

Subject:	50 Heath Hill Avenue, Brighton, Request to vary Unilateral Undertaking in connection with planning permission BH2014/00331.		
Date of Meeting:	10 February 2021		
Report of:	Executive Lead Officer – Strategy Governance & Law		
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Ward(s) affected:	Moulsecoomb and Bevendean		

1. PURPOSE OF THE REPORT

- 1.1 To consider a request to vary the Heads of Terms of the Unilateral Undertaking dated 20th April 2015 in connection with planning permission BH2014/00331 to allow for removal of the requirements of students and management to the University of Sussex or University of Brighton and for the removal of the requirement to provide a replacement doctor's surgery.

2. RECOMMENDATION

- 2.1 That the S106 Head of Terms restricting students and management of the accommodation to the University of Brighton or the University of Sussex be varied and the requirement for a replacement doctor's surgery be removed, as set out below:
- The development shall be occupied by students from the University of Brighton or the University of Sussex or other higher education establishments within the city.
 - The developer shall enter into a Management Plan with a higher education provider or a student accommodation operator.

3. BACKGROUND INFORMATION

- 3.1 Permission was granted at appeal on 21st May 2015 for the following development:

BH2014/00331 (50 Heath Hill Avenue, Brighton) - Application for variation of condition 2 of application BH2012/03818 (Demolition of existing surgery and residential accommodation and erection of new surgery and student accommodation comprising of 19 rooms) to permit internal alterations and changes to fenestration to increase accommodation to 24 rooms.

- 3.2 The granting of permission was subject to a Unilateral Undertaking agreement containing the following Heads of Term (amongst others) as set out in the original committee report:
- Provision of a temporary replacement doctor's surgery
 - Occupation by students from the University of Brighton or the University of Sussex only.
 - Management Plan
- 3.3 The original application (**BH2012/03818**) for the demolition of the doctor's surgery and the erection of a new building containing 19 student rooms was allowed at appeal (ref. **APP/Q1445/A/13/2200971**) in November 2013. A later application (**BH2014/00331**) was submitted to alter the earlier permission by way of increasing the number of rooms to 24. As set out above, this application was refused at committee and later allowed at appeal.
- 3.4 The permission was part implemented in November 2016 by way of demolition of the pre-existing doctor's surgery. No further works have taken place since and the site is currently vacant. As the development was part implemented, the permission remains extant.

4. PROPOSAL

- 4.1 The developer wrote to the council 10 September 2020 seeking to amend the Unilateral Undertaking in order to remove the restrictions of students and management of the accommodation to either The University of Sussex or the University of Brighton. In addition, the developer also sought the removal of the requirement for a temporary replacement doctor's surgery to be provided.

5. COMMENT

- 5.1 The developer has provided additional evidence in order to justify the amendments to the wording of the legal agreement. As set out above, the developer seeks to remove Clause 3; the requirement for a replacement doctor's surgery within the vicinity of the site, following demolition of the surgery.
- 5.2 The developer's covering letter indicates that the demolition of the surgery has had no apparent detrimental impact to the running of existing surgeries within the area and therefore this requirement is no longer necessary.
- 5.3 A letter from the Clinical Commissioning Group (CCG) has been provided which indicates that the closure of the surgery has not resulted in a dispersal pressures as this area of the city is well serviced by GP practices and branch surgeries. Furthermore, the CCG letter confirms that there is no demand for an additional surgery at this site and there are no plans to commission additional health services in the vicinity of the site.

- 5.4 Given the fact that the surgery has been demolished for over four years with no harmful impact of the surrounding area, the removal of the requirement for a temporary replacement surgery is considered acceptable.
- 5.5 The developer also seeks to remove the restrictions of occupation and management of the student accommodation to the University of Brighton and the University of Sussex, as required by clauses 4 and 5 of the legal agreement. The developer's covering letter states that the wording allows for limited flexibility and does not take account of other higher education establishments within the city, which is in accordance with the current policy framework and emerging policies in City Plan Part Two.
- 5.6 The developer has also provided letters from both the University of Brighton and the University of Sussex, both of which indicate that neither university would currently be looking take on this site.
- 5.7 City Plan Part One Policy CP21 has been adopted since application BH2014/00331 was determined. The policy recognises that there are a number of other higher educational establishments within Brighton and Hove and allows for flexibility of occupation and management of student accommodation to educational establishments other than the city's two universities.
- 5.8 Based on the points set out above, the removal of clause 3 and the amendment of clauses 4 and 5 is considered acceptable and would accord with the priorities of policies CP21 of the Brighton and Hove City Plan Part One and HO20 of the Brighton and Hove Local Plan.

6. BACKGROUND DOCUMENTS

Planning Applications **BH2014/00331** and **BH2012/03818**.
Appeal Decision **APP/Q1445/A/13/2200971 (BH2012/03818)**.
Appeal Decision **APP/Q1445/W/14/3001891 (BH2014/00331)**.

