received from **114 St Andrews Road** with no objections to the proposal, but would wish that existing access to the rear parking area would continue.

**Councillor Hamilton:** supports the application and has requested that it is considered by the Planning committee - comments attached.

##### **Internal:**

**Planning Policy:** In order for this application to be assessed adequately the applicant should submit a Retail Impact Assessment. With the absence of such evidence to consider; it is considered that the proposal does not comply with policies SR2, SR1 and national policy PPS6.

**Sustainable Transport:** The existing car showroom has off-street parking to

the rear of the store. The conversion to a furniture showroom will not result in a material impact on either trips or parking on the highway.

The application identifies two disabled parking bays. However, these spaces need to be designed in accordance with the Brighton & Hove Access For All, Design Note 12 – car parking. Using this guidance a 1.2m transfer zone suitable for disabled access should be provided adjacent to and at the head of the bay (for boot access and to serve cars with hoists).

## **6 PLANNING POLICIES**

### Brighton & Hove Local Plan:

TR1 Development and the demand for travel

TR7 Safe Development

TR19 Parking standards

SU2 Efficiency of development in the use of energy, water and materials

SU10 Noise nuisance

QD27 Protection of amenity

SR2 New retail development beyond the edge of existing established shopping centres

## **7 CONSIDERATIONS**

The main issues of consideration are the acceptability of the proposed retail use in this location, its impact on residential amenity for occupiers of adjoining properties, and traffic issues.

### Change of use

The application site lies approximately 400 metres beyond the edge of the Boundary Road / Station Road District Shopping Centre where local plan policy SR2 applies. This policy, which cross-references to policy SR1, essentially states that applications for new retail development will be permitted provided no harm to the vitality or viability of existing established shopping centres and parades in Brighton & Hove will result; that there is a need for the development and that no suitable site can be identified within the existing centre.

The impact of the proposal on the vitality and viability of existing centres has not been assessed. As part of this application the relevant issues include the likely impact of the development on the trade / turnover of stores within the catchment area, the likely impact on the number of vacant properties in the primary shopping area, and the consequent change to its quality, attractiveness and character. There is no analysis of where the store's turnover would be generated from and how much trade would be diverted from existing businesses in the area.

The applicant has also not submitted any information relating to available sites within existing shopping centres, such as the Boundary Road / Station Road District Shopping Centre. At present there are a number of vacant units within this centre which may be suitable for the prospective tenant of the

application site. However, the absence of a sequential site search means that this has not been properly established. Planning Policy Statement 6 (Planning for Town Centres) states that when applying a sequential test to site selection 'it will not be sufficient for an applicant to claim merely that the class of goods proposed to be sold cannot be sold from the town centre'. This is important as there are a number of shops across the City selling comparable goods with more basic servicing / floor area provision than that proposed which still function viably.

PPS6 also states that flexibility is required, by both the applicant and LPA, with regard the scale and format of the development, and the car parking provision. For example, in this instance whilst it may be preferable for on-site parking to be available (as goods will be ordered for delivery at a later date) it is not apparent that its absence would result in the business model being unviable. A sequential site search taking into account these factors would allow the possibility of enabling the development to fit onto more central sites to be properly explored. However, this has not been done.

#### *Conclusion*

The supporting information advises that the premises will be used in the manner of a furniture showroom with the majority of goods ordered for delivery at a later date. The applicant considers that this proposed use is similar to the previous use and therefore suitable for the premises. However, the proposal represents a change of use from sui generis to Class A1 (retail). As opposed to a car showroom, there are no apparent reasons why the furniture showroom could not be located in the neighbouring district centre where this use would be more suited, particularly as they propose to sell a range of smaller household items

The potential impact of the proposed retail unit on existing established shopping centres has not been assessed. Furthermore the applicant has not undertaken a sequential site search to explore the possibility of locating the proposed use within existing shopping centres. If efforts are not made to focus new retail uses into existing shopping centres, it can only undermine them in the long term and, in the case of Boundary Road / Station Road, there are a number of vacant premises which would potentially be suitable for the type of use proposed by this application.

For the reasons outlined, the proposal has potential to undermine the vitality and viability of the Boundary Road / Station Road district centre; and result in further units becoming vacant within this centre. The proposal is therefore considered contrary to the aims of policy SR2, and SR1.

#### Impact on neighbouring amenity

If necessary, conditions could restrict opening and delivery hours and in principle the proposed use is considered unlikely to have a harmful impact on neighbouring amenity. The proposal does not indicate the installation of any external plant or machinery and should this be required at a later date, further

planning approval would be required.

#### Proposed storage container

A storage container is proposed to store smaller goods to be sold within the premises. The container would have a temporary appearance and appear somewhat at odds with the established appearance of the wider area. Whilst there are reservations regarding its suitability as a permanent form of development, its overall visual impact is limited by the existing boundary treatment, the extensive surface parking, and its siting away from public highways. As such the container may be acceptable on a temporary basis.

The storage container would be sited in the north-eastern corner of the site adjacent to the shared boundary with 114 St Andrews Road, a residential dwelling. Despite the 2.5 metre height of the container, it is considered a sufficient distance from the main building to avoid any harmful loss of light and given the depth of rear garden no significant overshadowing will result.

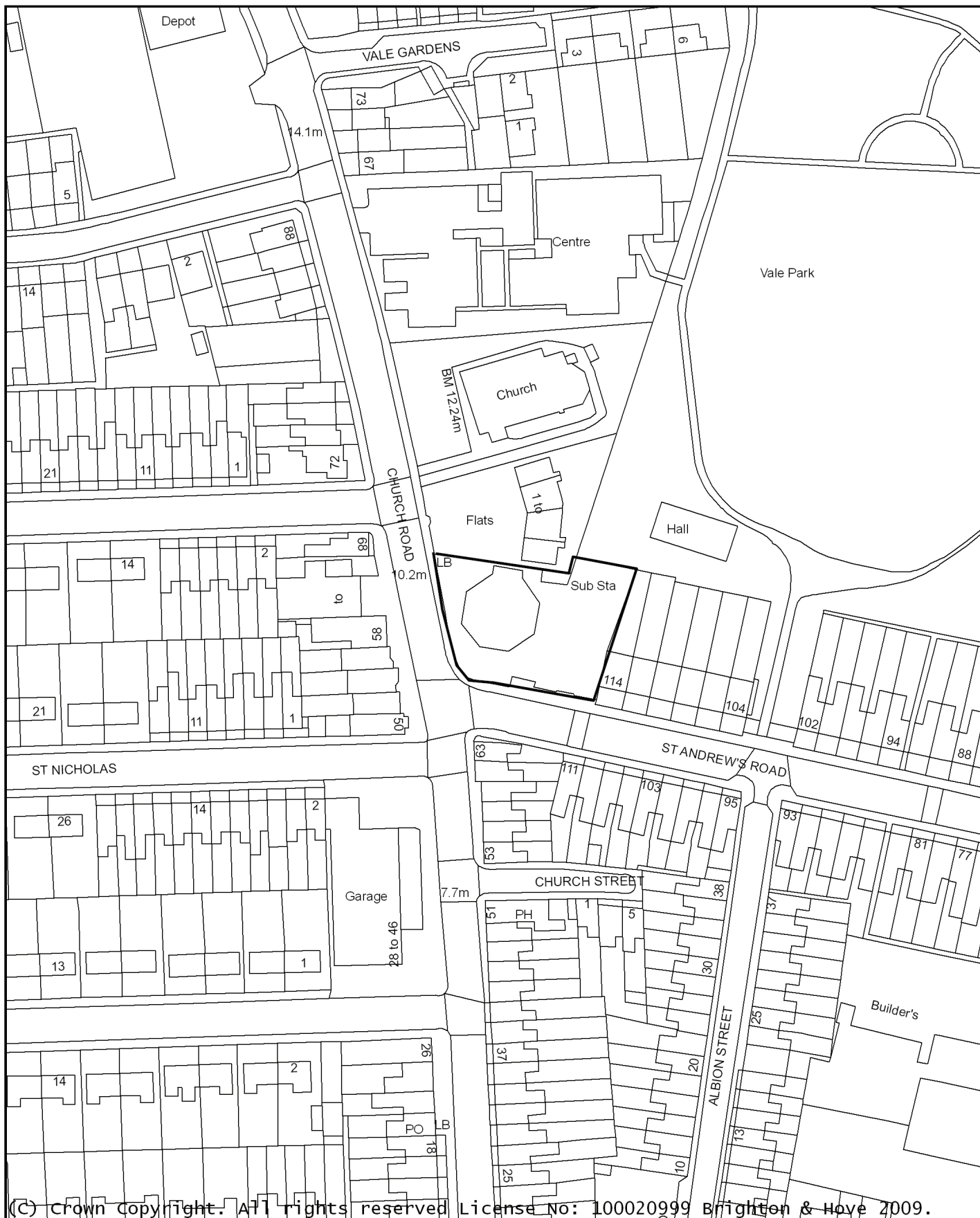
#### Transport

Local Plan policy TR1 requires that development provide for the travel demand they create and maximise the use of public transport, walking and cycling; with policy TR7 requiring that development does not increase the danger of users of adjacent pavements, cycle routes and roads.

The Sustainable Transport Team have commented on the application and consider that the proposal will not result in a material impact on either trips or parking on the highway. There are no apparent reasons why loading / unloading of delivery vehicles could not be achieved within the curtilage of the site and, if necessary, further details of this and proposed disabled parking provision and layout could be requested by an appropriate condition. The proposal is therefore considered to comply with the aims of the above policies.

## **8 EQUALITIES IMPLICATIONS**

The existing access arrangement, which include a double door opening, will not be altered as part of the proposed change of use.



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## Brighton & Hove City Council

PLANS LIST – 23 SEPTEMBER 2009

### COUNCILLOR REPRESENTATION

**From:** Leslie Hamilton [Leslie.Hamilton@brighton-hove.gov.uk]  
**Sent:** 19 June 2009 10:21  
**To:** Guy Everest  
**Cc:** Jeanette Walsh  
**Subject:** RE: BH2009/00532

Morning Guy,

As I understand it the applicant wants the premises as a furniture showroom, according to the application. I am sure this could be conditioned. This is not a new retail development as cars were sold from the premises, and there is no demand for more car sale facilities at present. If a car showroom can be sui generis cannot the same apply to a furniture showroom? I do not regard a change of use from cars to furniture as a "development" There is no furniture showroom in the Station Road/ Boundary Road shopping area, so I cannot understand how a furniture showroom some distance away would affect the trade in this shopping area. There are no suitable premises for the proposed use in Station Road/Boundary Road, especially one with a parking and loading facility, essential for this type of business. Most of the furniture showrooms in the Hove area such as Vokins, DFS and Furniture Village have customer parking. It is apparent to me that the proposal would have no adverse effect on Boundary Road/Station Road. I cannot understand why this needs a survey. I am therefore requesting that this application goes to committee so that members can make the decision.

Sorry to disagree with your views but I cannot see any valid reason for refusal.

Regards,  
Les

Clr Les Hamilton  
South Portslade  
Deputy Leader Labour Group  
Phone 01273 291147 or 01273 702052



<b><u>No:</u></b>	<b>BH2009/00422</b>	<b><u>Ward:</u></b>	<b>WESTBOURNE</b>
<b><u>App Type</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>23A &amp; E Coleridge Street</b>		
<b><u>Proposal:</u></b>	<b>Change of use from office (B1) to 6 self-contained flats with formation of balconies to front elevation and demolition of single storey rear section to no. 23A &amp; 23E.</b>		
<b><u>Officer:</u></b>	Guy Everest, tel: 293334	<b><u>Received Date:</u></b>	19 February 2009
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	20 April 2009
<b><u>Agent:</u></b>	Roger Fagg Architect Ltd, 14C Fourth Avenue, Hove		
<b><u>Applicant:</u></b>	Richlife Ltd, 69B Church Road, Hove		

## 1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

### Conditions:

1. BH01.01 Full Planning.
2. BH05.09 General Sustainability Measures.
3. The hereby approved ground floor residential units shall not be occupied until the existing single-storey rear sections of the building have been demolished, with the resulting outdoor areas laid out as private amenity space, in accordance with the approved plans.  
**Reason:** To ensure the provision of private outdoor amenity space appropriate to the scale and nature of the development and to provide an acceptable standard of accommodation for future occupants in accordance with policies HO5 and QD27 of the Brighton & Hove Local Plan.
4. The hereby approved first floor residential units shall not be occupied until the balconies to the front elevation of the building have been constructed in accordance with the approved plans.  
**Reason:** To ensure the provision of private outdoor amenity space appropriate to the scale and nature of the development and to provide an acceptable standard of accommodation for future occupants in accordance with policies HO5 and QD27 of the Brighton & Hove Local Plan.
5. The existing obscure glazing to the lower part of window openings at second floor level on the rear elevation of the property shall be retained at all times.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

Informatives:

- 1) This decision is based on drawing nos. RFA08/074/03, 04, 05 & 07 submitted 19<sup>th</sup> February 2009; and drawing nos. RFA08/074/02B, 06A & 10B submitted 6<sup>th</sup> August 2009.
- 2) This decision to grant Planning Permission has been taken:
  - (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance:

TR1	Development and the demand for travel
TR7	Safe Development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
SU15	Infrastructure
QD14	Extensions and alterations
QD27	Protection of amenity
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
EM3	Retaining the best sites for industry
EM5	Release of redundant office floorspace and conversions to other uses

Supplementary Planning Guidance

- |       |                                   |
|-------|-----------------------------------|
| SPD03 | Construction and Demolition Waste |
| SPD08 | Sustainable Building Design; and  |

- (ii) for the following reasons:-

The development, in light of appeal decision APP/Q1445/A/09/2097718, is acceptable in relation to the loss of commercial property, the proposed housing mix, and the effect upon the living conditions of adjacent residents. The private amenity space at ground and first floor levels is appropriate to the scale and character of the development. The conversion having regard to the existing use will not create a harmful demand for travel.

## **2 THE SITE**

The application relates to two B1 (office/light industrial) premises forming part of a recently completed terrace development on the site of the former Polish Printing Press.

The development is built over 3 storeys and comprises two dwellings (nos. 23 and 23F) at either end of the terrace and 5 business units; the central three are occupied by a commercial tenant (Skerritts) with two units currently

unoccupied (nos. 23A and 23E). The application relates to these unoccupied commercial units.

The surrounding area consists predominantly of Victorian residential terraced properties 2-storeys in height and small scale commercial premises.

### 3 RELEVANT HISTORY

**BH2008/03041:** Change of use from B1 offices to 6 no. self-contained flats. Refused in 2008 for the following reasons:-

1. *The proposal would be contrary to policy EM5 of the Brighton & Hove Local Plan which seeks to restrict the loss of office floor space unless it has been demonstrated that the use is no longer viable and is unsuitable for redevelopment for alternative employment generating uses. Applicants are expected to demonstrate active marketing of the unit on competitive terms for a period of at least twelve months or more. Insufficient information has been submitted with the application to demonstrate the use of the office space is no longer viable, particularly given the condition of the buildings as recently purpose built office accommodation. Furthermore, if a unit is demonstrated to be redundant, preference is given to alternative employment generating uses or affordable housing. The proposed accommodation fails to provide either of these requirements.*
2. *Policy HO3 requires developments to incorporate a mix of dwelling types and sizes that reflects and responds to Brighton & Hove's housing need. The proposed mix of residential accommodation fails to provide any two or three bedroom units. The proposal therefore fails to provide an adequate standard of accommodation to the detriment of future occupiers and the City's housing stock.*
3. *The proposal would result in an unsatisfactory level of private amenity space which would be to the detriment of the living conditions of any future residents of the scheme and is contrary to policies HO5 and QD27 of the Brighton & Hove Local Plan.*
4. *The proposed development would cause detriment to the amenity of neighbouring properties on Shakespeare Street by way of increased levels of overlooking and loss of privacy. The proposal is therefore contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.*

A subsequent appeal against this refusal found the proposal to be acceptable in relation to the retention of commercial property (reason 1), housing mix (reason 2) and the potential effect upon the living conditions of adjacent residents (reason 4). However, the proposal was found to be deficient in amenity space provision (reason 3) and accordingly was dismissed.

**BH2006/00846:** Amendment to previous applications BH2002/00817 and BH2004/01493 - elevational changes to front and rear facades, incorporation of rear patios. Approved 27/11/2006.

**BH2005/02296/OA:** Outline application for erection of 8 new 2 storey terraced houses fronting Coleridge Street on former printing works site. Refused

13/01/2006.

**BH2004/01493/FP:** Amendments to previously approved application BH2002/00817/FP by way of alterations to elevations of houses to Shakespeare Street and offices to Coleridge Street. Approved 25/06/2004.

**BH2002/00817/FP:** Demolition of existing light industrial building. Erection of terrace of 2 houses and 5 offices (use class B1) fronting Coleridge Street and 6 houses fronting Shakespeare Street. Approved 5 February 2004.

#### 4 THE APPLICATION

The application seeks consent for a change of use from offices (Class B1) to 6 self-contained residential units, comprising two ground floor studio units and four one-bedroom units at first and second floor levels (i.e. three units in each premises).

The proposed plans, following amendments, incorporate the formation of a balcony area at first floor level to the front elevation of each property, and demolition of a single-storey rear section to form an enlarged outdoor patio area.

#### 5 CONSULTATIONS

**External:**

**Neighbours:** 5 letters have been received from **22D & 22F (x3) Shakespeare Street** and **saveHOVE** objecting to the proposal for the following reasons:-

- the flats are not sustainable for the area and not in keeping with the character and predominant use of the area;
- the size and quality of the flats are aimed at a but to let market to a transient tenant and is not in keeping with the family orientated demograph of the area;
- the Poet's Corner area is unique in having small businesses dotted all over it. It is a loss to community life and street activity that there are now monocultures of residential and commercial uses;
- the quality of the units, in particular the ground floor studios, are of a low standard with little or no outdoor space, very poor natural light, poor ventilation and no disabled access which is not sustainable and will lead to flatland tenements which will have detrimental impact on the area in the future;
- the change of use will not provide a correct mix of units;
- the building is already out of keeping with the surrounding residential area which consists of residential housing;
- the flats would invade the privacy of neighbours, which at present are afforded some privacy in the evenings and at weekends;
- the plans will put additional pressure on restricted parking in the area;
- the proposal undermines the previous Council position that offices should be retained in the area;
- the plans will set a precedent;
- loss of property value.

**Internal:**

**Sustainable Transport:** The change of use from offices to 6 self-contained flats is not anticipated to generate any additional material demand for travel.

**6 PLANNING POLICIES**

Brighton & Hove Local Plan:

- TR1 Development and the demand for travel
- TR7 Safe Development
- TR14 Cycle access and parking
- TR19 Parking standards
- SU2 Efficiency of development in the use of energy, water and materials
- SU10 Noise nuisance
- SU13 Minimisation and re-use of construction industry waste
- SU15 Infrastructure
- QD14 Extensions and alterations
- QD27 Protection of amenity
- HO3 Dwelling type and size
- HO4 Dwelling densities
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes
- EM3 Retaining the best sites for industry
- EM5 Release of redundant office floorspace and conversions to other uses

Supplementary Planning Documents:

- 03 Construction and Demolition Waste
- 08 Sustainable Building Design

**7 CONSIDERATIONS**

The main issues of consideration in the determination of this application relate to loss of the existing B1 use; the standard of proposed residential accommodation and its impact on neighbouring amenity, transport and sustainability objectives. The recent appeal decision on the site is also a material consideration.

Loss of existing B1 use

Local plan policy EM5 seeks to retain office premises unless they are genuinely redundant for modern employment needs. A previous application on the site for a change of use to residential was partly refused as it was considered insufficient information had been submitted to demonstrate the offices were not viable, and notwithstanding this if redundancy was proven preference should be given to alternative employment generating uses or affordable housing.

A subsequent appeal considered the premises have been 'offered for sale for employment related uses on a sustained basis at an appropriate price, on a flexible occupation basis and over an appropriate period of time'. It was also noted that the applicant had approached registered social landlords offering the proposed units for affordable housing but none were seeking this type of

premises. On this basis the Inspector concluded that there was no evidence to support the view that the premises were not offered for sale under a broad employment remit and the requirements of saved policy EM5 had been met.

#### Proposed residential accommodation

##### *Housing mix*

Policy HO3 requires new residential development to incorporate a mix of dwelling types and sizes that reflects and responds to Brighton & Hove's housing needs. It was considered as part of a previous application on the site that a mix of 2 studios and 4 one-bedroom units would provide a poor mix of accommodation.

The Inspector considering the scheme at appeal concluded that given the specific nature of the buildings in question the proposal was acceptable in housing mix terms; would make effective use of the conversion opportunity; and diversify the local housing stock at a location that is likely to be attractive to single persons or couples. The mix was therefore not considered contrary to the aims of the above policy. For this reason there is no objection to the housing mix proposed as part of the current application (which has not been altered following the appeal decision).

##### *Amenity space*

Policy HO5 of the Brighton & Hove Local Plan requires the provision of private usable amenity space in new residential development where appropriate to the scale and character of the development. As originally submitted four of the six proposed flats would have no external amenity space, with the two ground floor studio flats provided with a very small and enclosed patio area. The appeal was dismissed solely for the inadequate provision of private amenity space.

In response to this decision the application has been amended and includes demolition of single storey structures at ground floor level to form an appreciably larger outdoor area, and the formation of balconies at first floor level which would allow for a modest degree of outdoor seating.

The amended proposal would provide amenity space to four of the six flats and it is considered sufficient to overcome the previous concern relating to private amenity space, and having regard to the constraints of the building and site as a whole.

##### *Lifetime homes*

Policy HO13 of the Brighton & Hove Local Plan requires conversions demonstrate that wherever practicable Lifetime Homes criteria have been incorporated into the design. The existing entrance and staircase arrangements are not being altered by the proposal and it would therefore be unreasonable to require any further information in this regard. Throughout the development main habitable rooms would allow for turning circles and circulation space where necessary, with bathrooms also relatively accessible



and capable of being altered without major structural alterations to provide improved accessibility if necessary. The proposal is therefore considered to comply with the above policy.

### Design

The proposal entails the formation of inset balconies at first floor level to the front elevation of the building. The balconies will replace existing full-height window openings with opaque balustrading flush with the outside wall of the building and inset doors. The balconies will not compromise the overall appearance of the building, which already features Juliet balconies, and in long views the prevailing character of the terrace will not be harmfully altered.

To the rear single-storey sections of the building will be demolished with the existing doors relocated to the main rear elevation. This alteration will not be visible from the public realm or adjoining properties due to the existing boundary treatment which is not being altered.

### Impact on amenity

There was concern as part of the previous application that a residential use in the building would increase the opportunity for overlooking to adjoining properties on Shakespeare Street.

In assessing the appeal the Inspector noted windows at first floor level were set at a high level, and at second floor the lower part of the glazing was opaque glass. Furthermore in both cases the rear part of the upper floors is a bedroom with the main habitable space to the front of the buildings. For these reasons it was determined that the opportunity for overlooking leading to loss of privacy to adjacent occupiers would be minimal and conditions could be used to ensure the existing fenestration arrangements is maintained.

Whilst the concerns of neighbouring residents in this regard are noted due to the considerations within the appeal decision, as outlined above, refusal of the current application for this reason could not be warranted. A condition is recommended to ensure the existing window arrangement, and particularly the obscure glazing at second floor level, is maintained in perpetuity in accordance with the previous appeal decision.

### Sustainability

Policy SU2 requires that development proposals demonstrate a high standard of efficiency in the use of energy, water and materials. The proposed conversion entails very limited alterations to the existing building and as part of the previous application it was accepted that a completed Sustainability Checklist was sufficient to comply with the aims of this policy. The same checklist has been submitted as part of this application and outlines how the use of energy, water and materials will be minimised. This level of detail is again considered acceptable having regard to the scale and nature of the proposed conversion.

The application is accompanied by a Waste Minimisation Statement which, having regard to the scale of the proposed development, is considered sufficient to demonstrate construction and demolition waste will be minimised in an effective manner.

#### Transport

As offices the application site generates a demand for travel and on-street parking. The Sustainable Transport Team have advised that the proposed change of use is not anticipated to generate any additional material demand for travel and as such do not object to the application. This is consistent with the previous planning application and subsequent appeal decision which did not raise any concern with regards the impact of the development on transport infrastructure.

The scheme incorporates secure cycle storage within existing store rooms to the front of the building at ground floor level.

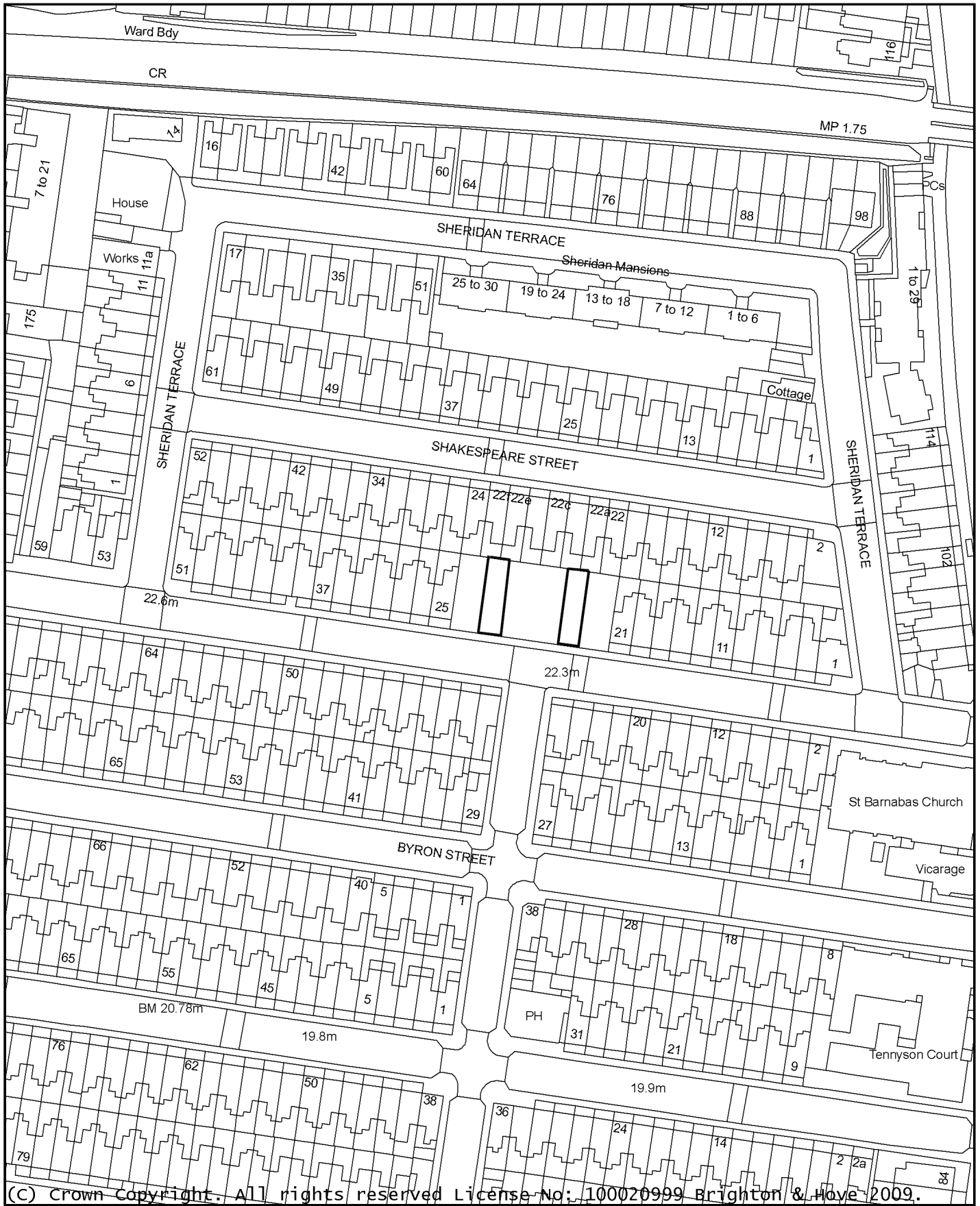
### **8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION**

The development, in light of appeal decision APP/Q1445/A/09/2097718, is acceptable in relation to the loss of commercial property, the proposed housing mix, and the effect upon the living conditions of adjacent residents. The private amenity space at ground and first floor levels is appropriate to the scale and character of the development. The conversion having regard to the existing use will not create a harmful demand for travel.

### **9 EQUALITIES IMPLICATIONS**

The proposal incorporates lifetime home standards into the design wherever practicable.

# BH2009/00422 23A & 23E Coleridge Street



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Scale 1:1250



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<b><u>No:</u></b>	<b>BH2009/01561</b>	<b><u>Ward:</u></b>	<b>WESTBOURNE</b>
<b><u>App Type</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>130 Cowper Street, Hove</b>		
<b><u>Proposal:</u></b>	<b>Extension above valeting shop (B1) to create office space (B1).</b>		
<b><u>Officer:</u></b>	Christopher Wright tel: 292097	<b><u>Received Date:</u></b>	29 June 2009
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	24 August 2009
<b><u>Agent:</u></b>	RSP Architects, 12 Osborne Villas, Hove		
<b><u>Applicant:</u></b>	R & R Valeting, Mr R Raggio, 130 Cowper Street, Hove		

## 1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **REFUSE** planning permission for the following reasons:

1. The application fails to demonstrate the need for new office space given the availability of existing premises on the market or with outstanding planning permission. The development does not provide adequate landscaped amenity open space and would be detrimental to the amenities of nearby properties and the general character of this predominantly residential area, which is characterised by traditional terrace dwellings. As such the proposal is contrary to the requirements of policy EM4 of the Brighton & Hove Local Plan.
2. The proposal would, by reason of its increased height and massing in close proximity to neighbouring properties, have an overbearing impact and result in loss of light and an increased sense of enclosure, which would be detrimental to the amenities and living conditions enjoyed by the neighbouring occupiers. The development therefore conflicts with policies QD14 and QD27 of the Brighton & Hove Local Plan.
3. The proposed development would, by reason of its design, form, scale and detailing in relation to neighbouring properties, fail to respect the context of its setting or enhance the positive qualities of the prevailing townscape, would be incongruous with surrounding buildings and represent a cramped form of development. Therefore the development would give rise to visual harm and conflicts with policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan.
4. The application is contrary to the requirements of policy SU2 of the Brighton & Hove Local Plan and the associated Supplementary Planning Document SPD08: Sustainable building design, because the scheme does not incorporate measures to increase efficiency in the use of energy, materials and water.

### Informatives:

1. This decision is based on the design and access statement, waste

minimisation statement, biodiversity checklist, artist's impression and drawing no. 01 submitted on 29 June 2009.

## 2 THE SITE

The application relates to a site at the end of a Victorian terrace on the south side of Cowper Street and alongside the rear gardens of 1 to 7 Rutland Road around the corner. The site is presently occupied by a valeting business taking place in a single storey structure with facing brick walls and a profiled sheet roof.

## 3 RELEVANT HISTORY

A similar planning application for a first floor extension to provide office space above the valeting premises was refused on 22 April 2009 under delegated powers (**ref. BH2009/00390**).

1. The application fails to demonstrate the need for new office space given the availability of existing premises on the market or with outstanding planning permission. The development does not provide adequate landscaped amenity open space and would be detrimental to the amenities of nearby properties and the general character of this predominantly residential area, which is characterised by traditional terrace dwellings. As such the proposal is contrary to the requirements of policy EM4 of the Brighton & Hove Local Plan.
2. The proposal would, by reason of its increased height and massing in close proximity to neighbouring properties, have an overbearing impact and result in loss of light and an increased sense of enclosure, which would be detrimental to the amenities and living conditions enjoyed by the neighbouring occupiers. The development therefore conflicts with policies QD14 and QD27 of the Brighton & Hove Local Plan.
3. The proposed development would, by reason of its design, form, scale and detailing in relation to neighbouring properties, fail to respect the context of its setting or enhance the positive qualities of the prevailing townscape, would be incongruous with surrounding buildings and represent a cramped form of development. Therefore the development would give rise to visual harm and conflicts with policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan.
4. The application is contrary to the requirements of policy SU2 of the Brighton & Hove Local Plan and the associated Supplementary Planning Document SPD08: Sustainable building design, because the scheme does not incorporate measures to increase efficiency in the use of energy, materials and water.

On 14 September 2006 permission was refused for a proposal to demolish the store/workshop and erect a new 2-bedroom dwelling (**ref. BH2006/02562**). An earlier application for erection of a 2-bedroom dwelling was also refused on 4 October 2005 (**ref. BH2005/02334/FP**).

**3/94/0298(F)**: Change of use of workshop and store for the storage and repair of amusement machines – granted consent 12 July 1994.

**3/92/0331(F)**: Change of use from storage to car workshop – refused on 7

August 1992.

**3/90/0037:** Continued use of property as builders' workshop and store – withdrawn.

**3/89/0199:** First floor offices and toilet extension and change of use of ground floor from builders' workshop and store for storage of cane and wicker furniture – refused 6 April 1989.

**3/88/0971:** First floor offices and toilet extension – refused on 24 November 1988.

**3/88/0150:** Continued use as builders workshop and store – granted consent on 28 April 1988.

**3/86/0377:** Change of use from warehouse into builders' workshop and store – granted temporary consent from 18 October 1988 to November 1989.

**3/83/0475:** New first floor offices and toilet extension – refused consent on 9 September 1983.

**3/80/0679:** Erection of a single storey rear extension to provide a cold store – granted consent on 16 January 1981.

**3/80/0450:** Outline application for the formation of ancillary office accommodation over existing wholesale poultry distribution business at ground floor level – withdrawn.

**3/44/0340:** Change of use from garage to storage – granted consent.

**O.A. 1540:** Outline application to form maisonette flat over garage used for storage of milk floats – refused February 1973.

#### **4 THE APPLICATION**

Planning permission is sought for a first floor extension over the existing premises to form two self contained office spaces. The building would have a painted render finish and a gable front with timber glazed window feature. At the rear the extension would project beyond the plane of the adjoining terrace row by 3.6m, having a 45 degree cutaway at the eastern corner. Two windows are proposed in the rear elevations and a single, large feature window on the front elevation. No windows or other openings are proposed aside from the access door at ground floor level.

The existing use on the ground floor use would remain, albeit less 5 square metres of its present 61.5 square metre floorspace.

The proposed office would be staffed by two to three full time employees.

#### **5 CONSULTATIONS**

**External:**

**Neighbours:** Three representations have been received from **128 Cowper Street; 1, 3, 5 Rutland Road** objecting to the application for the following reasons:-

- Not in keeping with character of the area.
- Size and appearance inappropriate.
- Proposed sign large and unsightly.
- Area is listed and new buildings must adhere to this.
- Overbearing book-end design at end of pleasant Victorian terrace.



- Not architecturally appropriate.
- Overshadowing.
- Loss of light.
- Overlooking.
- Loss of privacy.
- Extended front elevation.
- Increase in traffic.
- Increase in noise.
- Impact on rear gardens.
- Previous application had similar massing. Current application is similar at first floor level.
- Overpowering mass.
- Blank wall close to rear elevations of dwellings in Rutland Road.
- Disturbance.
- Increased parking problem.
- Infringe upon right to light.
- Not safe for pedestrians and other road users.

Eight representations have been received from **123 Cowper Street; 33, 91, 125 Montgomery Street; 36 Portland Avenue (x2); 42, 61 Rutland Road; 22 Suffolk Street (x2)** in support of the application for the following reasons:-

- Good design over existing shabby building.
- May inspire other small businessmen to invest in other properties in the area.
- Smart, interesting building.
- Modern, clean cut appearance.
- Nearby graphic business would rent this sort of office.
- Recent application for conversion of existing office in Grange Road refused as there is demand for offices in this area but previous decision in relation to this site referred to new office accommodation not being required.
- In the depressed market the applicant's want of expanding and increasing turnover should be supported.
- Modest scheme will enhance character of the area.
- Building needs renewal.
- Offices for small businesses important in current economic climate.
- The area above the existing building is wasted space.
- Supports local community.

**Internal:**

**Sustainable Transport:** No objection.

**Environmental Health:** No objection.

Subject to conditions relating to noise from plant and machinery

## 6 **PLANNING POLICIES** Brighton & Hove Local Plan:

QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD14	Extensions and alterations
QD27	Protection of amenity
EM4	New business and industrial uses on unidentified sites
TR1	Development and the demand for travel
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU13	Minimisation and re-use of construction industry waste

Supplementary Planning Guidance Note

SPGBH4: Parking standards

Supplementary Planning Document

SPD08: Sustainable Building Design

## 7 **CONSIDERATIONS**

The principal considerations in the determination of the application are the acceptability in principle; visual appearance and impact on the street scene; impact on neighbour amenity; transport issues; and sustainable design, use of energy and materials.

Principle

The planning history of the site indicates the present use of the workshop for car valeting (*Sui Generis*) has not been granted express consent.

Notwithstanding the support for the scheme from Economic Development, the planning policy tests for acceptability of new business uses on unidentified sites are set out in Local Plan policy EM4. This policy states that new business uses including Use Class B1, on unidentified sites, will be granted planning permission provided that:

- a. There is a demonstrable need for such a use, given the availability of existing land or premises identified in the plan or on the market or with outstanding planning permission;
- b. The site is readily accessible by public transport, walking and cycling;
- c. The development would not result in the net loss of residential accommodation;
- d. The development would not result in the loss of an important open space, an identified Greenway or a nature conservation site as specified in the Plan;
- e. The development would not have a demonstrably adverse environmental impact because of increased traffic and noise;
- f. The development would not be detrimental to the amenities of occupiers of nearby properties or the general character of the area; and
- g. There is adequate landscaped amenity open space.

Paragraphs c. and d. do not apply to the scheme. Paragraph b. applies to the proposal, the site for which is in a sustainable area easily accessible by foot,

bus and railway. However, there is no landscaped amenity open space within the site (g.) and the applicant has not demonstrated the need for such a use given the availability of existing premises on the market.

It is known that there are other small office spaces which are vacant in the locality of the application site.

In view of the above the proposal is contrary to policy EM4 of the local plan.

#### Visual appearance

The application site is on the end of a row of terrace dwellings of Victorian style with gable ended pitched roofs, bracketed eaves, projecting bay features and vertically sliding sash windows. Typically each plot is some 4.6m wide.

In contrast the application site is narrower and situated 5.5m from the rear elevations of residential properties in Rutland Road.

As a result the proposed building would have a cramped appearance when viewed from the street, and the scheme does not take into consideration the spaces between terrace rows which characterise the area spatially. The current scheme has been revised in comparison with the previously refused proposal, in that the front elevation has been brought forward and breaches the building line established by the terraced housing. The design and siting of the building is not considered an acceptable finishing off of the Victorian terrace row, and due to the prominence and cramped appearance, would be harmful to the street scene.

The form of the proposed first floor extension is incongruous with the prevailing townscape in that it would have a gable front and a reduced ridge height. The feature window at first level on the principal elevation does not relate well with the historic fenestration of the terrace in visual terms and would not be centred over the folding doors giving access to the workshop/valeting unit on the ground floor. Moreover, aside from the design of the first floor window, the building façade is plain and lacks features of architectural interest.

In view of the above the proposal does not accord with the requirements of policies QD1, QD2 or QD14 of the local plan, which seek high quality development that enhances the positive qualities of the neighbourhood by taking into account local characteristics including form and layout, and would result in a development that neither relates well to the site or adjoining buildings visually.

#### Neighbour amenity

Policy QD27 of the local plan seeks to safeguard the amenity and living conditions of adjoining residents and occupiers from development that is harmful to amenity.

The planning history shows three applications have been refused in the past for first floor office accommodation: **refs. 3/83/0475, 3/88/0971 and 3/89/0199**. In each case the development was considered a substantial increase in the bulk of the building and, because of its close proximity to adjacent residential properties, would not leave sufficient space about buildings and would overshadow the rear gardens of those properties to the detriment of amenity. Whilst significantly pre-dating the 2005 Brighton & Hove Local Plan, these reasons relate to well established planning principles in terms of safeguarding neighbour amenity.

On 14 September 2006 permission was refused for a proposal to demolish the store/workshop and erect a new 2-bedroom dwelling (**ref. BH2006/02562**). An earlier application for erection of a 2-bedroom dwelling was also refused on 4 October 2005 (**ref. BH2005/02334/FP**).

Application **BH2006/02562** was refused for three reasons including loss of employment space and the follow reasons more pertinent to the current application:-

- The proposal would, by reason of its increased height and massing in close proximity to neighbouring properties to the west, result in an increased sense of enclosure and overbearing development which would be detrimental to the amenities enjoyed by the neighbouring occupiers. The proposal is therefore contrary to planning policies QD1, QD2 and QD27 of the Brighton & Hove Local Plan.
- The proposed development by reason of its design, scale and detailing in relation to neighbouring properties would fail to respect the context of its setting, would be out of keeping with surrounding buildings and represent a cramped form of development. The proposal is therefore contrary to policies QD1, QD2, QD3, QD5, HO3 and HO4 of the Brighton & Hove Local Plan.

The current application presents similar issues and would have an impact on occupiers of 3, 5 and 7 Rutland Road as well as 128 Cowper Street.

The flank of the existing single storey building is between 3m in height and 4.5m in height to the ridge. The rear portion of the building which extends beyond the rear elevation of the terrace row in Cowper Street measures 2.9m in height. These flank walls form the boundaries to the rear gardens of residential properties in Rutland Road. These gardens are relatively short, the boundary being some 5.5m from the outrigger projections of the buildings. The proposed first floor extension would increase the height of the flank wall of the building, and effectively the rear boundary walls of 3, 5 and 7 Rutland Road, to between 5.4m and 5.6m, with the ridge of the pitched roof being 7.6m above ground level. The height of the proposed development would have an overbearing effect on occupiers of properties in Rutland Road and would lead to loss of light and an unacceptable increase in the sense of

enclosure experienced by residents. Furthermore the elevation would be blank and lack features of architectural interest. As such the development is contrary to the requirements of policy QD27 and would be detrimental to residential amenity. Letters of representation from the residents affected clearly communicate their concerns over the above issues.

The first floor rear extension has been reduced from 3.6m in length to 2.1m in comparison with the previous application. Although the back office first floor extension is set 1m off the common boundary with 128 Cowper Street to avoid obstructing a 45 degree outlook from rear windows, this part of the development would still have an overbearing impact and lead to an increased sense of enclosure to the detriment of residential amenity. This is because 128 Cowper Street, having a traditional terrace footprint, has a rear outrigger and the proposed first floor extension would enclose the light well next to it. The proposed extension would appear excessively high and would have an overbearing impact, contrary to the objectives of local plan policy QD27.

Although the rear office extension would be set off the boundary by a metre, the outriggers of the terrace row have 2m light wells next to them, giving a separation of 4m between the outriggers of each pair of properties in the terrace row.

#### Transport

Cowper Street is situated in a Controlled Parking Zone. The site is easily accessible by rail (Aldrington station) and by frequent bus services passing along Portland Road 50m to the south. In accordance with policy TR19 of the local plan and the allied SPGBH4: parking standards, the development would require a maximum of 1 parking space per 30 square metres of office floorspace. Smaller offices should give priority to disabled parking, loading bays and secure cycle storage. In this instance the amount of office space proposed is barely sufficient to justify one parking space. Considering the sustainable location of the site and the fact that parking standards are maximum levels, the shortfall is considered acceptable and the scheme complies with policies TR1 and TR19 of the local plan.

Although the application forms submitted state no cycle parking spaces would be provided, the drawing submitted (01 A of 25 Feb 2009) shows space for two cycles in a cycle/bin storage area in front of the workshop.

Notwithstanding the comments of the Sustainable Transport Team, the cycle storage spaces may not be long enough for standard bicycles. However, should consent be granted a condition may be imposed to ensure the cycle storage facilities are both adequate and in situ prior to occupation of the office units.

#### Sustainability

Policy SU2 of the local plan requires new development to be efficient in the use of energy, materials and water. Supplementary Planning Document

SPD08: Sustainable building design, requires non-residential new development of less than 235 square metres to seek a reduction in energy and water use. A sustainability checklist is not required.

Neither the plans nor the documents accompanying the application describe how the development will seek to be efficient in the use of energy, materials and water. As such the scheme is contrary to policy SU2 and the requirements of SPD08.

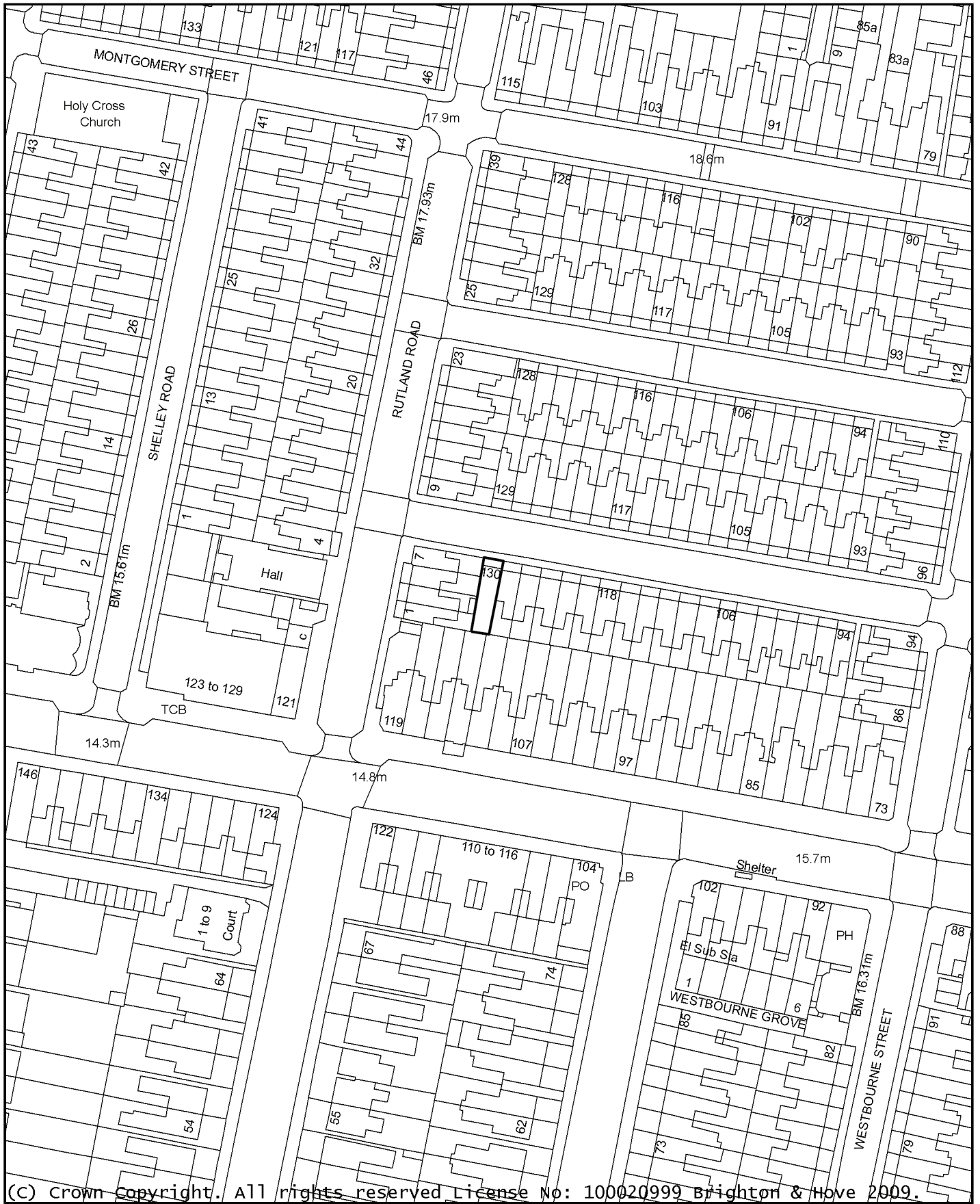
Policy SU13 of the local plan requires applicants to consider minimisation and re-use of construction industry waste and a waste minimisation statement has been submitted with the application. The statement lists waste materials envisaged and methods by which over-order of materials can be avoided. The statement is not specific as to which materials will be recycled or who the nominated contractors and recycling firms will be. However, such details can be secured by condition in the event permission is granted.

## **9 EQUALITIES IMPLICATIONS**

The development should conform to Disability Discrimination Act and Building Regulations.



# BH2009/01561 130 Cowper Street



Date: 07/09/2009 04:18:31

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