

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

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|--------------------------|---|----------------------------|---------------------|
| <u>No:</u> | BH2010/00143 | <u>Ward:</u> | QUEEN'S PARK |
| <u>App Type</u> | Council Development (Full Planning) | | |
| <u>Address:</u> | Former Wholesale Fruit & Vegetable Market, Circus Street, Brighton | | |
| <u>Proposal:</u> | Change of Use of vacant market building for temporary period of 2 years to Class D1 and D2 cultural and community uses and small scale ancillary Class A1, A3 and B1 uses. | | |
| <u>Officer:</u> | Kathryn Boggiano, tel: 292138 | <u>Valid Date:</u> | 05/02/2010 |
| <u>Con Area:</u> | N/A | <u>Expiry Date:</u> | 07 May 2010 |
| <u>Agent:</u> | N/A | | |
| <u>Applicant:</u> | Brighton & Hove City Council, Ms Donna Close, Kings House, Grand Avenue, Hove, BN3 2LS | | |

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. The permission hereby granted shall be for a temporary period expiring on 17 March 2012 when the uses hereby approved shall be ceased in their entirety and the land reinstated in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority before the expiry date.
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
2. Where events include the use of amplified sound and/or plant and machinery a noise management scheme will be submitted not less than 21 days in advance of the event to, and agreed in writing by, the Local Planning Authority. Unless otherwise agreed in writing the noise management scheme shall include the following:
 - a. A brief description of the event, including any details of the different types of entertainment and a timetable of the dates and times of the event programme.
 - b. A layout plan showing the position of speakers, and plant/machinery (e.g. generators). Noise sensitive premises that are likely to be affected should also be identified on the plan.
 - c. A comprehensive acoustic plan assessment, including predicted noise levels and independent noise monitoring proposals.

- d. A brief description of any sound systems, and details of which entertainment will be amplified. Where entertainment will only be permitted through an 'in house sound system' this should be indicated.
- e. Contact details of designated competent personnel responsible for noise control during performance.
- f. Set up and clear up procedures including times and vehicle movements.
- g. Hours of operation for entertainment and plant/machinery, including sound checks.
- h. Noise mitigation measures, e.g. screening, noise limiters and monitoring.
- i. Where appropriate an advice letter to neighbouring residents and/or commercial premises.

The uses shall be implemented fully in accordance with the approved details.

Reason: To safeguard the amenity and existing characteristics of the area for the benefit of neighbouring residents/occupiers particularly in regard to the effects of noise and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

3. The premises shall not be in use except between the hours of 09.00 to 18.00, except for no more than 12 days out of any calendar month when the premises shall not be in use except between the hours of 09.00 to 23.00. An exception to these times may be permitted for no more than an additional 12 nights per calendar year, where the premises shall not be in use except between the hours of 09.00 to 01.00 the following day, and one additional weekend in October (White Night), where the premises may be open from 09.00 on Saturday to 18.00 on Sunday. Prior notification of these 13 nights per calendar year when later opening than 23.00 is proposed, must be submitted not less than 21 days in advance of any such exception, and agreed in writing by, the Local Planning Authority.

Reason: To safeguard the amenity and existing characteristics of the area for the benefit of neighbouring residents/occupiers particularly in regard to the effects of noise and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

4. None of the food to be served in the A3 use hereby approved shall be cooked on the premises.

Reason: To safeguard the amenity of nearby residents/occupiers, particularly with regard to odours, and to accord with policy QD27 of the Brighton & Hove Local Plan.

5. BH06.02 Cycle parking details to be submitted.

6. BH02.08 Satisfactory refuse storage.

7. Before the development hereby approved is brought into use, details of toilet facilities within the building shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme of toilet facilities shall be implemented fully in accordance with the approved details and retained as such thereafter.

Reason: To ensure adequate provision of toilet facilities for the D1 and D2 community uses hereby approved, in accordance with Brighton & Hove Local Plan policy HO19.

8. Twenty eight days prior to any part of the building first being brought into use as A1, A3 or B1 use, a plan showing those parts of the building to be utilised as A1, A3 or B1 use, along with the proposed length of time of each use, and an assessment of the likely change in traffic generation associated with each use, must be submitted to and approved in writing by the Local Planning Authority. The scheme will be fully implemented in accordance with the approved details.

Reason: To ensure that any A1, A3 or B1 use is ancillary to the main D1 and D2 uses, and in order to protect neighbouring amenity, the vitality and viability of the nearby designated retail areas, and to ensure that the scheme provides for the travel impact it generates and to comply with policies TR1, SU9, SU10, QD27 and SR2 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 150707/det submitted on 20 January 2010, site plan submitted on 5 February 2010, block plan, existing floor plan and proposed floor plan submitted on 5 February 2010.
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 |
| TR2 | Public transport accessibility |
| TR4 | Travel plans |
| TR7 | Safe development |
| 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 |
| SU9 | Pollution and nuisance control |
| SU10 | Noise nuisance |
| SU13 | Minimisation and re-use of construction industry waste |
| SU14 | Waste management |
| SU15 | Infrastructure |
| QD27 | Protection of amenity |
| HO1 | Housing sites and mixed use sites with an element of housing |
| HO19 | New community facilities |
| EM9 | Mixed uses and key mixed use sites |

Supplementary Planning Guidance

| | |
|-------|-------------------|
| SPG04 | Parking Standards |
|-------|-------------------|

Supplementary Planning Documents

SPD03 Construction & Demolition Waste
SPD05 Circus Street Municipal Market Site
SPD08 Sustainable Building Design; and

ii) for the following reasons:

The proposal would allow for the temporary reuse of a currently vacant building prior to comprehensive redevelopment proposals being finalised and approved for the site. The proposed D1 and D2 uses would be beneficial to the wider community, and it is considered that the proposed use would not result in detriment to the living or working conditions of neighbouring properties, nor would it have an adverse impact on the local highway network or jeopardise highway safety. The proposal is considered to be in accordance with relevant development plan policies.

3 THE SITE

The application relates to the former Circus Street Municipal Market. The site is filled by a 9m high large warehouse building which has a length of 79m on the Circus Street frontage and a length of 64m on the Morley Street frontage. There is a small element of first floor accommodation fronting onto Circus Street and Morley Street, which does not form part of the application site and was formerly in use by a glazier.

While the interior of the market is level, the site is situated on a steeply sloping hillside that rises up from the valley bottom that comprises Grand Parade and Valley Gardens. There is a sharp rise in ground levels between the western and eastern sides of the site.

No car parking is provided on the site.

The character of the surrounding area is mixed, with commercial, education and community medical uses neighbouring the site, and extensive residential development to the east of the site.

To the immediate south of the site is the part three, part four storey University of Brighton Circus Street Annexe building and a car parking area. An area between the building and car park is currently in use for wood recycling and storage, this does not form part of the application site.

The majority of development on the western side of Circus Street comprises a mix of commercial uses ranging from two to three storeys in height and residential use at the northern end of the street. The exception to this character of development is a six storey office building at the southern end of Circus Street. Much of the development on this side of Circus Street is linked to buildings fronting onto Grand Parade, which are generally of a larger scale than the Circus Street development, and in residential use on the upper floors. A three storey block of flats is located on the corner of Circus Street and Morley Street.

Development opposite the site on the northern side of Morley Street is in use for community medical uses. To the immediate rear (east) of the site is a four storey block of flats (Milner Flats), which extends the length of, and has views over, the roof of the application building.

The site is allocated in the Brighton & Hove Local Plan for future housing development. A supplementary planning document, SPD05 Circus Street Municipal Market, has been prepared to guide redevelopment of the wider site which includes the current application site and the adjoining University of Brighton annexe, wood recycling store and car park to the south of the site.

Four of the buildings on the western side of Circus Street, fronting onto Grand Parade, are listed. The Valley Gardens Conservation Area borders the site to the west.

4 RELEVANT HISTORY

BH2007/03589: Change of Use of vacant market building for temporary (period of 2 years) to Class D1 and D2 cultural and community uses and small scale ancillary Class A1, A3 and B1 uses. Approved at the meeting of the Planning Applications Sub-Committee on 12/12/2007. This temporary permission expired on 12/12/2009. The building was used for a 2 week period only for the exhibition of an art piece during Brighton Festival.

BH1998/01493/OA: An outline application for the demolition of existing buildings and erection of 55 units of affordable housing (15 x 2/3 bed town houses, 25 x 2bed flats, 9x1bed flats, 6x studio flats) with 9 integral garages 60 decked spaces and 5 surface spaces. Approved 27/10/1998. This permission was not implemented.

5 THE APPLICATION

The application seeks temporary planning permission (for a period of two years) for use class D1 and D2 cultural and community facilities along with small scale ancillary use class A1, A3 and B1 uses. The cultural and community facilities may include exhibitions, concerts and other cultural, arts and community events.

This application relates only to the temporary change of use of the market building. No physical alterations are proposed at this stage. If physical alterations, other than repair and maintenance, are to be proposed in the future then these would be the subject of a separate planning application.

No vehicular parking is proposed.

6 CONSULTATIONS

External

Neighbours: None received.

East Sussex Fire & Rescue: I assume that access for fire appliances remains the same as when the building was previously occupied as a wholesale market. Therefore, the applicant should be made aware that the

occupiers will be subject to the Regulatory Reform (Fire Safety) Order 2005 and as such will have to conduct a suitable and sufficient Fire Risk Assessment for the building, contents and activities.

EDF Energy Networks: No objections to the proposal, providing rights of access and maintenance to their cables within the area are maintained at all times.

Internal

Sustainable Transport: It is recommended that consent for this application is not restricted, subject to a condition that requires the applicant to provide further information based on an assessment of the likely changes in traffic levels and movement associated with the A1, A3 and B1 uses, should these be implemented.

The design and access statement provided for both this and the previous application state that the proposed development is not considered as generating a material increase in trips. While this may be correct, it is not substantiated or quantified. The Highway Authority would usually require additional evaluation in the form of a Transport Assessment as set out within Local Plan policies TR1 and TR4, to enable a judgement on the affect this proposed development would have on the local highway.

TR1 states “a Transport Assessment will be required where a development proposal is above government advisory thresholds”. TR4 states “Travel plans will be required for developments that are likely to have significant transport implications”. Within ‘Guidance on Transport Assessment’ published by the DfT in March 2007 thresholds greater than 1000m² of D1 or 1500m² of D2 require a Transport Assessment and Travel Plan.

The previous consideration of this application by the Sustainable Transport Division, as set out in the committee report of 12th December 2007, concluded that there was no wish to restrict grant of consent for the application, but that it would have wished “to see some evaluation on the change in characteristics of the trip generation”. No evaluation on the change in transport characteristics has been shown to date and both thresholds set by the DfT are exceeded by the proposed development.

However, it is understood that the applicant is not intending to introduce some of the uses immediately and therefore on that basis, it could be expected that this renewal would not result in a material change in levels of movement/activity, when compared with the previously consented temporary use, but the patterns of movement would be different i.e. the market would have generated some early morning activity and subsequently less during the day.

It is therefore recommended that the applicant should provide further information based on an assessment of the likely changes in traffic levels and

movement associated with the A1, A3 and B1 uses, in advance of their implementation, in order to more fully comply with Local Plan policies TR1 and TR4.

Environmental Health: I note that this application is a resubmission of the previous application which expired in December 2009. The previous application had a number of conditions, one of which was a requirement for a submission of a noise management plan prior to any events where music or plant were proposed. This is a particularly useful condition, and I would strongly recommend that these be automatically carried over to any new consent.

I note also that the new application seeks to change hours, whilst not listed within the application form. Given that the application is for a limited duration, and that the department has statutory powers under the Environmental Protection Act 1990, I am not unduly concerned by the application. Additionally, the applicant should be aware that a licence under the licensing Act 2003 may be required for some activities. The licensing department are happy to provide advice upon request.

Given the buildings current condition and specifically with regards to the roof, and the part City Council ownership, I would strongly recommend that corporate health and safety provide resources into the site to recommend suitable control measures for any uses, occupying the site on a temporary basis.

Recommend approval subject to the same conditions as per BH2007/03589, with an amended condition relating to opening hours.

7 PLANNING POLICIES

Brighton & Hove Local Plan:

| | |
|------|---|
| TR1 | Development and the demand for travel |
| TR2 | Public transport accessibility |
| TR4 | Travel plans |
| TR7 | Safe development |
| 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 |
| SU9 | Pollution and nuisance control |
| SU10 | Noise nuisance |
| SU13 | Minimisation and re-use of construction industry waste |
| SU14 | Waste management |
| SU15 | Infrastructure |
| QD27 | Protection of amenity |
| HO1 | Housing sites and mixed use sites with an element of housing |
| HO19 | New community facilities |

- EM9 Mixed uses and key mixed use sites
SR2 New retail development beyond the edge of existing established shopping centres.

Supplementary Planning Guidance

SPG0 Parking Standards

Supplementary Planning Documents

- SPD03 Construction & Demolition Waste
SPD05 Circus Street Municipal Market Site
SPD08 Sustainable Building Design

8 CONSIDERATIONS

The main considerations are:

- The principle of the use and the impact on the longer term development aspirations of the site;
- The impact on the amenity of surrounding residents/occupiers;
- The impact on the local highway network/parking;
- Sustainability issues.

The principle of the use and the impact on the longer term development aspirations of the site

The application site is an identified site for housing under policy HO1 of the Local Plan. Planning permission was granted in 1998 for the demolition of existing buildings and the erection of 55 units of affordable housing (BH1988/01493/OA). This consent has now expired.

The vision for the Circus Street Municipal Market site which is contained within SPD05 is

“That the Circus Street/Municipal market site is redeveloped to create an open, accessible and vibrant mixed-use area which maximises its employment, education and housing potential and acts as a model of urban design and sustainability.”

SPD05 seeks a development which incorporates employment workspace and residential use with affordable housing. The University of Brighton own part of the site and the future development should also include a new University library and teaching space.

The proposal seeks a temporary change of use for two years. A planning application for the wider site has not yet been submitted and the scheme is still at the design development stage. The longer term scheme has been delayed due to the recession and associated funding implications. It is envisaged that works will not commence on the longer term proposals for the site within the next two years. It is therefore considered that the granting of this planning application would not undermine the Council’s vision for this site

as defined within SPD05, or the delivery of housing on the site as sought by policy HO1.

Policy HO19 of the Brighton & Hove Local Plan will only permit development for community facilities where it can be demonstrated that:

- a. the design and use of the facility will ensure its accessibility to all members of the community and include:
 - i. demonstrable benefits to people from socially excluded groups; and
 - ii. the provision of suitable childcare and toilet facilities;
- b. there is no unacceptable impact on residential amenities or on the amenities of the surrounding area;
- c. the location is readily accessible by walking, cycling and public transport; and
- d. adequate car and cycle parking, including provision for people with disabilities, is provided.

The proposal would provide a temporary community use on a site that is currently vacant, while awaiting firm proposals for redevelopment. It is considered that provision of this use would be of benefit to the wider community, offering accommodation opportunities for a range of community uses. Childcare is not proposed to be provided, due to the more informal nature of the proposed use of the building. It is recommended that detail of toilet facilities within the building is addressed by condition.

As detailed elsewhere in this report, extensive conditions are recommended to ensure that the proposal would not result in detriment to neighbouring living or working conditions.

The site is located in a highly accessible town centre location. No car parking is proposed. There is adequate opportunity for the provision of cycle parking on the site. Disabled car user parking is not provided on the site, and cannot be provided due to the constraints of the existing development. It is not considered that this deficiency would warrant refusal of the application.

The specific mix of ancillary A1, A3 and B1 uses has not been fully defined by the applicant. The applicant envisages that the building will mainly be used as D1 and D2, however there may be times when a section of the building is used for the ancillary A1, A3 and B1 uses. To ensure that the proposed D1 and D2 uses would remain the principal uses on the site, a condition is recommended requiring the submission and approval of detail of the internal division of the building, with specific reference to the definition of the proposed ancillary uses and the floorspace provided for these uses. In this manner it is considered that the ancillary uses can be appropriately controlled, and the limited detail regarding this aspect of the proposed use can be overcome.

It is therefore considered that the proposed temporary use of the site is acceptable in principle.

The impact on the amenity of surrounding residents/occupiers

Policy SU9 states that development that may be liable to cause pollution and/or nuisance (including noise nuisance) will only be permitted where human health and safety and amenity is not put at risk and it does not negatively impact upon any existing pollution and nuisance situation.

Policy SU10 requires new development to minimise the impact of noise on the occupiers of neighbouring properties and the surrounding environment. Developments likely to generate significant levels of noise will be permitted only where appropriate noise attenuations measures are incorporated which would reduce the impact on the surrounding land uses.

Policy QD27 requires that new development respects the existing amenity of neighbouring properties.

Consistent with the town centre location of the site, development neighbouring the site is comprised of a mix of commercial, community and more sensitive residential uses. There is concern regarding the potential impact that the proposed uses may have on neighbouring residential living conditions, particularly with respect to noise and particularly when community events would be held at the site. Milner flats are directly to the east of the site, and due to the difference in ground levels the habitable windows on the western facing elevation look down onto the roof. Due to the nature of the roof material, it has limited soundproofing potential.

Two conditions are recommended to control the impact of the proposal on neighbouring living conditions. The first of these conditions requires the submission and approval of extensive details of events to be held at the site, including detail of noise generating plant and speakers, acoustic plan assessment with predicted noise levels and monitoring proposals, noise mitigation measures, contact details of responsible personnel, and set up and clear up procedures. It would be necessary for such details to be submitted for assessment a minimum of 21 days prior to any event.

The second condition proposed, limits the hours of use of the site. The previous approval (BH2007/03589) controlled the hours of use from 09.00 – 18.00 Sunday to Wednesday and Friday, and 09.00 – 21.00 on Thursdays and Saturdays. The condition did however, allow for up twelve exceptions to these hours throughout each calendar year, where the premises could stay open until 01.00 the following morning.

As part of this current scheme the proposed opening hours are slightly different. For 12 days out of a calendar month, opening hours are proposed from 09.00 to 23.00. The rest of the days within a month, opening hours are proposed from 09.00 to 18.00. However, consistent with the previous

approval, on an additional 12 nights per calendar year, it is proposed to open the premises until 01.00 the following morning. In addition to this, on White Night (the last Saturday in October) it is proposed to open the premises for the whole time running from 09.00 on the Saturday to 18.00 on the Sunday. White Night is a City Arts Event, where for one weekend in October (normally the weekend when the clocks go back), exhibitions are open through the night from Saturday to Sunday.

To prevent an unacceptable concentration of the twelve days when opening hours are proposed to 01.00, the proposed condition requires prior notification of such events to be submitted to the Council for approval.

Whilst it is recognised that the premises will be opening to 23.00 on more nights than previously approved, the Council's Environmental Health officers have no objection to the scheme, and given the site's town centre location, and the condition requiring a noise management scheme, it is considered that the proposal would not be of detriment to the amenity of neighbouring properties, with regard to noise disturbance.

A condition is also recommended preventing any cooking from being undertaken on the site, to ensure that uncontrolled cooking odours do not cause detriment to neighbouring amenity.

Through the control of these conditions, it is considered that the impact of the proposal on neighbouring properties, and in particular the noise sensitive residential uses, could be adequately controlled. The proposal is therefore considered to meet the requirements of policies SU9, SU10 and QD27.

The impact on the local highway network/parking

Local Plan policy TR1 requires new development to address the related travel demand. Policy TR7 requires that development does not compromise highway safety, and policy TR19 requires development to accord with the Council's maximum car parking standards. Policy TR14 requires cycle parking to be provided in accordance with the Council's minimum standard.

The Sustainable Transport Team has commented that the applicant has stated that the proposed development is not considered as generating a material increase in trips; and whilst this may be correct, it is not substantiated or quantified. For applications of this size (floor area), a Transport Assessment is normally required which would require an analysis of the trip generation of the previous market use and the proposed use.

Whilst it is recognised that the previous use would have generated significant trips, these would have been early morning where as the proposed use could potentially generate a significant amount of trips in the peak daytime period and evening periods. However, the concerns of the Sustainable Transport Team are related to the trip generation of the proposed A1, A3 and B1 uses rather than the main D1 and D2 uses. The A1, A3 and B1 uses are ancillary,

and the applicant is not sure if the building will ever be used for these ancillary uses. If the building is brought into use for these ancillary uses, it is envisaged that they would only take up a small percentage of the total floor area.

In any case, recommended condition 8 requires the floorspace and parts of the building to be used for ancillary A1, A3 and B1 to be agreed with the Local Planning Authority prior to these uses being brought into use. This condition requires that the applicant also submit details regarding the length of time of each use and an assessment of the likely change in traffic generation to be submitted.

It is therefore considered that the Local Planning Authority has set sufficient controls to restrict the whole of the building being used for A1, A3 or B1 and as a result, there should not be significant highways or parking impacts arising from the proposal. This current application is identical to the application which was approved the Planning Applications Sub-Committee in December 2007.

There is currently no car parking provided on the site, and there is no car parking proposed by this application. This is considered to be consistent with the accessible town centre site location and in accordance with the Council's maximum car parking standards.

The applicant has not provided detail of the proposed cycle parking provision. The application proposes a mix of D1 and D2 uses on the site, with a mix of other ancillary uses. The Council's cycle parking standards, which are set out in SPG04 'Parking Standards', require a minimum of two spaces plus one space per 1000sqm floorspace for D1 community uses and one space plus one space per 300sqm for D2 uses.

The greater of these two standards requires 18 cycle spaces to be provided for the 4888sqm of floorspace. Given the flexibility within the site, it is considered that details of this required cycle parking provision could be addressed by condition.

Given the previous use of the site it is considered that the proposal would not have an adverse impact on the local highway network nor would it jeopardise highway safety. Subject to the provision of cycle parking details, it is considered that the proposal meets the requirements of Local Plan policies TR1, TR4, TR7, TR14 and TR19.

Sustainability issues

The application is limited to the proposed change of use of an existing building, with no external alterations proposed. Given the limited alteration, and the temporary nature of the proposal, it is not considered reasonable to require sustainability measures.

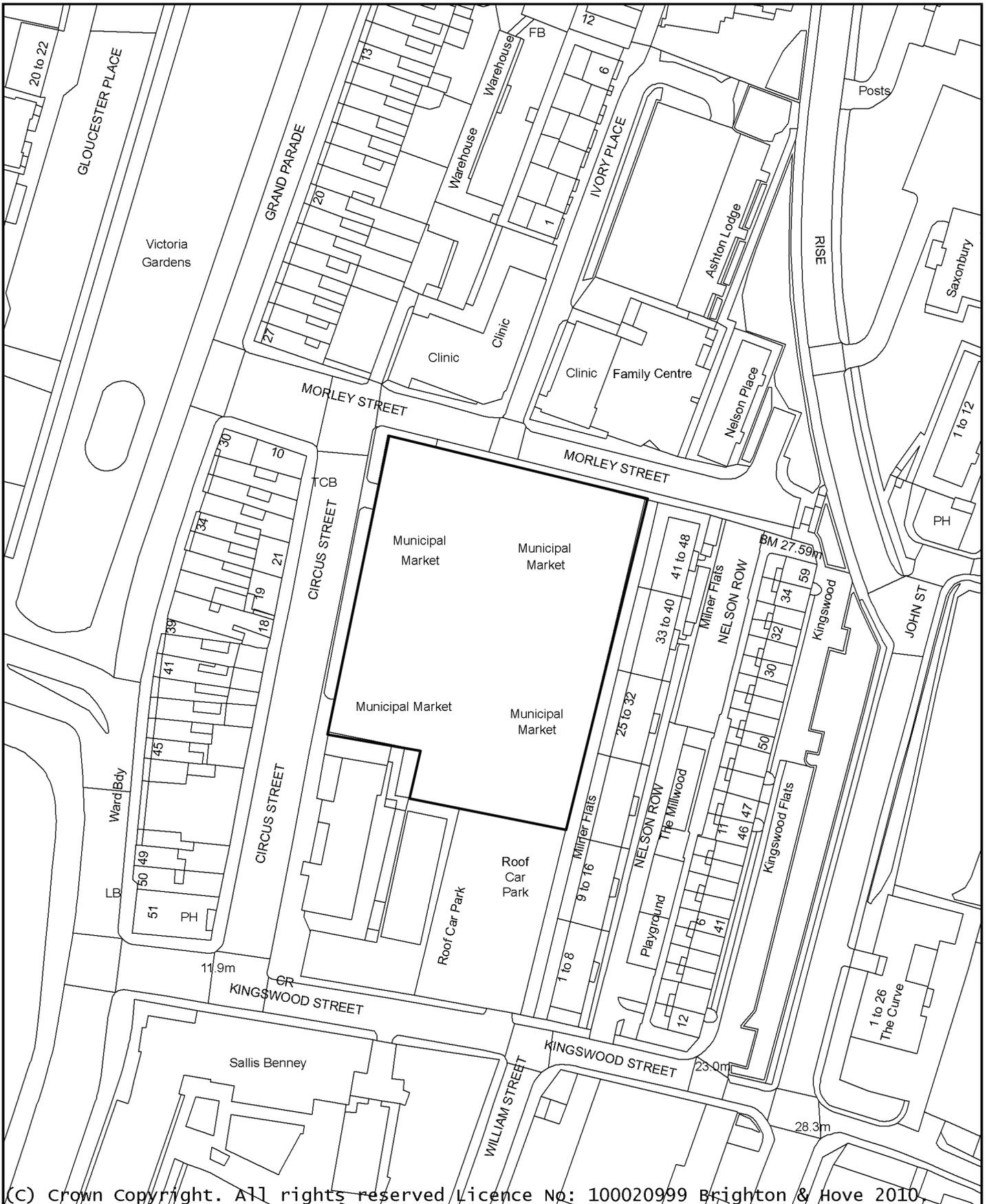
9 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposal would allow for the temporary reuse of a currently vacant building prior to comprehensive redevelopment proposals being finalised and approved for the site. The proposed D1 and D2 uses would be beneficial to the wider community, and it is considered that the proposed use would not result in detriment to the living or working conditions of neighbouring properties, nor would it have an adverse impact on the local highway network or jeopardise highway safety. The proposal is considered to be in accordance with relevant development plan policies.

10 EQUALITIES IMPLICATIONS

The events will be subject to the requirements of the DDA.

BH2010/00143 Former Wholesale Fruit & Veg Market, Circus Street



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| <u>No:</u> | BH2009/01824 | <u>Ward:</u> | WOODINGDEAN |
| <u>App Type</u> | Full Planning | | |
| <u>Address:</u> | Warren Plantation, Warren Road, Woodingdean | | |
| <u>Proposal:</u> | Change of use from agricultural land (SG07) to woodland burial site (SG08) with alterations to existing internal road. | | |
| <u>Officer:</u> | Kate Brocklebank, tel: 292175 | <u>Valid Date:</u> | 12/11/2009 |
| <u>Con Area:</u> | N/A | <u>Expiry Date:</u> | 25 May 2010 |
| <u>Agent:</u> | N/A | | |
| <u>Applicant:</u> | Brighton & Hove City Council, Mr Paul Holloway, 1st Floor, Brighton Town Hall, Bartholomew Square, Brighton, BN1 1JA | | |

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 be **MINDED TO GRANT** planning permission subject to the receipt of no further objections raising significant material planning considerations that are not addressed within this report and the following Conditions and Informatives:

Conditions

1. BH01.01 Full planning permission.
2. The use hereby approved shall not be implemented unless or until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping, which shall include proposed species and details of an implementation and management scheme for the proposed planting. The planting should then be carried out in accordance with the approved details.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15, NC3, NC6 and NC7 of the Brighton & Hove Local Plan.
3. The use hereby approved shall not be implemented unless or until details of the proposed benches have been submitted to and approved in writing by the Local Planning Authority. The details shall include the design, materials and proposed location and method of fixing.
Reason: To safeguard the character and appearance of the countryside and to comply with policies QD1, NC6 and NC7 of the Brighton & Hove Local Plan.
4. All existing trees shall be protected to BS 5837 (2005) Tree on Development Sites during the construction of the roadway.
Reason: To protect the trees which are to be retained on the site in the interest of the visual amenities of the area and to comply with policies NC3 and QD16 of the Brighton & Hove Local Plan.
5. No development shall take place unless and until a detailed scheme showing the access roadway and details of the construction, surfacing, levels and drainage have been submitted to and approved in writing by

the Local Planning Authority the roadway shall then be carried out in strict accordance with the approved details prior to the use being brought into use.

Reason: To ensure the roadway is constructed to an acceptable standard and to comply with policy TR7 of the Brighton & Hove Local Plan.

6. BH14.01 Archaeology (Investigation/Programme of work).
7. BH14.02 Archaeology (Watching brief).

Informatives:

1. This decision is based on unnumbered location plan submitted 26th February 2010 and aerial photograph submitted on 29th July 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:
 - TR1 Development and the demand for travel
 - TR2 Public transport accessibility and parking
 - TR7 Safe development
 - 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
 - SU3 Water resources and their quality
 - SU4 Surface water run-off and flood risk
 - SU9 Pollution and nuisance control
 - QD1 Design – quality of development and design statements
 - QD27 Protection of amenity
 - NC3 Local Nature Reserves (LNRs)
 - NC5 Urban fringe
 - NC6 Development in the countryside/downland
 - NC7 Sussex Downs Area of Outstanding Natural Beauty
 - HE12 Scheduled ancient monuments and other important archaeological sites; and
 - ii) for the following reasons:

The proposal will provide the city with additional woodland burial facilities where existing sites are full to capacity, adjacent to an existing lawn cemetery whilst preserving the visual and landscape quality and character of the surrounding AONB/designated South Downs National Park. With the imposition of conditions to control the development in detail it will accord with Development Plan policies.
3. The applicant is advised to refer to the Environment Agency guidance document "Assessing the Groundwater Pollution Potential of Cemetery

Developments" for further information. This guidance can be found on the Environment Agency website under publications: <http://publications.environment-agency.gov.uk/epages/eapublications.storefront/4b854930030db58c273fc0a802960677/Product/View/SCHO0404BGLA&2DE&2DE>

4. The applicant is advised of the following regarding the proposed tree species in respect of Condition 2: Pedunculate Oak (*Quercus robur*) does not thrive chalky soil, this would be better replaced by Turkey Oak (*Quercus cerris*) if Oak is required. Hawthorn (*Crataegus monogyna*) suits chalky soil, but may not always be long-lived. Consideration could also be given to some evergreen species, eg, Yew (*Taxus baccata*) and Holly (*Ilex aquifolium*).

2 THE SITE

The site forms part of the Warren Plantation, a lawned burial site which is situated on the southern side of Warren Road to the west of the Nuffield Hospital. Part of the western and southern areas of the site are within the South Downs National Park, including the area being considered under this application. The site slopes up from the southern side to the north leading up to Warren Road. To the north of the site there is an area of woodland which bounds the main lawn burial site along the western edge which is a designated Local Nature Reserve (LNRs).

3 RELEVANT HISTORY

None.

4 THE APPLICATION

The application seeks planning permission for change of use of land from agricultural to a woodland burial site.

5 CONSULTATIONS

External:

Neighbours: None received.

Natural England: No comment.

Brighton & Hove Archaeological Society: Recommend that the County Archaeologist is contacted to provide recommendations on providing an archaeological assessment prior to any approval.

The site lies within an area of archaeological sensitivity with finds including from the Bronze Age, Roman pottery and features associated with Second World War activity.

County Archaeologist: No objection The proposed development is located within an Archaeologically sensitive area rich in Prehistoric and Roman remains. The site has not been archaeologically investigated and there is

uncertainty as to whether it contains archaeological deposits. Immediately adjacent to the site are a large Prehistoric field system, related occupation areas, Prehistoric burials and what appears to be a prehistoric enclosure. The proposal site therefore has very high archaeological potential. The impact on the archaeological resource is not just the tree planting and burials, but the latter damage by roots as the trees mature.

This potential would be best tested with geophysical survey and evaluation excavation, which would be best tested with geophysical survey and evaluation excavation, which could then inform a mitigation strategy to either preserve archaeological remains or record them prior to destruction. This work would need to be carried out by a commercial archaeologist. The area should therefore be subject to a programme of archaeological works and written scheme of investigation to be secured by condition.

South Downs Joint Committee: No objection Native species of trees are recommended and a hedge of mixed native species rather than just Beech.

Environment Agency: No objection in principle to the proposal as submitted but the following comments are made:

This site lies on the Upper Chalk, which is classified as a principal aquifer in the Groundwater Protection: Policy and Practice. The groundwater within the major aquifer must be protected from potential contamination. Therefore, in order for the proposals to be accepted the following aspects need to be adhered to:

- The base of any coffin must be at least 1.8m below ground level.
- There must be no standing water at the bottom of the grave when dug.
- There must be a minimum distance of 50 metres from a well, borehole or spring supply portable water for public drinking.
- There must be a minimum distance of 30 metres from any water course/spring.
- There must be a minimum distance of 10 metres from any field drains.
- There must be no burial into contaminated land.

The applicant should refer to our guidance document "Assessing the Groundwater Pollution Potential of Cemetery Developments" for further information. This guidance can be found on the Environment Agency website under publications: <http://publications.environment-agency.gov.uk/epages/eapublications.storefront/4b854930030db58c273fc0a802960677/Product/View/SCHO0404BGLA&2DE&2DE>

Internal:

Sustainable Transport: No objection.

Environmental Health: No comment.

Planning Policy: The site is in the South Downs National Park (SDNP). The

proposal will only be acceptable where it conserves and enhances the visual and landscape quality of the AONB (which here is open rolling downland – see below) or it can be demonstrated that the development is in the national interest and that there are no alternative sites. Details of alternative sites, including a landscape analysis of any alternative search sites in the SDNP should support this application in order to demonstrate the robustness of the search and rule out non SDNP sites. The applicant needs to ensure that the proposal will not have an adverse effect on water supply and the downland archaeology.

Arboriculturalist: No objection. The proposed new road to service the woodland burial site appears to go in between 2 small *Crataegus* spp. Presumably it will be a single track road where it goes between the trees, and then it can widen out on the loop. The proposed road should be placed paying as much respect to the root plates of these trees as possible. The trees should be protected to BS 5837 (2005) Trees on Development Sites during the development. If the road does not go through these trees, any trees that the proposed road goes near should be protected. This should be made a condition of any planning consent granted.

Regarding the proposed tree species, Pedunculate Oak (*Quercus robur*) does not fare well on our chalky soil, this would be better replaced by Turkey Oak (*Quercus cerris*) if Oak is required. As an added comment, Hawthorn (*Crataegus monogyna*) fares well on our chalky soil, but may not always be long-lived. Consideration could also be given to some evergreen species, eg, Yew (*Taxus baccata*) and Holly (*Ilex aquifolium*).

6 PLANNING POLICIES

Brighton & Hove Local Plan:

| | |
|------|---|
| TR1 | Development and the demand for travel |
| TR2 | Public transport accessibility and parking |
| TR7 | Safe development |
| 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 |
| SU3 | Water resources and their quality |
| SU4 | Surface water run-off and flood risk |
| SU9 | Pollution and nuisance control |
| QD1 | Design – quality of development and design statements |
| QD27 | Protection of amenity |
| NC3 | Local Nature Reserves (LNRs) |
| NC5 | Urban fringe |
| NC6 | Development in the countryside/downland |
| NC7 | Sussex Downs Area of Outstanding Natural Beauty |
| HE12 | Scheduled ancient monuments and other important |

7 CONSIDERATIONS

The main considerations relating to the determination of this application are the acceptability of the principle of development, the impact on the South Downs National Park, archaeology and the acceptability of the proposed tree planting.

Principle of development

The site is situated outside the built up area boundary in designated countryside and is currently an area of farm tenancy field, previously used as grazing land. Parts of the site are also within the designated South Downs National Park boundary, the boundary itself runs along the west and southern boundary of the site and includes the area under consideration as part of this application. As such the principle of the proposal would only be acceptable where it conserves or enhances the visual landscape quality of the AONB, which in this location is defined as being open rolling downland. The principle may also be acceptable where it can be demonstrated that it is in the national interest and that there are no alternative sites.

The proposal seeks permission for change of use of land from agricultural to a woodland burial site for interment of bodies and cremated remains. Over a period of 20 years, it is proposed that 1800 graves will be available for burials in this new site. The applicant's statement identifies that the existing cemeteries are running close to capacity, so additional arrangements for burial areas are a priority.

Local Plan policy NC6 relates to development in the countryside / downland and it restricts development outside the built up area boundary unless there will be no significant adverse impact on the countryside / downland and at least one of the four criterion applies.

The proposal is not considered to have a significant adverse impact on the countryside / downland and is considered to accord with exception b. in policy NC6 as the countryside location can be justified. Exception b. of policy NC6 requires a countryside location to be justified. The proposal forms part of an existing lawn burial site and will result in the appearance of extending the existing tree belt which currently runs along the western boundary of the site, it will be planted in an informal arrangement and will not include headstones. The woodland burial site will be used for the burial of biodegradable coffins, together with small containers of cremated remains. Memorials will not be permitted however there may be small wooden posts with small placards affixed to the top of them to demark the plots, there will be some seating provided in the form of additional bench seating within the area.

Policy NC7 restricts development within or adjacent to the Sussex Downs Area of Outstanding Natural Beauty (AONB) unless it meets one of the two exceptions set out in the policy. The proposal is considered to accord with criterion a. as it conserves the visual and landscape quality and character of the AONB and complies with Policy NC6, for reasons set out above. The

proposal is considered to preserve the visual landscape which is defined as being open rolling downland, due to the location of the site within a small valley and therefore not readily visible over significant distances. The informal planting and restriction of memorials with the inclusion of some areas of informal bench seating are considered to result in a semi natural appearance in the landscape extending from the existing tree belt to the north once matured.

The applicant has also confirmed that other sites were considered prior to this one, Stanmer Woods, off Ditchling Road and Old Boat Corner in Hollingbury, neither site is adjacent to an existing cemetery and have varying degrees of issues including difficulty with access, existing badger sets present on one of them and the land was not in the Council's ownership; the sites were therefore discounted. The application site is within the Council's ownership and adjacent to an existing cemetery and therefore in keeping with the existing environment. The two other woodland burial sites in the city, Bear Road Cemetery and Hove Cemetery North are both full to capacity now, the proposal will therefore provide the city with additional facilities adjacent to an existing lawn cemetery without causing harm to the surrounding AONB/designated South Downs National Park.

Archaeology

Local Plan policy HE12 relates to the protection of important archaeological sites. The site is situated close to an archaeologically sensitive location, the County Archaeologist and Brighton & Hove Archaeology Society have been consulted and have stated that the area is rich in Prehistoric and Roman remains and features associated with Second World War activity. The County Archaeologist states that the site has not been archaeologically investigated and there is therefore uncertainty as to whether it contains archaeological deposits. Immediately adjacent to the site are a large Prehistoric field system, related occupation areas, Prehistoric burials and what appears to be a prehistoric enclosure. The proposal site therefore has very high archaeological potential. The Archaeologist notes that impact on the archaeological resource is not just the tree planting and burials, but the latter damage by roots as the trees mature.

The County Archaeologist has suggested that the potential would be best tested with geophysical survey and evaluation excavation, which would be best tested with geophysical survey and evaluation excavation, which could then inform a mitigation strategy to either preserve archaeological remains or record them prior to destruction. This work would need to be carried out by a commercial archaeologist. The area should therefore be subject to a programme of archaeological works and written scheme of investigation, it is recommended that this is secured by condition in order to satisfy policy HE12.

Landscaping

The applicant has confirmed that the woodland will be managed under the Council's existing 'Meadow Management Scheme' which will involve two cuts

a year, one in spring and one in autumn and the planting will be informally, i.e. not in regimented rows.

The Council's Arboricultural Officer has been consulted on the application and has raised no objection on the basis that existing trees are protected during the construction of the service road and some recommendations have been made in respect of the proposed tree species which are best suited to that particular area and soil type.

The proposed new road to service the woodland burial site appears to go in between 2 small *Crataegus* spp. It is acknowledged that the access road may affect some of the existing trees. The proposed road should be placed paying as much respect to the root plates of these trees as possible and the trees should be protected to BS 5837 (2005) Trees on Development Sites during the development. Conditions to ensure the protection of existing trees and details of the landscaping and management plan are recommended to be secured by condition.

The existing wooded area which runs along the west boundary of the site is a designated Local Nature Reserve (LNR) and is protected by policy NC3. The proposed planting is recommended to be controlled by condition to be native species and with the imposition of a condition to protect the existing trees from the construction of the roadway, the proposal is not likely to have an adverse impact on the nature conservation features on site.

Controlled water

The site is situated on the Upper Chalk, the Environment Agency have been consulted and confirm that the area is classified as a principle aquifer in the Groundwater Protection: Policy and Practice. The groundwater within the major aquifer must be protected from potential contamination and have recommended that the applicant is informed of guidance set out as an informative on any permission.

Highway issues

Policy TR1 requires that development proposals provide for the demand for travel they create and maximise the use of public transport, walking and cycling. Policy TR7 will only permit developments that do not increase danger to other road users.

The Council's Sustainable Transport department have been consulted and have raised no objection to the application.

It is recommended that a condition is imposed to secure details of the construction and drainage details of the roadway.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposal will provide the city with additional woodland burial facilities where existing sites are full to capacity, adjacent to an existing lawn cemetery

whilst preserving the visual and landscape quality and character of the surrounding AONB/designated South Downs National Park. With the imposition of conditions to control the development in detail it will accord with Development Plan policies.

9 EQUALITIES IMPLICATIONS
None identified.

BH2009/01824 Warren Plantation, Warren Road, Woodingdean



Date: 02/03/2010 03:38:56

Scale 1:2500

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| | | | |
|--------------------------|---|----------------------------|------------------------------------|
| <u>No:</u> | BH2009/03155 | <u>Ward:</u> | MOULSECOOMB & BEVENDEAN |
| <u>App Type</u> | Council Development (Full Planning) | | |
| <u>Address:</u> | Unit 1, Fairway Trading Estate, Eastergate Road, Brighton | | |
| <u>Proposal:</u> | Change of use of building from B2 (Industrial) to Local Authority Housing Services Repairs and Maintenance Offices and Depot (mix of B1, B2 and B8 uses). Insertion of 15 new windows and a door at ground floor level and 4 new windows at first floor level. | | |
| <u>Officer:</u> | Kate Brocklebank, tel: 292175 | <u>Valid Date:</u> | 23/12/2009 |
| <u>Con Area:</u> | N/A | <u>Expiry Date:</u> | 24 March 2010 |
| <u>Agent:</u> | Lewis & Co Planning, Paxton Business Centre, Portland Road, Hove, BN3 5SG | | |
| <u>Applicant:</u> | Brighton & Hove City Council, Mr Nick Hibberd, Kings House, Grand Avenue, Hove, BN3 2LS | | |

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 Permission.
2. Prior to first occupation, the windows shall be painted to match those on the existing building and retained as such thereafter.
Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD1 and QD14 of the Brighton & Hove Local Plan.
3. No works shall commence until details of sustainability measures shall be submitted to and approved in writing by the Local Planning Authority. These details shall demonstrate how the development would be efficient in the use of energy, water and materials. The development shall be carried out in strict accordance with the approved details prior to first occupation.
Reason: To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.
4. BH06.01 Retention of parking area.
5. Notwithstanding the approved plans, prior to first occupation an amended car parking layout plan which shall include the provision of 6 disabled parking spaces, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details prior to first occupation and retained as such thereafter.
Reason: To ensure that adequate parking provision is retained and to

- comply with policies TR18 and TR19 of the Brighton & Hove Local Plan.
6. The development hereby approved shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan.
 7. The development hereby permitted shall not be occupied until details of a minimum of 16 secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
 8. The use hereby permitted shall not be open or in use except between the hours of 08:00 and 18:00 Mondays to Fridays and 09:00 and 13:00 on Saturdays and not at anytime on Sundays, 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.
 9. No vehicular movements nor any loading or unloading of vehicles shall take place on the site except between the hours of 08:00 and 18:00 on Monday to Friday and 09:00 and 13:00 on Saturdays and not at any time on Sundays, Bank or Public Holidays.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
 10. Unless otherwise agreed in writing by the Local Planning Authority, the warehousing (use class B8) shall be restricted to the areas marked on drawing numbers 181/01 revision P1 and 181/02 revision P1 submitted on 23rd December 2009 and there shall be no provision of a trade counter at the premises.
Reason: To ensure any warehousing (use class B8) remains ancillary to the main B1 (office) use, in accordance with Local Plan policy EM1.
 - (i) No works to the current drainage system or works involving the breaking of the ground/floor slab within the building shall commence until there has been submitted to and approved in writing by the local planning authority: (A desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of b and c below, however, this will all be confirmed in writing).
 - (a) A desk top study documenting all the previous and existing land

uses of the site and adjacent land in accordance with national guidance as set out in Contaminated land Research Report Nos. 2 and 3 and BS10175:2001 - Investigation of Potentially Contaminated Sites - Code of Practice;

and unless otherwise agreed in writing by the local planning authority,

- (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175;
and, unless otherwise agreed in writing by the local planning authority,
 - (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.
- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the local planning authority verification by a competent person approved under the provisions of condition 10 (i)c that any remediation scheme required and approved under the provisions of condition 10 (i)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority such verification shall comprise:
- a) as built drawings of the implemented scheme;
 - b) photographs of the remediation works in progress;
 - c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition (i) c.”

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

11. The development hereby approved shall not be occupied unless or until the a draft travel plan has been submitted to and approved in writing by the Local Planning Authority, the draft shall include a travel pack which shall be issued to employees prior to occupation giving them information on travel options to the site. Within 6 months of occupation an updated travel plan shall submitted to and approved in writing by the Local Planning Authority indicating the measures to be applied to encourage sustainable travel for employees. The travel plan shall thereafter be adhered to for the duration of the use hereby permitted and be resubmitted for the council's written approval every 12 months thereafter. **Reason:** To ensure that traffic generation is adequately managed by encouraging the use of walking, cycling and public transport, in compliance with policies TR1, TR2, TR4 TR7 and TR14 of the Brighton

& Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 181/ 01 revision P1 – 181/07 revision P1 submitted on 23rd December 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:

| | |
|------|---|
| TR1 | Development and the demand for travel |
| TR2 | Public transport accessibility and parking |
| TR4 | Travel Plans |
| TR7 | Safe development |
| 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 |
| SU3 | Water resources and their quality |
| SU4 | Surface water run-off and flood risk |
| SU5 | Surface water and foul sewage disposal infrastructure |
| SU9 | Pollution and nuisance control |
| SU10 | Noise nuisance |
| SU11 | Polluted land and buildings |
| SU13 | Minimisation and re-use of construction industry waste |
| SU15 | Infrastructure |
| QD1 | Design – quality of development and design statements |
| QD6 | Public art |
| QD7 | Crime prevention through environmental design |
| QD27 | Protection of amenity |
| QD28 | Planning obligations |
| EM1 | Identified employment sites (industry and business) |
| EM3 | Retaining the best sites for industry |

Supplementary Planning Guidance Notes/Documents (SPGs/SPDs):

SPGBH 4: Parking Standards
 SPD08: Sustainable Building Design; and

- ii) for the following reasons:
 The development will provide integrated repairs, maintenance and a customer service facility for the Council's stock of Local Authority housing across the City and with the imposition of conditions to control the permission in detail the proposal will not significantly harm residential amenity, will provide employment opportunities through apprenticeships and will accord with development plan policies.
3. The applicant is advised of the following recommendations made by

Sussex Police: It is recommended that the ground floor level final exit door conform to LPS 1175 SR2 with locks certified to BS3621. Any glazing including sidelights should be laminated and if outward opening, should benefit from hinge bolts. Any ground floor and accessible windows should confirm to BS7950 and if opening they should have restrictors fitted. Any non-key locking hardware on any designated emergency egress windows or any vulnerable windows should be fitted with laminated glass.

4. The applicant is advised of the Regulatory Reform (Fire Safety) Order 2005 which requires them to conduct a suitable and sufficient Fire Risk Assessment for the building, contents and activities.

3 THE SITE

The site is situated on the Fairway Trading Estate. The building is a two storey industrial style building originally constructed in the 1980's as part of the development of the wider trading estate. The unit is currently vacant, the previous occupant used the building for industrial purposes, the occupant was an electrical component manufacturer. The area surrounding the building is hard surfaced and contains car parking spaces and loading bays. The neighbouring units are occupied by a 'Riva Bingo' and car repairs 'T Reeves & Son'.

In the wider context the site is located adjacent to the residential area of Moulsecoomb. Directly to the south of the site is a small local parade of shops fronting Moulsecoomb Way, and beyond the area is predominantly residential consisting of a mix of flats and single dwelling houses of varying character.

4 RELEVANT HISTORY

None.

5 THE APPLICATION

The application seeks planning permission for change of use from B2 industrial to B1 offices (2466sqm) with ancillary B2 kitchen unit assembly (239sqm) and B8 parts and materials store (422sqm) set out on the ground and mezzanine level. The proposed use will provide a combined use as a Housing Repairs Service Supercentre which will provide integrated repairs and maintenance service including surveying functions, contract management, customer services and an operations base for engineers working on the local housing stock in the Moulsecoomb area.

Proposed alterations to the building are to provide an extension to the of mezzanine floor providing approximately an additional 500sqm of accommodation and 15 new window openings and a door at ground floor level and 4 new windows at first floor level.

6 CONSULTATIONS

External:

Neighbours: None received.

Sussex Police: No objection The location is in an average crime risk area compared to the rest of Sussex.

EDF Energy Networks: No objection.

East Sussex Fire & Rescue Service: No objection The applicant should be aware of the Regulatory Reform (Fire Safety) Order 2005 and will be required to conduct a suitable and sufficient Fire Risk Assessment for the building, contents and activities.

Internal:

Planning Policy: Policy EM1 seeks to ensure that allocated employment sites are protected for industrial and business uses. The proposed change of use is from B2 industrial, to predominately B1 (2,466 sqm) floorspace with ancillary B2 and B8 uses (239 sqm and 422 sqm respectively). Whilst this proposal contains a small element of B8 floorspace, it is considered that this is ancillary to the main B1 floorspace and thus is considered to comply with policy EM1.

It is assumed that this proposal does not make provision for a trade counter due to the nature of the occupier. It should be conditioned that any B8 floorspace at this location should remain ancillary to the B1 use without a trade counter.

Sustainable Transport:

Parking

The applicants propose to provide 63 general (i.e. able-bodied) parking bays, 4 LGV bays and 3 disabled parking bays. The amount of general parking is well below the SPG4 maximum of 104. The applicants have demonstrated in their Transport Statement using the TRICS database that the expected parking demand would be met and the development would not result in parking being displaced to nearby residential roads. Also, the general parking standards in SPG4 are maxima. The proposed provision is therefore acceptable. SPG4 requires at least 31 disabled bays. The applicants argue that this is excessive since the previous use had only 3 disabled bays, and only 1 disabled member of staff is expected to work at the centre when it opens. They also point out that national guidance would allow a lower amount. This is the case but local variations in standards are allowed. It has been agreed that 6 disabled bays will be provided at the outset and the adequacy of this provision will be monitored as part of the travel plan process. The applicants have also agreed that the SPG4 minimum requirement of 16 covered cycle parking spaces will be provided near to the entrance and revised plans showing this provision should be required by condition prior to occupation.

Sustainable modes/ Contributions

The Transport Statement demonstrates that local provision for buses, walking and cycling is generally good. A requirement for contributions to improve this provision would not be appropriate in this case as the applicant has adequately demonstrated using the TRICS database that the proposed use would be expected to generate fewer movements than the previous use. As the previous use was discontinued only in 2006 it is appropriate to consider and offset trips generated by it.

Local traffic impact

Given this reduction in journeys including car trips it is unnecessary to consider local traffic impact in detail and this has not been done. The Transport Statement does contain an analysis of local road accidents which shows that there is no pattern of accidents which could be worsened by development related traffic.

A condition is recommended to secure the following: submission of a travel pack giving employees information on travel to and from the site with the intention of encouraging the use of sustainable modes of transport. Prior to occupation a statement shall be submitted which assesses the possibility of easy and cheap measures which could be implemented and encourage marginal car users to transfer to other modes. If such measures are identified the applicants would be required to fund them but it should be noted that this would not involve substantial expenditure. Within 6 months of the date of the permission a Travel Plan shall be submitted and agreed and shall be the subject of annual monitoring which should include consideration of the use and availability of disabled parking and any possible need for changes in this provision.

Environmental Health: Given the concerns raised over potential land contamination and the response from the agents about the potential laying of new drain runs, a land contamination assessment condition is therefore necessary. This is a phased condition and should not be read as an immediate requirement to commence intrusive sampling. It is a risk based and phased process beginning with a desktop study sometimes referred to as a walkover survey to determine what and if further works are necessary.

City Clean: No comment.

7 PLANNING POLICIES

Brighton & Hove Local Plan:

| | |
|------|---|
| TR1 | Development and the demand for travel |
| TR2 | Public transport accessibility and parking |
| TR4 | Travel Plans |
| TR7 | Safe development |
| 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 |
| SU3 | Water resources and their quality |
| SU4 | Surface water run-off and flood risk |
| SU5 | Surface water and foul sewage disposal infrastructure |
| SU9 | Pollution and nuisance control |
| SU10 | Noise nuisance |
| SU11 | Polluted land and buildings |
| SU13 | Minimisation and re-use of construction industry waste |
| SU15 | Infrastructure |
| QD1 | Design – quality of development and design statements |
| QD6 | Public art |
| QD7 | Crime prevention through environmental design |
| QD27 | Protection of amenity |
| QD28 | Planning obligations |
| EM1 | Identified employment sites (industry and business) |
| EM3 | Retaining the best sites for industry |

Supplementary Planning Guidance Notes/Documents (SPGs/SPDs):

SPGBH 4: Parking Standards

SPD08: Sustainable Building Design

8 CONSIDERATIONS

The main considerations relating to the determination of this application are the principle of the change of use, the impact on neighbouring amenity, design and highways.

Principle of development

Local Plan policy EM1 relates to identified employment sites for industry and business. The site is an allocated EM1 site identified for industrial/business uses and managed starter units and high technology uses. The policy only allows for any warehousing (B8) when ancillary to the main use.

The site has been vacant for some time, the previous occupant operated an electrical component manufacturers (B2). The proposal seeks planning permission for change of use to provide approximately 2466sqm (B1) office floorspace, approximately 239sqm of (B2) floorspace for kitchen unit assembly and 422sqm for storage/warehousing (B8). The combined proposed uses will provide a Housing Repairs Service ‘Supercentre’ in partnership with Mears and Brighton & Hove City Council.

As stated in the supporting information submitted with the application, the proposed use will be known as ‘The Housing Supercentre’ and will provide integrated repairs, maintenance and customer services facility for the Council’s stock of Local Authority Housing which includes approximately 12,350 homes and a further 2,000 leaseholders throughout the city.

The Supercentre will comprise accommodation for :

- 44 full time employees in the Mears management and administrative staff
- Initially up to 54 full time employees in the BHCC Housing Department Staff (including finance and performance contract);
- Management, mechanical/electrical, estate service and asset management teams;
- 15 full time employees on the repairs desk staff dealing with customer repair requests and enquires (phone, email, web and written);
- 5 full time employees in the stores of materials and hardware for maintenance teams;
- 10 full time employees on site assembly of kitchen units;
- Mears engineers will visit the site to replenish van stock and collect bulky materials (once or twice a week).

The predominant use will be that of B1(a) office use with ancillary warehousing (B8) and kitchen assembly areas (B2). The warehousing (B8) element will provide materials, parts and hardware storage for the operatives employed by Mears in connection with the centre. In order to accord with policy EM1, the area of warehousing (B8) should not have a trade counter for use by the general public or those not employed in connection with the main use, a condition is therefore recommended to ensure this. The applicant anticipates that there will be the potential for members of the public to visit the site should they wish to report a fault at their property requiring attention, however the number anticipated is minimal owing to the ease for other forms of reporting by phone, email or by letter.

The proposed 'Housing Supercentre', as defined by the Applicant will facilitate the delivery of an improved service to occupiers of Council owned properties by enabling the co-location of Brighton & Hove City Council and Mears staff, providing a single point of contact for service users in order to resolve problems more effectively. The partnership is a key element in delivering the first of the Council's 10 priorities for 2010 – 'to improve housing in the city', bringing more homes up to the 'Decent Homes Standard' for example through the provision of new kitchens and bathrooms.

In addition to the above, the Supercentre will help the Council to implement its Social Exclusion Strategy and will provide job opportunities and training in one of the most deprived wards in the City through the provision of apprenticeships.

With the imposition of conditions to restrict the area of B8 floorspace to remain ancillary and to restrict the provision of a trade counter the proposal is considered to accord with policy EM1.

Impact on neighbouring amenity and design

Policy QD27 requires the protection of amenity for proposed, existing and/or adjacent residents. The closest residential properties are situated to the south of the site fronting onto Moulsecomb Way and to the east sited on higher

land fronting Appledore Road. The use will be predominantly (B1) offices with ancillary kitchen assembly (B2) and storage and distribution of parts and materials (B8). The proposed hours of operation proposed are from between 8:00am and 17:00pm Monday to Friday with deliveries and collections being undertaken between these hours.

Due to the scale of the proposal, (approximately 6,254sqm floorspace) combined with the level of operations on site and the close proximity of neighbouring dwellings, it is considered reasonable and necessary to condition the hours of operation and delivery. Environmental Health have recommended that the hours of use be restricted to between 8:00 and 18:00hrs Monday to Friday and between 09:00 and 13:00hrs on Saturday and no working on Sundays, bank or public holidays with no deliveries or servicing outside these hours. With the imposition of a condition to restrict the hours of use the proposed development is not considered likely to cause demonstrable harm to the residential amenity of any neighbouring property by way of noise disturbance.

Local plan policy QD14 relates to extensions and alterations to existing buildings and requires development to be well designed using materials which are sympathetic to the existing building.

The proposal involves minor alterations to the external appearance of the building by introducing new windows openings in the west, north and east elevations at ground and first floor and an additional door opening on the east elevation. The new windows have been designed to match the proportion of the existing windows and their siting relates reasonably well to the building and one another. With the imposition of a condition to ensure they match the existing windows in colour they are considered to be acceptable in design terms. The windows will also provide additional natural light to the building as well as outlook for the users thus providing a more pleasant working environment.

The closest neighbouring property is the block of flats to the south east of the site known as 'Oakendene' which is orientated towards north west in contrast to the site which is on a north south orientation. In addition to the differing orientation, flats are situated on higher ground and no additional windows are proposed in the southern elevation. Therefore no additional overlooking will arise as a result of the new windows. To the east of the site the properties which front onto Appledore Road are approximately 29m away and are also sited on higher ground. With the differing site levels, separation distances and the existing boundary treatment there will be no adverse overlooking from the proposed windows to the neighbouring dwellings. Neighbouring amenity is therefore considered to be maintained.

Traffic

Policy TR1 requires that development proposals provide for the demand for travel they create and maximise the use of public transport, walking and

cycling. Policy TR7 will only permit developments that do not increase danger to other road users. Policy TR19 requires development proposals to accord with the Council's maximum car parking standards, as set out in Supplementary Planning Guidance Note 4: Parking Standards.

The site is not within a Controlled Parking Zone (CPZ).

The Councils Sustainable Transport team have been consulted on the application and note that the proposed 63 general parking bays is well below the SPG4 Parking Standards recommended maximum of 104. The Sustainable Transport Team are satisfied that the parking demand for the proposed use would be met and the development would not be likely to result in parking being displaced in the surrounding area and the proposed car parking provision is therefore considered to be acceptable. SPG4 recommends a minimum of 31 disabled bays are provided for the scale of development proposed. The applicants argue that this is excessive is based on the previous provision of 3 spaces on site, that there is only one disabled worker expected to work at the centre when it opens and is supported by national guidance which allows a lower amount. It has been agreed that 6 disabled spaces are provided on site at the outset and the adequacy of provision is monitored as part of the travel plan process.

Details of the minimum requirement of 16 covered cycle parking spaces is requested by condition, they will be provided near the entrance to the building and provision shall be made prior to occupation.

The Transport Statement demonstrates that local provision for buses, walking and cycling is generally good. A requirement for contributions to improve this provision would not be appropriate in this case as the applicant has demonstrated adequately using the TRICS database that the proposed use would be expected to generate fewer movements than the previous use. As the previous use was discontinued only in 2006 it is appropriate to consider and offset trips generated by it.

A condition is recommended to secure Travel Plan details including the submission of a travel pack giving employees information on travel to and from the site with the intention of encouraging the use of sustainable modes of transport. A statement is required to be submitted prior to occupation which assesses the possibility of measures which could be implemented and encourage marginal car users to transfer to other modes. If such measures are identified the applicants would be required to fund them but it should be noted that this would not involve substantial expenditure. Within 6 months of the date of the permission a Travel Plan shall be submitted and agreed and shall be the subject of annual monitoring which should include consideration of the use and availability of disabled parking and any possible need for changes in this provision.

With the imposition of conditions to control the development in detail, the

proposal is considered to have an acceptable impact in highway terms.

Sustainability

Policy SU2 requires all development to be efficient in the use of energy, water and materials, SPD08 Sustainable Building Design sets out full guidance on how to achieve a sustainable development and standards recommended in relation to the scale and type of development.

As a conversion of an existing building SPD08 requires that a development demonstrates a reduction in water consumption and minimisation of surface water run-off. It is therefore recommended that general sustainability measures are secured via condition.

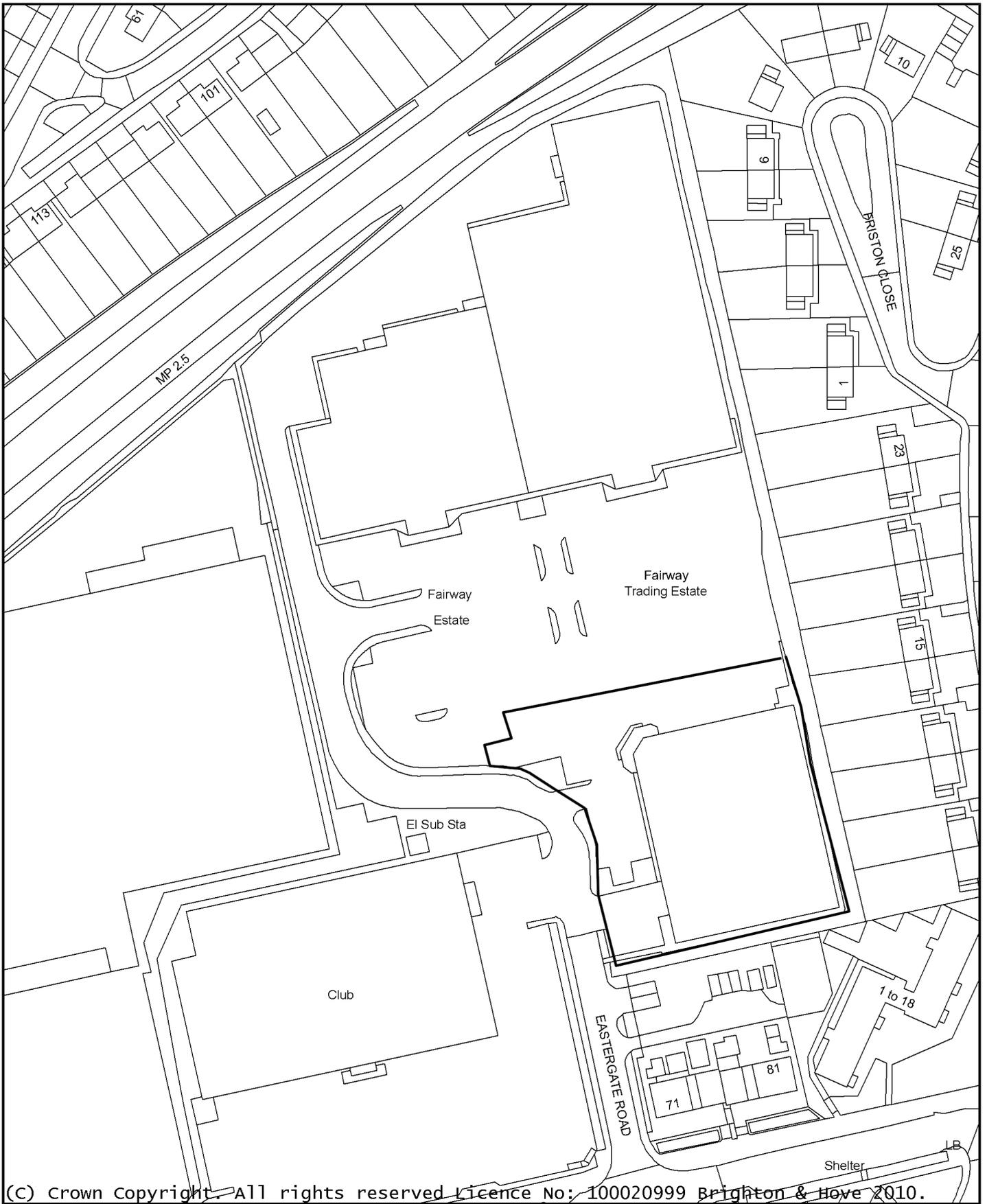
9 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The development will provide integrated repairs, maintenance and a customer service facility for the Council's stock of Local Authority housing across the City and with the imposition of conditions to control the permission in detail the proposal will not significantly harm residential amenity, will provide employment opportunities through apprenticeships and will accord with development plan policies.

10 EQUALITIES IMPLICATIONS

Amended plans are to be submitted with an increased provision of disabled parking bays the provision of which will be monitored via the Travel Plan.

BH2009/03155 Unit 1, Fairway Trading Estate, Eastergate Road



Date: 02/03/2010 03:11:12

Scale 1:1250

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|--------------------------|---|----------------------------|----------------------|
| <u>No:</u> | BH2009/03077 | <u>Ward:</u> | QUEEN'S PARK |
| <u>App Type</u> | Full Planning | | |
| <u>Address:</u> | Former Thwaites Garage, 33 Mighell Street, Brighton | | |
| <u>Proposal:</u> | Demolition of existing garage and flint wall. Construction of a flint facing building between 4 and 7 storeys to accommodate 87 student units and reinstatement of flint wall. | | |
| <u>Officer:</u> | M Anson Tel: 292354 | <u>Valid Date:</u> | 18/01/2010 |
| <u>Con Area:</u> | Carlton Hill | <u>Expiry Date:</u> | 19 April 2010 |
| <u>Agent:</u> | Vail Williams LLP, 2 Station View, Station Approach, Guildford, Surrey, GU1 4JY | | |
| <u>Applicant:</u> | SPV Mighell Street Ltd, C/O Vail Williams LLP | | |

1 RECOMMENDATION

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

Reasons:

1. The site is allocated for employment led development and the applicant has failed to demonstrate that the existing use is redundant for employment uses and the provision of student housing does not meet one of the acceptable alternative uses for employment sites that are found to be genuinely redundant. The proposal is therefore contrary to policies EM2 and EM3 of the Brighton & Hove Local Plan and Supplementary Planning Document 04 Edward Street Quarter.
2. The proposal, by reason of the siting, height, design and massing of the building, would appear incongruously prominent and harmful to the character and appearance of the Carlton Hill Conservation Area, particularly in views down Carlton Hill. The development is considered to be contrary to policies QD1, QD2, QD3, QD4 and HE6 of the Brighton & Hove Local Plan.
3. The proposal, by reason of the site coverage, height, design and massing of the building, would appear incongruous with and harmful to the setting of nearby listed buildings, namely 1 Tilbury Place and Holy Trinity Church, and would appear out of scale with and visually dominate the setting of the adjacent listed Farmhouse of 34/35 Mighell Street when viewed from Mighell Street. The proposal is contrary to policy HE3 of the Brighton & Hove Local Plan.
4. The application, by way of an inadequate and inconsistent daylight assessment, will result in a significant loss of daylight to adjacent properties at 70 Carlton Hill and Flats 1 and 2 of 34 Mighell Street and as such the scheme is considered contrary to policy QD27 of the Brighton & Hove Local Plan.
5. The proposal, by reason of its siting and design, would result in

overlooking to the rear elevations and rear amenity space of 34 Mighell Street and would be detrimental to their privacy and the use and enjoyment of their private amenity space, contrary to policy QD27 of the Brighton & Hove Local Plan.

6. The application fails to demonstrate measures to adequately maximize the use of sustainable transport and address the travel demand arising from the development, either on site or by way of contribution or measures to demonstrate that the student accommodation would remain genuinely car free in the long term, contrary to Brighton & Hove Local Plan policies TR1, TR2, TR5, TR7, TR8, TR19, QD28 and HO7 and Supplementary Planning Guidance Note 4 Parking Standards.
7. The proposal fails to provide sufficient parking for people with mobility related disability and is thus contrary to policies TR18 and HO13 of the Brighton & Hove Local Plan, Supplementary Planning Guidance Note 4 Parking Standards and Planning Advisory Note 03 Accessible Housing and Lifetime Homes.
8. The proposal, by reason of the type and method of hanging cycle storage, would fail to provide a level of cycle parking that would be convenient and accessible to all users and as such is contrary to policy TR14 of the Brighton & Hove Local Plan and Supplementary Planning Guidance Note 4 Parking Standards.
9. The applicant has failed to demonstrate that the proposal would be efficient in the use of energy, water and resources and would meet an excellent BREEAM rating, and as such the proposal is contrary to policies SU2 and SU16 of the Brighton & Hove Local Plan, Supplementary Planning Document 08 Sustainable Buildings and Supplementary Planning Document 04 Edward Street Quarter.
10. The proposal has failed to incorporate the provision of landscaping to enhance biodiversity which would contribute to the improvement of the ecological value of the site and surroundings and therefore is contrary to policy QD17 of the Brighton & Hove Local Plan and draft Supplementary Planning Document Nature Conservation and Development.
11. The proposal does not make provision either on site or by way of contribution for outdoor recreation space and does not make provision for private outdoor amenity space and is therefore contrary to policies HO5 and HO6 of the Local Plan and Draft Supplementary Planning Guidance 9 A Guide for Residential Developers on the Provision of Recreational Space.

2 THE SITE

The application site is located on the corner of Mighell Street and Carlton Hill. Carlton Hill is narrow and considerably steep and runs parallel with Edward Street. A high flint wall, in poor condition, bounds the site along the Carlton Hill elevation, although the wall extends below pavement level as ground levels of the site are considerably lower than the street.

The application site is located within the Carlton Hill Conservation Area which is characterised by a number of listed buildings of varying styles and the

unifying presence of flint walls. The site sits in a prominent location within the locality and affords views across the valley towards Brighton Station. Adjacent and to the south is a Grade II listed flint faced building known as the Farmhouse which is subdivided into 2 dwellings; numbers 34 and 35 Mighell Street. No. 34 Mighell Street, closest to the proposal, is further subdivided into 2 flats.

Mighell Street runs along a north south axis, truncated by the existing Amex House where it is intended to reinstate the original street pattern and establish Mighell Street as a pedestrianised route linking Carlton Hill and Edward Street following the demolition of Amex House following the recent approval of a new AMEX office. On the north side of Carlton Hill opposite the site is Carlton Hill Primary School and Tilbury Place containing a Grade II listed terrace. The Grade II listed Greek Orthodox church is also located immediately to the north east of the site which is also in a prominent position. Immediately to the east of the site, 70 Carlton Hill, a two storey brick Victorian residential cottage, currently used as ancillary office space, abuts the site and whilst not a listed building, is considered to positively contribute to the conservation area and wider street scene.

3 RELEVANT HISTORY

The site has been the subject of 5 full planning applications for redevelopment since 2000:

BH2009/03078: Demolition of existing garage and front wall (undetermined – a report on this application is also on this agenda).

BH2007/01443: Demolition of garage and erection of part 5, and part 6 storey building comprising 13 flats and new office space (withdrawn).

BH2006/03567: Demolition of garage and erection of flats and offices (withdrawn).

BH2005/01606: Change of use of garage to car park (withdrawn).

BH2003/00109: Demolition of existing building. Construction of 9 flats and 200sqm of B1 office space (withdrawn).

BH2000/00603: Demolition of existing garage and construction of 3 – 4 storey block of 15 flats with vehicular access to rear via front garden of 34 Mighell Street (refused). Reasons for refusal related to loss of employment floor space, overdevelopment of the site, out of character with adjacent listed building and parking spaces on 34 Mighell Street being detrimental to amenity of occupiers.

Amex Site

BH2009/01477: In November 2009 permission was granted for a 5 – 9 storey office block of approximately 36,000 square metres and a smaller 2 storey data building for American Express adjacent to the proposal site. The office building is bounded by Carlton Hill to the north, John Street to the west and Mighell Street to the east. The data building will be located on what is currently a car park used by American Express employees accessed from Mighell Street. The data building will extend from Mighell Street through to White Street in the east where it will complete the terrace of houses on White

Street.

4 THE APPLICATION

The proposal seeks to demolish the existing garage and construct a 4 to 7 storey building accommodating 87 student units. The proposal would include ancillary facilities such as a kiosk and the provision of 87 covered cycle parking spaces. It should be noted that although the Planning Design and Access Statement states that 87 cycle parking spaces will be provided, although the planning drawings show 36 cycle parking spaces.

The proposal development would occupy a narrower foot print than the existing garage on the Mighell Street frontage only. The 7th storey would commence 0.2 metres below the ridge line of 70 Carlton Hill. The proposal would be positioned at the back edge of pavement at the eastern end and would project at full height approximately 5 metres forward of 70 Carlton Hill.

The building line of the proposal on the Mighell Street frontage is set back between 0.5m and 0.8m behind the existing garage but slightly forward (approximately 0.5m) of the consented Amex data building.

A structural survey reports that the condition of the flint wall on Carlton Hill is poor and it is proposed to remove the wall and reinstate it as part of the development. The ground level of the site extends below the pavement level, although the heights below pavement varies with the deepest part to the east and becoming shallower further down Carlton Hill to the west. It is proposed to reinstate the flint wall with several traditional brick dressed openings to allow light to penetrate the ground, first and second floors of the building. The openings, at pedestrian eye level, will service communal areas within.

The proposal steps down in line with the steep topography of the site. The roof at the eastern end steps down in uneven stages to meet the height of the consented Amex office on the corner of Carlton Hill and Mighell Street.

With the exception of the reinstated flint wall on Carlton Hill, which varies in height between approximately 3.5m and 4.5m high, the proposal would consist of flint cladding and full height glazing for both windows and doors. It is proposed that the roof would consist of a series of structures which when viewed from the north or south, simulate brightly coloured 'beach huts' of varying colours. The 'beach huts' would have pitched roofs and would have smaller glazed openings. On the corner of Mighell Street and Carlton Hill, the proposal consists of glazing to the ground floor where the reception and communal areas would be located and a glazed cladding to the first floor to give transparency and animation to that corner.

There is currently a gap of approximately 4.5 metres between the projecting side entrance porch of the Grade II listed Farmhouse and the boundary of the garage structure. The proposed student accommodation building would narrow this gap to approximately 1.3 metres. Along the length of the

Farmhouse the proposal would significantly narrow the gap between the buildings and would be narrowest (approximately 0.8m) at the rear of the proposal. However, it should be noted that the footprint of the building is a rectangle although the site is wider at the front therefore the gap between the proposal and the farmhouse to the rear is narrower and less than 1 metre in width.

The proposal also makes provision for a covered 87 capacity cycle store on the south west corner of the building adjacent to the Farmhouse and is accessed from Mighell Street near the main entrance of the proposal.

The proposal is arranged over 6 floors and internally each of the floors will follow the same format with individual rooms on either side of a central corridor running east/west. Each room is laid out in the style of a hotel consisting of a bathroom, a space for a single bed and study desk. A lift will be located at either end of the corridor with two stairwells located along each of the corridors. Each floor also contains two communal rooms.

5 CONSULTATIONS

External:

Neighbours: 21 Letters of objection have been received from the owners/occupiers of **5c Tilbury Place, 7 White Street, Flat 2 34 Mighell Street, 63 Carlton Hill, 33 Windmill Street, 20 Blaker Street, 55 Windmill Street, 31 White Street, 61 Carlton Hill, 22 White Street, 50 Moorgate London, 67 Carlton Hill, 4 Parks View Upper Park Place, 68 Carlton Hill, 21 The Curve Carlton Hill, 1 St Johns Place, 13 White Street, 40 White Street, 11 Blaker Street, 5 Stanley Street, 70 Queens Park Road.** 1 letter of objection has been received by email from an unknown email address.

They object on the following grounds:

- Naïve to think students will not have cars. Parking should be provided at ground level or below
- Increased 'studentification' of the area resulting in an increase in noise, disturbance and anti-social behaviour affecting community cohesion
- Unsightly design of stacked beach huts is out of character with the surrounding area
- Building is too big for the site
- Already issues with lack of parking and this development will make it worse
- Students will park in areas that are currently free like American Express staff do
- Object to the destruction of the flint wall on Carlton Hill
- Impact of building works occurring simultaneously to Amex construction works
- Proposal will overshadow the road and make worse the already alley-like thoroughfare
- Change in use from commercial to residential inappropriate and negatively impact surrounding area
- Scale of the proposal inappropriate

- Proposal will tower over adjacent residential properties including the listed farmhouse
- Increase in traffic on local roads – concern regarding safety of children of adjacent school
- As the universities are located on the outskirts of the city, the proposal would be better located closer to their campus
- The area already has many houses which are let to students, the proposal would compound the noise and disturbance already created by student lets
- Concern over loss of light to flats in adjacent listed farmhouse
- Unacceptable that another dominating and intrusive building is to be built affecting privacy and light
- Concern that Mighell Street will become a building site
- Additional students and their families and visitors in the area will affect residents ability to enjoy peace and quiet
- Concern that the listed building and character walls in the area will be hidden or nominalised
- Damage to property from students as a result of parties will be compounded by the proposal
- Various environmental concerns regarding sewer capacity, sufficient cycle parking and excluding future occupants from applying for parking permits
- Massive over development and not in keeping with the local area
- Concerns over whether cycles would be used in the area therefore students will resort to cars, causing considerable increase in traffic and therefore affecting safety of pedestrians
- Proposal does not make provision for disabled occupants as room plans do not appear to show disabled toilet facilities or adaptation for disabled use
- High density of residents packed into small footprint
- What if the development was not occupied? What other use would it be suitable for?

3 letters of support have been received from: **15 Highleigh Flats Grove Hill, Top floor flat 34 Mighell Street, 78 Woodland Drive**. They support the scheme on the following grounds:

- Following success of Amex consent, it would be good idea to clean up the whole area and get rid of unsightly Thwaites Garage
- Current site is an embarrassment. New building will benefit the area as it would be smarter and safer
- Proposal would bring much needed building works to the area. These small brownfield sites should be developed bringing revenue to the council and local businesses

Dr Desmond Turner MP: Dr Turner has registered an objection on behalf of the occupant of Flat 2, 34 Mighell Street. Dr Turner also requested that Planning Committee members conduct a site visit before making a decision about the application.

East Sussex Fire and Rescue Service: The Fire Authority has no comments to make at the planning stage but will comment on fire safety matters and access and facilities for the Fire Service at Building Regulations Stage in due course.

EDF Energy: No objection to the proposed works.

Environment Agency: No objections, in principle, to the proposal as submitted subject to the imposition of conditions on any planning permission granted.

Southern Gas Networks: Detailed comments have been received regarding excavation during construction works.

Southern Water: No comments forthcoming.

Sussex Police: Note that the applicant has addressed 'Secure by Design' principles in the Sustainability Checklist. However, it would be preferable to see this addressed in the Design and Access Statement. They also make reference to PPS1 stating that developments should 'create safe and accessible environments where crime and disorder or fear of crime does not undermine quality of life or community cohesion.'

CAG: The group consider this development oversized and of inappropriate design, and fails to conform to the guidance in the Edward Street SPD. They advise that it would harm the setting of the adjoining listed farmhouse, the listed church in Carlton Hill and the listed terrace in Tilbury Place, and therefore the character and appearance of the Carlton Hill conservation area, and for these reasons object to the development. They recommend its refusal.

Internal:

Access Officer: If a university becomes the service provider in this development there will be access issues that could give rise to concern for the university authorities in terms of responsibilities under the Disability Discrimination Act. The responsibilities would apply in relation to students and also in relation to other occupants if the university should follow the common route of renting the accommodation for other purposes when it is not occupied by students. If the development is not taken up by a university there will be local plan policy access issues, both in terms of wheelchair accessible housing and Lifetime Homes. For those reasons, there is a number of disabled access problems with the development in general terms rather than relating to a specific policy.

City Clean: City Clean commented that the waste store was too small to accommodate the predicted waste arising based on the number of units and the food preparation facilities on each of the floor. It is predicted that the waste arising from a proposal such as this would amount to approximately

19,000L of waste per week which would require a waste and recycling store of 46sqm. However, the waste and recycling store on the plans is 32.5sqm. In addition, City Clean noted that the door to the waste store should be at least 1.8m wide to accommodate wheeled bins although the plans show that the bin store door is 1m wide. Access to the waste and recycling store is through a covered cycle store and City Clean raise concern over how well this area will be managed and kept clear of cycles and other obstructions in order for collections to take place.

Conservation & Design

Submitted Documents

The Heritage Statement presents a useful historical background to the site and surrounding area but has paid insufficient regard to the Carlton Hill Conservation Area Character Statement. The last section, on 'Significance and Impacts' does not appear to follow through from the evidence presented in the earlier sections. The reference in para. 5.2.4 to the "area's historical cohesiveness and attractiveness" is at odds with the evidential assessment and the Character Statement. The Design and Access Statement also does not seem to have been sufficiently informed by the assessment in the Heritage Statement. The Tall Buildings Study does not meet the requirements of SPG15 but in this case it is agreed that such a Statement is probably not necessary. The documentation has given little consideration to key local views of the site and how they would be affected by the proposal and the lack of CGIs or perspectives is disappointing for an application of this scale and sensitivity.

Proposed use

As set out in the submitted Heritage Statement, this site was originally likely to have been associated with the adjacent listed farmhouse and has since had a long history of small scale commercial uses. The conservation area and its immediate context has a mix of residential, community and commercial uses. The Conservation Area Character Statement (CACS) refers to this mix of uses and the busy nature of Carlton Hill as a thoroughfare. It is also noted that recent permission has been granted for a major office development, for Amex, immediately outside the conservation area and opposite this site. Therefore in principle it is considered that a residential use on this site would preserve the character of the area. However, student housing is by its nature very high density and the density of the proposed development would be significantly higher (in terms of habitable rooms and occupants) than is typical of the area.

The CACS also highlights the architecturally mixed and informal nature of the area, and its immediate context, which is organic rather than cohesive in its historic and modern development. Therefore, again, the principle of a single 'one-off' residential building is considered acceptable in terms of the appearance of the conservation area. Some concern was expressed at the early stage of pre-application discussions, however, that student housing can be rather formal and monotonous its appearance, as a result of the specific

needs of a series of small repeated spaces. To some degree this concern is borne out in the submitted scheme. But it is recognised that a clear attempt has been made to break up and enliven the most prominent elevation, facing Carlton Hill, and the double height glazed space fronting Mighell Street would also to provide an active street level frontage.

Scale and Design

The footprint of the proposed development is, overall, greater than the existing garage buildings. The submitted Planning, Design and Access Statement (PD&AS) refers to the footprint being narrower but this is not correct. For most of its length the building footprint is nearly 3m wider than the garage. Only at the Mighell Street frontage does it appear narrower but even here there would be a cycle store that would take up most of the remaining ground space. Most crucially, the development would, for most of its length, be nearly 3m closer to the listed farmhouse (34/35 Mighell Street) as well as being much higher. The PD&AS refers to the fact that the resulting gap would be similar to that between the listed building and the approved Amex Data Building (at c.2.5m), but the latter building is substantially lower than this proposal. Para.13.02 of the PD&AS states that this gap will increase further to 4.5m at roof level but this is not as a result of any set back of the new building but simply a reflection of the disparity in scale between the two buildings. The PD&AS additionally refers to the fact that the footprint has been set back from the existing building line at the Mighell Street frontage but this set back is negligible (803mm at its widest point and only 590mm at the other end). At pre-application stage it was advised that the footprint should, at its maximum, be no further forward than the approved Amex Data Building, in order to enhance the setting of the adjacent listed farmhouse and allow for a wider footway. But as submitted the development is set forward of the Data Building.

At the pre-application stage it was advised that any development here should follow the steep topography of the site, steeping down from east to west, and should be no higher than the eaves of 70 Carlton Hill at the eastern end and no higher than the corner element of the new Amex office building at the western end. This was so that any development would respect the setting of the nearby listed buildings, notably 34/35 Mighell Street and Holy Trinity Church (formerly St John the Evangelist), which is noted in the CACS as having the status of a local landmark, and so that it would respect the prevailing topography and townscape. As submitted the height at the western end reflects this advice but at the eastern end the proposal is significantly higher. Indeed for two thirds of its length the building would be two storeys above the eaves of 70 Carlton Hill. It is noted that the PD&AS refers to the fact that the height would be below ridge level and would therefore conform to the need to step down the hill. But the elevations are misleading in this respect as 70 Carlton Hill is set to the south of the proposed development and has a pitched roof; its ridge would be close to the south side of the new building. As a consequence the east (end) elevation of the new building would be very prominent in views down Carlton Hill and would be an overbearing

presence in the street scene. This would be compounded by the fact that this elevation is to be totally blank.

The new building would additionally be higher than the eaves height of the listed Church, which would adversely impact on the status of the church as the local landmark, particularly in views from Carlton Hill west of the site. The height and scale of the building would also appear particularly overbearing its impact on 34/35 Mighell Street when viewed from Mighell Street itself, where the full height would be very apparent due to the lower ground level here. Unlike the Carlton Hill elevation this side is unrelieved by any modelling or set backs.

It is noted that the Heritage Statement gives the opinion that the new building “will be no taller than many of its neighbours and will probably not be much taller than the (now lost) 19th century buildings on the site” (para. 5.2.3). The first part of this assertion is factually incorrect and the second part contradicts the evidence presented earlier in the Statement. The ‘lost’ buildings on the site were stabling/mews blocks of some form and were therefore likely to have been no more than two storeys high. They would have been unlikely to have been visible from Carlton Hill due to the high flint wall.

Several aspects of the proposed design approach are welcomed, notably the stepped roof form, the retention/rebuilding of the flint wall (with new openings), the proportions of the and liveliness of the Carlton Hill elevation, the use of flint facing, the way the building turns the corner into Mighell Street and the glazed double-height frontage to Mighell Street. The elevation drawings imply that the windows would be more or less flush with the flint cladding but they should instead be set in reveals to give the elevations greater modelling and to make reference to the historic buildings. There are concerns over the blankness of the end elevations (particularly the west end), which is compounded by the scale of the building. Of most concern, however, is the proposed ‘beach hut’ approach to the top storey. This area is a fair distance from the seafront and, as is clear from the CACS, had no historic connection with the sea and seafront. There are no sea views in the area (except limited ones from Turner Park) and the historic buildings have none of the features traditionally associated with the city’s seafront architecture. Visually, this storey does not integrate well with the rest of the building. The bright colours would be overly assertive in the townscape and would harm the setting of the listed church.

Other matters

It is noted from the site plan that 34 Mighell Street is also within the applicant’s control. It is therefore disappointing that the application does not include works to improve the front approach and boundary to this building, in the manner referred to in the CACS (and quoted in the PD&AS). This matter was raised at pre-application stage.

Economic Development: Does not support the application on the following

grounds:

The site currently has a B2 allocation and the proposal will result in the loss of some 407m² (4,381ft²) of employment space. The retention and enhancement of employment space in the city is fundamental to the economic well being and growth in the city notwithstanding the need for student accommodation.

The economic development team has not been party to any pre application discussions prior to the submission of the application and would have stressed the need to retain employment space within a mixed use redevelopment of the site to assist in meeting the needs of the creative Industries Workspace Study, the Employment Land Study and the Business Retention and Inward Investment Strategy.

The opportunity to create a mixed use development with employment space being provided at ground floor level would have been received more favourably in economic development terms because of the location of the site. Good quality B1 use at ground floor level would have been welcomed and is required to meet the demand for space in the city.

The PD&A Statement submitted with the application makes reference to the adjacent Amex site and the recently granted application providing additional employment space that will accommodate the 'loss' of employment space with this application. The Amex application provides new business space to accommodate Amex's business growth and therefore it is considered inappropriate to use this additional space to accommodate the loss of employment space on this site. There has been no further justification for the loss of employment space with the proposal.

It is requested that further consideration be given by the applicant to providing B1 business space at ground floor level to reduce the loss of employment space from the site.

Environmental Health

Contaminated land

Historic mapping indicates several areas of potentially contaminated land over the site; these areas have been identified by looking at former and historic uses. For this reason it is necessary to apply a potentially contaminated land condition. I note the inclusion of a Phase 1 – Environmental Risk Assessment prepared by RPS Health, Safety and Environment and dated April 2008. I have therefore removed part (a) of the potentially contaminated land condition regarding a desk study, but further investigation is necessary.

Noise

I have concerns relating to noise from plant and machinery that may be incorporated within the development and also concerns relating to noise from deliveries/servicing. I would expect a comprehensive acoustic report be submitted and demonstrate that all plant and machinery shall be at least

5db(A) below background (expressed as LA90). I have therefore recommended conditions to this effect.

Air Quality

Based on the council's air quality review and assessments the residential accommodation proposed in this development is expected to comply with the English Air Quality Strategy Objectives. Future residents are unlikely to be exposed to detrimental concentrations of pollution derived from traffic sources at 33 Mighell Street. Furthermore the development is not expected to generate large volumes of additional traffic.

If the developer intends to install a combined heat and power or biomass plant at the site further information will be required on the proposed boiler size and exit flue (chimney) specifications.

Housing Strategy: 40% affordable housing on a student housing scheme would not generally be sought as student housing is for specific occupants and does not contribute to housing targets and we therefore lose the opportunity to achieve affordable housing.

If this site was to be developed for student housing rather than general needs housing, it increases the pressure on small open space sites and outside the built up area. Therefore, Housing Strategy do not support this site for student housing.

Planning Policy: Object: The site is an allocated industrial site which should not be released for other uses until the policy is set aside by the site allocations document to follow the Core Strategy. The Edward Street SPD is adopted and is a material consideration and it is looking at an employment led use on the site. The site is very sensitive being adjacent to a listed building and in a conservation area where the maximum height of adjacent structures appear to be 2 and 3 storey. The proposal would trigger the Tall Buildings SPG 15. Student housing would not assist the city in meeting its taxing housing targets. The application needs to set out how the development could cope with the transport implications of the student housing at the beginning and end of term need to be addressed.

Sustainability: The key sustainability policy issue with regard to this application is that SU2 policy requirements and standards recommended in SPD08, SPD04 have not been met.

Whilst there is an inadequate level of information submitted against which to assess the sustainability standards in the development, where information has been submitted (BREEAM pre-assessment) this indicates that the standards fall short of rather than meet council standards.

Under policies SU2/SU17 of the Local Plan and SPD08 and SPD04 the following standards are expected to be met by this development:

General

- Residential: BREEAM Multi-Residential 'excellent' including 60% in energy and water sections
- Considerate Constructors scheme (SPD08) – entry level score indicated in BREEAM pre-assessment
- Minimise Heat Island Effect (SPD08) – not met, no evidence of greening the buildings or significant planting
- Use of materials which minimise raw material and energy inputs (SU2 & SPD04), low impact construction techniques (SPD04)-

Energy and carbon

- 40% carbon reduction (SPD04)
- 15% on site renewables (SPD04), Incorporation/use of renewable energy (SU2)
- Reduction in fuel use & greenhouse gas emissions (SU2)
- layout & design considering, daylight/sunlight, orientation, building form, materials, natural ventilation, fenestration, landscaping, Space for recycling & composting storage, and cycle parking

Water

- 25% water use reduction (SPD04)
- Feasibility study of rainwater harvesting and greywater recycling (SPD08),
- Use of grey water and rainwater (SU2)
- Measures that reduce water consumption (SU2)
- 60% in water sections of BREEAM
- Sustainable urban drainage (SU2, SPD04)

The application refers to a BREEAM Multi Residential pre-assessment indicating the building will achieve 'very good standard' will be achieved. This falls below the 'excellent' standard expected for the site.

Energy

The BREEAM pre-assessment indicates a score of 55% in the energy section, falling short of the 60% expected score. There is no energy strategy, thermal modelling, or feasibility study for low or zero carbon technologies to indicate that this score is likely to be achieved (particularly BREEAM ENE1 the score for reduction in carbon emissions). Whilst these studies are referred to as being forthcoming, none have been submitted indicating that this work has not been undertaken.

There are a series of standards expected for this development: 40% carbon reduction and 15% onsite renewables through SPD04; BREEAM 'excellent' including 60% energy credits though SPD08; energy efficiency and passive design features through SU2. The proposals consistently fall short of all of these. There is inadequate information submitted, no evidence that these issues have been addressed and incorporated into the design, and no reason given as to why the standards are not being met.

Water

The BREEAM pre-assessment indicates a score of 55% in the energy section, falling short of the 60% expected score. No feasibility study for rainwater harvesting or rainwater recycling has been submitted; there is no evidence that the development will meet the target in SPD04 for a 25% water reduction; and there is no evidence of sustainable urban drainage. On all counts information submitted fails to meet expected standards and gives no reason why these standards are not being met.

General

The application talks about locally sourced materials (beech and flint). Positive as this is, it is not adequate to meet the overarching standards for sustainable materials/ sustainable procurement that will need to be demonstrated. The BREEAM pre-assessment indicates the development is likely to achieve a very low 47% in the Materials section, indicating a low level of sustainable procurement across the development. No planting is currently proposed to address urban heat island effect. There is commitment to Constructors Scheme at entry level, this is one area of compliance with sustainability standards. No planting is currently proposed to address urban heat island effect.

Sustainable Transport

General car parking

The proposal to have no general parking is acceptable in policy terms but given recent concerns expressed at Planning Committee it would be helpful for the applicants to explain why they are not able to provide parking. To comply with TR7 they should also agree to fund the TRO amendment required to exclude residents from eligibility for permits. Consultation is now underway on the proposed Hanover CPZ (unrelated to this or the AMEX proposals) so although displaced parking may arise this would probably only be in the short term.

Disabled car parking

This is not mentioned in the TS.SPG4 does not have required standards for this use but standards for comparative uses suggest 1, 3 or 8 spaces are required. I suggest 3 would be reasonable. The design and access statement suggests on street provision but we would not encourage that approach and to even consider it we would need evidence that there are good design reasons why provision cannot be made on site, a specific proposal (which would have to be acceptable to the parking strategy team) and agreement to fund the required TRO. TR18 has other possibilities and they need to meet this policy.

Cycle parking

The numbers are fine- they are proposing 87spaces compared to a minimum SPG4 requirement of 29.However the nature of the proposed provision- the plans suggest bikes must be lifted- is unsatisfactory as these would not be convenient to use for older or less fit/ strong people. This needs to be altered.

Contributions

As you know we have a contributions method/ formula similar to those elsewhere. I think in this case the applicants will be able to show that there will be a reduction in trips compared to the recent previous use. They have done some TRICS based work along these lines but need to revisit it by (1) Providing the calculations and the criteria for selection of the sample of sites used (2) Considering and comparing 24 hour person trips rather than peak hour vehicles.

Sustainable modes

The TS does not comprehensively audit the quality of local provision for sustainable modes. If the case for making no contributions is not proved there are probably shortcomings which they could resolve. In fact there are bus service capacity problems along the service 25 / Lewes Rd. corridor but it is unreasonable to think this applicant should or can seriously help address them.

Travel plan

The guidance for this use is not exact but having looked over this (i.e. The TA guidance for similar C1/C2 uses) It is accepted that a travel plan would not be required. A travel pack giving information on local bus, taxi etc. services to be given out to new students would be very helpful. There is after all it seems nothing active to comply with TR1 in the application.

Start and end of term

They need a means of accommodating the vehicle movements at these times. For the Saunders Glassworks site after discussion and thought the use of a University car park as an assembly point from which vehicles will be called forward was adopted. The applicants here could do likewise or e.g. discuss with AMEX the possible temporary hiring of spaces on the day. In any case they need to develop some proposals.

Car clubs

It's not clear that these would be useful/relevant for this application. Are the applicants sure that car clubs even accept students as members?

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 routes |
| TR7 | Safe development |
| 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 |
| 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 |
| QD3 | Design – efficient and effective use of sites |
| QD4 | Design – strategic impact |
| QD5 | Design – street frontages |
| QD7 | Crime prevention through environmental design |
| QD17 | Protection and integration of nature conservation features |
| QD27 | Protection of amenity |
| QD28 | Planning obligations |
| HO1 | Housing sites and mixed use sites with an element of housing |
| HO5 | Provision of private amenity space in residential development |
| HO6 | Provision of outdoor recreation space in housing schemes |
| HO7 | Car free housing |
| HO13 | Accessible housing and lifetime homes |
| EM2 | Sites identified for high-tech and office uses |
| EM3 | Retaining the best sites for industry |
| HE3 | Development affecting the setting of a listed building |
| HE6 | Development within or affecting the setting of conservation areas |

Supplementary Planning Documents

| | |
|--------|---|
| SPD 08 | Sustainable Building Design |
| SPD 04 | Edward Street Quarter |
| SPD | Nature Conservation and Development (draft) |

Supplementary Planning Guidance Notes

| | |
|---------|---|
| SPG BH4 | Parking Standards |
| SPG BH9 | A guide for residential developers on the provision of recreational space (draft) |

Planning Advisory Notes

| | |
|-------|---------------------------------------|
| PAN03 | Accessible Housing and Lifetime Homes |
|-------|---------------------------------------|

7 CONSIDERATIONS

The key considerations in relation to the determination are principle of the use, design and conservation, transport, amenity and sustainability matters.

Principle of the Use

In considering the principle of the proposal, regard should be had to the key local plan policies of EM2 and EM3 as well as Supplementary Planning Document 04 Edward Street Quarter (SPD04).

The proposal site is part of the Edward Street Quarter and is allocated for B1 office and high-tech employment use under policy EM2 of the local plan and is within the area covered SPD04. However, the current permitted use of the site is use class B2 therefore policy EM3 is also applicable. Consequently, the proposed use must be considered in light of both policies and SPD04, and their relevance given the according weight.

The proposal seeks consent for student housing which does not accord with policy EM2 which seeks high-tech and office uses. The site has been identified in the local plan to facilitate the shortfall of land for good quality office and high-tech industry use and in this regard, proposals for student housing is contrary to policy EM2.

However, the proposal should also be considered under policy EM3, which allows other uses, preferably live work units or affordable housing, if the exception tests can be met and evidence can be provided demonstrating that the site is redundant and additionally, is not suitable for industrial or business uses. This is supported by SPD04 which seeks an employment led development whilst suggesting an element of housing within the Edward Street Quarter in one of the development options. Given the inclination for employment led development evident in policies EM2 and EM3 and supported by the development principles in SPD04, it is reasonable to expect that forthcoming proposals on this site should predominantly facilitate employment uses. Where employment uses are evidenced as redundant or inappropriate, live work units or affordable housing will be considered acceptable in accordance with policy EM3. Consideration will also be given to residential elements in line with the development options in SPD04.

It is also important to distinguish in policy terms between general needs housing and student housing. Policies EM18 and EM19 already take account of the needs of both the Universities of Sussex and Brighton in accommodating their students. Student housing does not contribute towards meeting the city's housing targets set in the South East Plan (the Regional Spatial Strategy). The city does not currently have a 5 year supply of 'deliverable' housing sites as advocated in PPS3 and therefore the use of urban sites for non-conforming uses increases the pressure on vulnerable small open space sites being proposed for housing.

The Core Strategy, currently at the Proposed Submission stage, aims to meet the city's housing and employment requirements from within the existing built up area. Identified brownfield sites are therefore key in terms of housing and employment development. The cumulative loss of such sites will increase pressure on the city's urban fringe for housing which is identified only as a longer term 'contingency' option within the Core Strategy. The council welcomes appropriate applications for student housing and is working closely with the Universities to identify suitable locations and to progress appropriate schemes such as the Varley Halls scheme in Coldean Lane (ref: BH2010/00235).

The applicants Planning Design and Access Statement (PD&AS) in paragraph 9.03 claims that the proposal will help directly address student accommodation needs in the city particularly that of both Brighton and Sussex Universities. However, if the proposal is to meet the accommodation needs of Brighton and Sussex University students, the development should demonstrate that it is compliant with the universities' respective accommodation standards and management procedures therefore evidence of formal links between the applicant and either university would be considered appropriate. The development would need to be managed by the universities or on their recommended accommodation list to ensure it is occupied by students. This is not evident in the submission documents and raises concerns that if the proposal is not compliant with university standards, the development could become a general hostel or a house in multiple occupation (HMO).

It is also asserted in the PD&AS paragraph 9.04 that the proposal will free up existing family housing stock currently occupied by students and may assist in alleviating demand for housing at more affordable levels. However, as stated above, brownfield sites such as the proposal site are key to addressing the city's supply of suitable land available for housing and removes the pressure on Greenfield sites on the city's fringe. Furthermore, this assertion has not been supported by quantitative data or background information.

The development acknowledges the loss of 407 square metres of B2 floor space to student housing. However, the applicants claim that the recently consented American Express office development (ref: BH2009/01477) compensates for the loss of 407sqm of employment floor space. This does not take account of the intended demolition of Amex House within 6 years of completion of the new office. Nor does it consider that the new Amex office building is a replacement for the existing Amex House in addition to it being a specific purpose built facility for a named occupier. There is still a requirement to provide a supply of employment land for the future growth of the city.

The 2009 Employment Land Study Update recommends that the supply data for the 2006 Employment Land Study remain unchanged. The City Employment and Skills Plan sets strategic priorities for supporting local business, increasing employment rates and improving skills and says that the city will need to find jobs for 8,400 people by 2017 to maintain current employment rates. In addition the Creative Industries Study shows that the creative industries sector provides 10.7% of employment in the economy of Brighton & Hove. There are 1500 businesses in this sector and it is the fastest growing sector in the city. The Core Strategy Proposed Submission of February 2010 states, 'The Creative Industries Workspace Study 2008 identifies pent-up demand for employment floorspace within this growth sector. In response, opportunities for the creation of flexible, managed and affordable business space, workshops or storage space will be sought as part of redevelopment of major employment sites...'

Nevertheless, despite this argument being unsubstantiated by the applicant, the loss of the existing employment use on the site has not been addressed. No evidence has been supplied illustrating that the site has been marketed to demonstrate its redundancy. Policy EM3 requires an assessment of the site to determine whether the site is suitable for modern employment purposes and is assessed against criteria a – h to demonstrate its redundancy. The lack of reference to policy EM3 provides no basis for assessing the proposal's compliance with this policy as the applicant has not tested the site's suitability for B1, B2 or B8 uses or the suitability of other uses such as live work units or affordable housing and is therefore considered contrary to policies EM2 and EM3.

Design and Conservation

The proposed building appears as a 5 storey building at its eastern end and the ridge height of the top storey is 0.2m below the height of the adjoining property, No 70 Carlton Hill, a two storey building of residential appearance with a large pitched roof. This south side of Carlton Hill features two storey terraced houses which step down the hill. Whilst No 70 is a prominent larger detached building (formerly a vicarage) it follows the sequence of roofs stepping down the hill and it is set back from the back edge of pavement with a projecting gable fronted bay. The proposed building would be sited prominently on the back edge of pavement and forward of dwellings to the East and forward of the new AMEX office. It would also be two storeys higher than the eaves level of No 70. In views from St John's Place looking west down Carlton Hill, the 5 storeys of building would appear overly prominent and due to its more rectangular shape compared to the receding pitch roof of No 70 Carlton Hill, it would appear as an incongruous element that would be out of context with the street scene thus contrary to policy QD2. The Conservation and Design Officer noted that this elevation would have an overbearing impact on the street scene. Due to its height and prominence, it would appear unduly prominent in the street scene in a manner that the present smaller garage is not, thus contrary to policy QD2 of the Local Plan.

The height of the proposed development follows the ridge line of No 70 along 15 metres of the frontage before it reduces in height by a storey. The building then steps down in two more stages at a 6 metre width and then 9 metres and another 3 metres in width. This stepping down is therefore of an irregular nature and does not conform to the characteristic pattern of residential development in Carlton Hill and would appear out of context. The approved AMEX office would have a three storey frontage onto Carlton Hill. Whilst the AMEX office would be a large building, great care was taken in its design to ensure that the Carlton Hill frontage was not overly dominant in the street scene. An acceptable development of 33 Mighell Street would screen the larger bulk of the upper floors of the AMEX building but would also be integrated better into the street scene in terms of the roof heights and profiles. Instead, the proposal when viewed from the north would appear as an overdevelopment that would not take account of the height and scale of buildings as they appear in the Carlton Hill street scene contrary to policy

QD1 and QD2. The prominence of the proposed building in the street scene would only accentuate how out of keeping it would be with the existing pattern of development.

Viewed from the West, the end of the proposed building fronting Mighell Street would appear as a 7 storey building although the upper 3 floors are progressively set back such that they would not be visible when standing directly in front of the building. However, the upper floors would be visible when viewed from lower down Carlton Hill. The West elevation would also be seen in the context of the three storey Grade II Listed Farmhouse. The Farmhouse is set back 16 metres from the back edge of pavement such that its front elevation would be adjacent to the 6 storey element of the proposal. However most of the Farmhouse would be overwhelmed by the 7 storey element of the proposal. The full impact of the proposed building would be seen in the context of the Farmhouse when viewed from either the front of the Farmhouse or from lower down Mighell Street. Due to its size and solid flint construction the proposal would appear from the south as a large, bulky mass that would have an overbearing effect on the adjoining Farmhouse and would be damaging to its setting contrary to policy HE6.

The design of the façade of the building has attempted to pick up some of the characteristics of the area such as the re-instatement of the dilapidated flint wall with windows inserted fronting Carlton Hill. The upper floors would also be in a flint construction with larger windows except for a central section which is predominantly glazed at 4th and 5th floors. The upper floors featuring the brightly painted timber ‘beach hut’ design appears as an incongruous element which adds to the lack of cohesion evident in the appearance of the elevations of the proposal. The building features a number of different materials and window types, sizes and positioning in an attempt to provide variety but the resulting appearance is rather disjointed and random. The proposal is not therefore considered to display a high standard of design and detailing that would conserve and enhance the character of the conservation area thus contrary to policy HE3.

Sustainability

Policy SU2 seeks high standards of efficiency in the use of energy, water and materials. SPD04 and SPD08 provide more specific detail regarding the provision of renewable energy, reduction in carbon emissions, energy performance, BREEAM and urban heat island effects.

The applicant has provided a BREEAM multi residential pre-assessment and has also completed a sustainability checklist. The BREEAM pre-assessment predicts a BREEAM rating of ‘very good’, which does not achieve the anticipated rating of ‘excellent’ expected in both SPD04 and SPD08. SPD08 goes further to require that within the energy performance section of the BREEAM assessment, all developments are expected to achieve a minimum of 60%. The pre-assessment indicates a score of only 55% in the energy section and importantly the pre-assessment provides no commentary on the

deficiencies in the 55% score. The BREEAM pre-assessment and the Planning Design and Access Statement (PD&AS) do not provide adequate justification, such as an energy strategy, for the BREEAM standard of 'excellent' not being met, other than to suggest that further feasibility work could be carried out. In addition, the lack of supporting information such as thermal modelling or a feasibility study for low or zero carbon technologies indicates that the score of 55% in the energy section is unlikely to be achieved.

The SPD04 requirements of a 40% reduction in carbon emissions and the incorporation of renewable energy to provide 15% on-site renewable generation has not been addressed. Similarly, the expectation that the design will incorporate passive design features required by policy SU2 have not been referred to and there is no design justification as to why they cannot be met, other than that of cost and conservation area constraints therefore the proposal is contrary to policy SU2.

Whilst the proposal makes reference to sourcing local materials and products, the responsible sourcing of materials in the BREEAM pre-assessment achieves only 47%, and this element alone is not considered adequate enough to outweigh the shortcomings of the sustainability credentials of the development.

The proposal does not explore the feasibility of rainwater harvesting or grey water recycling. The standard expected by SPD04 seeks a 25% reduction in water consumption. In addition, whilst it is acknowledged that there are considerable physical constraints on the site as stated by the applicant in the Sustainability Checklist, the feasibility of providing some greening or planting on the flat roof areas or the sides of the proposal has not been explored in addressing urban heat island effect as expected through SPD08. Similarly no reason has been given in the submitted documentation as to why these standards would not be met.

The PD&AS asserts that the proposal will be a sustainable development which will minimise its ecological footprint. However, there is a substantial lack of evidential analyses to make an adequate assessment of the sustainability standards embodied in the proposal. Furthermore, the evidence that has been submitted indicates that the proposal falls short of the required standards in key policy SU2, as well as SPD04 and SPD08. The shortfall in standards and lack of evidence to support where requirements have not been provided demonstrates that the proposal is not compliant with Policy SU2 or the standards anticipated to be achieved through SPD04 and SPD08.

Sustainable Transport

Due to site constraints and the nature of the occupants, the proposal offers no parking. SPD04 encourages sustainable transport modes and advocates minimal parking provision whilst policy TR1 seeks to promote sustainable modes of transport.

The proposal however, does not consider the potential issue of car parking on the street in the locality by future occupants and the possibility of parking congestion likely to arise. This issue should be addressed in accordance with policy TR2. The likelihood of future occupants parking in street parking bays is not fully investigated in the PD&AS and is only supported by anecdotal evidence that there is no suggestion that there will be significant demand for parking arising from the development. The proposal does not adequately demonstrate that the development will remain genuinely car free in the future and that there is good access to public transport therefore is contrary to policy HO7.

The proposal assumes that its proximity to the centre of Brighton, its close proximity to bus routes and the provision of 87 cycle parking spaces is sufficient to determine that the development is acceptable in terms of its reliance on sustainable transport modes. However, policy TR2 requires that all development proposals consider that where no parking has been provided, issues relating to on-street parking problems should be addressed and a commitment should be made to monitoring to ensure car parking problems are not caused elsewhere. The proposal does not consider the potential of the development to cause parking problems and assumes that all future occupants will not possess cars and, whilst the use of car clubs has been suggested, no feasibility has been carried out as to whether car club schemes will accept students as members. The applicant should be prepared to fund measures to prevent parking congestion likely to take the form and amendment to the Traffic Regulation Order to exclude future occupants of the development from eligibility for parking permits. In addition the proposal does not consider operational parking requirements for deliveries or servicing and is therefore contrary to policies TR1 and TR2.

In relation to parking congestion, concern was raised by the Principal Transport Planning Officer regarding arrivals and departures at the beginning and end of term. Consideration should be given to creating space off the main carriageway and a management plan for students and their families to load and unload belongings at the start and end of each term to avoid unsafe parking and undue noise and disturbance. There is no evidence with the supporting documentation that this issue has been addressed therefore the proposal is contrary to policy TR7.

The proposal also does not adequately demonstrate that the development will remain genuinely car free in the future and that there is good access to public transport therefore is contrary to policy HO7.

SPG4 does not provide disabled parking standards for student housing. The applicant proposes that disabled parking can be provided on the street, although specific details of how this would be achieved are not provided. However, this approach is not encouraged and good design justifications have not been supplied to demonstrate compliance with policy TR18 in relation to the proposed provision of on-street disabled parking rather than

accommodating a proportion of disabled parking spaces on the site.

Cycle parking makes adequate provision for the number of occupants proposed. In accordance with policy TR14 the cycle store is located near the entrance and is covered. However, there is some concern that the method of hanging the cycles for storage will be unsuitable and inconvenient for less fit or older people. In addition, the PD&AS states that the proposal makes provision for 87 cycle parking spaces; one for each unit. However, the plans show 36 cycle stands and it is not clear whether the cycle store on the plans shows an indicative layout. Given the level of cycle parking and the assumption in the Transport Statement (TS) that 50% of the occupants will walk or cycle during peak times, no consideration has been given to facilitating the movement of cycles or pedestrians to or from the site, particularly to the nearby sustainable transport corridors and is therefore considered contrary to policies TR5 and TR8.

The TS submitted with the application makes assumptions about vehicular movements to and from the site and assumes there will be a reduction in trips compared to the existing use. The TS also assumes that a demand of 33 trips per hour arising from the proposal can be shared across the local bus network without causing a significant impact. However, the TS does not comprehensively audit the quality of the local provision for sustainable modes. Whilst the applicant acknowledges that the proposal is in close proximity to a sustainable transport corridor, the lack of information to support the demand on local transport created by the development indicates that contributions to support sustainable transport provision have not been addressed, therefore the proposal does not adequately demonstrate compliance with policies TR1 and TR5.

Overall, the level of information submitted with the application is considered insufficient to adequately consider how the demands on local sustainable transport modes, including that of walking and cycling will be impacted upon by the development. It is clear that the assumptions made in the PD&AS and TS lack robustness to adequately demonstrate compliance with relevant policies, therefore it is considered that the proposal does not accord with policies TR2, TR5 and TR18 of the local plan.

Amenity

Privacy

Policy QD27 seeks to protect the amenity of future, existing and adjacent users of the proposed development. The layout of the proposal with rooms having views facing outwards results in some of the units, particularly to the rear facing south, looking over the private amenity space of the adjacent residential property at 34 and 35 Mighell Street, which have limited private amenity space located at the rear. Units on the south façade, especially on the upper floors will look directly onto the gardens of 34 and 35 Mighell Street and is therefore contrary to policy QD27.

Noise

The majority of objection letters to the proposal raise concern over the level of noise that may be created by the occupants of the development. Their concerns are based on a small concentration of houses within the area which are let to students with whom they have experienced problems relating to late night noise, disturbance, anti-social behaviour and associated vandalism. Whilst the applicant has not supplied evidence of a formal link with either Sussex or Brighton University and their standard management processes, problems regarding the standards of behaviour can be addressed through a management plan, which would set down specified standards of behaviour of the occupants, currently not applicable to family houses let to multiple students. Sussex Police have stated that they would have preferred to see the Secured by Design information in the PD&AS, providing more information demonstrating how the proposal will incorporate crime prevention measures and not undermine quality of life or community cohesion. It is considered that the proposal will create a higher density than is typical of the surrounding area therefore addressing issues of community cohesion through design is important and has links with policy QD3.

Policy SU10 requires proposals to consider the impact of operational noise emitted from the development on neighbouring properties. The Tall Buildings Statement submitted with the proposal asserts that the removal of the current B2 use will reduce noise levels emitted from the site. The applicant has given minimal consideration to how noise emitted from the proposal may impact upon neighbouring properties, particularly those in residential use. However, it is not anticipated that the development will produce significant amounts of noise from plant or machinery. Furthermore, it is recommended by the Environmental Health Officer that any potential noise and vibration from plant and machinery can be addressed prior to occupation by way of condition. Similarly, noise associated with deliveries and servicing can be addressed by condition controlling hours of delivery vehicles. In this regard the proposal is not considered to generate significant amounts of noise.

Daylight/sunlight

The applicant has submitted a Daylight and Sunlight Analysis assessing the impact of the proposal on 12 Tilbury Place and 34 and 35 Mighell Street. It should be noted that the applicant has referred to the ground floor flat of 34 Mighell Street as flat 1. The ground floor flat is in fact flat 2 and the top floor flat is called flat 1 therefore for clarity, reference throughout this section will be made to ground floor and top floor flats. The applicant has used the Building Research Establishment (BRE) Guide to Daylight and Sunlight to assess loss of light. The BRE guidelines are intended to be used for adjoining residential properties and any existing non-domestic uses where the occupants would have a reasonable expectation of daylight. This would normally include schools, hospitals, hotels, small workshops and offices.

An assessment has been undertaken of the proposals impact on 12 Tilbury Place, and in terms of loss of light, the proposal is considered to have a

minimal impact on this property.

The daylight and sunlight assessment asserts that the windows which serve habitable rooms in the ground floor flat of 34 Mighell Street face south therefore are unaffected by the development. However, there are some inconsistencies between the written assessment and the window location map with one window on the north flank and four windows on the south flank of the ground floor flat of 34 Mighell Street not shown implying that they have not been assessed. The rear of the farmhouse is in line with the highest part of the proposed development and whilst the windows which have not been shown as identified above face south, based on the information which has been provided, it is considered that the proposal will result in the loss of light to the ground floor flat.

The daylight analysis acknowledges that light into the kitchen on the top flat of 34 Mighell Street will be severely impacted as a result of the proposal, therefore the applicant has proposed the installation of a roof light subject to the granting of an application for listed building consent. The analysis calculates that light to the kitchen in the top flat would be improved as a result of the proposed development because it takes into account the possibility of a skylight in the roof. This is considered an inappropriate assumption given that the skylight is not part of the proposal and the level of adequate daylight into the kitchen is dependent on a subsequent listed building application and planning application to achieve this.

Two windows on the ground and first floor of the north flank of 35 Mighell Street have been included in the daylight analysis which shows that loss of light in terms of Vertical Sky Component (VSC) will be more than 20%. In accordance with the BRE guidelines any loss of more than 20% in VSC will be noticeable to the occupants. It is acknowledged that 35 Mighell Street is not occupied therefore the loss of daylight is unlikely to be noticeable by new occupants. However, the windows on the south flank facing the Amex data building have not been taken into account and therefore the cumulative loss of light in conjunction with the Amex data building have not been fully assessed.

In accordance with the BRE guide, non-domestic uses such as offices have a reasonable expectation of daylight. No.70 Carlton Hill is in office use and no assessment of the loss of daylight to this building has been undertaken, therefore the impact of the proposal on 70 Carlton Hill cannot be assessed. However, given the proximity of the front elevation of No.70 to the eastern flank of the proposal and the fact that it is set approximately 6.5 metres back from its north east corner, it is considered that there will be a noticeable loss of daylight to 70 Carlton Hill and as such is contrary to policy QD27.

Private amenity space and outdoor recreation space

Whilst there are limitations on the size of the site in terms of private amenity space and outdoor recreation space as required by policies HO5, HO6 and

SPG09, the PD&AS does not adequately assess how the demand generated for the recreation need of 87 students could be met either on site or through off-site contributions.

Policy HO5 requires private amenity space for occupants of residential buildings and whilst many of the living spaces within the proposal are communal, there is no provision of private outdoor amenity space for the occupants either within the site or incorporated into the design of the building, for example by balconies or terraces.

The internal communal spaces and room dimensions are unlikely to lend themselves to the occupants spending large amounts of time within the proposed building. Similarly, it is considered that the nature of the proposal and the type of occupants will demand outdoor recreation space. Policy HO6 requires the provision of outdoor recreation space of 2.4 hectares per 1000 population or part thereof, either as on-site provision or as a commuted payment and should be considered in conjunction with draft SPG09. HO6 is comprised of several parts and advocates that outdoor recreation space is split appropriately to meet the demands of various users indicating that SPG09 should be referenced to determine the specific type of provision and to calculate the contributions for off-site provision.

The Sustainability Checklist states that the proposal site is within 500m of designated public green spaces which are listed as Victoria Gardens, Queens Park and the Royal Pavilion. This statement of fact is provided as justification for the assertion of good provision of green open space near to the development. However, no audit has been undertaken to assess the quality and capacity of these green spaces and their suitability or accessibility for the occupants of the proposed development. Indeed, two out of the three areas mentioned above are designated as historic parks and gardens, unlikely to be suitable for the needs of students. Queens Park is on a steep hill and the Royal Pavilion gardens is a series of small garden spaces with some grassed areas suitable only for sitting out. Since there has been no attempt to analyse the capacity and appropriateness of nearby existing open green space, there is no transparent basis for assessing on or off-site provision of outdoor recreation space under policy HO6 and therefore the proposal is considered contrary to policy HO6. Similarly the private amenity needs of the occupants have not been considered therefore the proposal does not meet the requirements of policy HO5.

Biodiversity

The application is accompanied by a bio diversity checklist which concludes that there are no biodiversity indicators on the site and no evidence of any wildlife on the site. It is not considered that the proposal would have an effect on nature conservation features however Policy QD17 also requires new developments to provide new features. They should be integrated into the design and where no features are incorporated, the scheme shall be refused. The PD&AS makes no mention of this policy in the Ecology section nor of the

draft SPD on Nature Conservation and Development which provides guidance on integrating new nature conservation features into the design. The applicants have not made reference to this draft SPD nor have they suggested whether any features could be provided on or off site. Therefore, the proposal would be contrary to policy QD17.

Land contamination

PPS23 states that Local Planning Authorities should pay particular attention to development proposals for sites where there is a reason to suspect contamination, such as the existence of former industrial uses, or other indications of potential contamination, and to those for particularly sensitive uses such as residential. Policy SU11 seeks to reduce the threat of pollution to other uses to ensure effective use of brownfield sites. As such, the Local Planning Authority requires at least a desk study of the readily-available records assessing previous uses and their potential for contamination.

The application documentation on land contamination shows that there is likely to be some contamination related to previous and historic uses. A Phase 1 Environmental Risk Assessment has been prepared by the applicants, although the Environmental Health Officer has recommended a condition to require further investigation with a view to providing remediation. The Environment Agency also does not object to the principle of development on this site, provided that conditions are applied relating to land contamination risk assessments, piling methods and surface water drainage.

Air Quality

Policy SU9 requires development proposals to minimise air pollution and not to exacerbate areas where air quality is poor. The site is not within an Air Quality Management Area and in terms of air quality it is considered that the site is suitable for residential accommodation. The applicant has not addressed air quality in the PD&AS. However, the proposals make no mention of the heat and power source for the development and it was noted by the Senior Technical Advisor for Air Quality that if Combined Heat and Power (CHP) or Biomass is proposed, further information on the boiler size and flue specifications would be required. On air quality ground there is no objection to the proposal subject to further information regarding the details of CHP or biomass.

8 CONCLUSIONS

The application has been assessed and the proposal is considered to be contrary to development plan policy for a number of reasons, and therefore refusal is recommended.

The applicant has not provided sufficient evidence to show that the existing employment use is redundant or adequately explored preferred acceptable uses following rigorous testing that the existing use is redundant. The proposal does not provide any employment uses, live work units or affordable housing in accordance with policies in the Local Plan.

The visual prominence of the proposal would appear incongruous in the locality and therefore harmful to the character of the Carlton Hill Conservation Area and setting of adjacent listed buildings in Tilbury Place and particularly the Grade II listed Farmhouse in Mighell Street.

The daylight and sunlight analysis has demonstrated a number of inconsistencies and assumptions. However, the information provided does provide some basis to assess the impact of the proposal and it is considered that there will be an unacceptable loss of light to adjacent properties particularly the top floor flat of 34 Mighell Street, adversely impacting the living conditions of the occupants.

The proposal has not had due regard to provision of both private outdoor amenity space and the provision of open space provision in relation to outdoor recreation areas. The applicant has not sufficiently audited the provision of local outdoor recreation spaces or adequately justified the lack of provision on site. In addition, the scheme will also overlook the private outdoor amenity space of the adjacent Farmhouse.

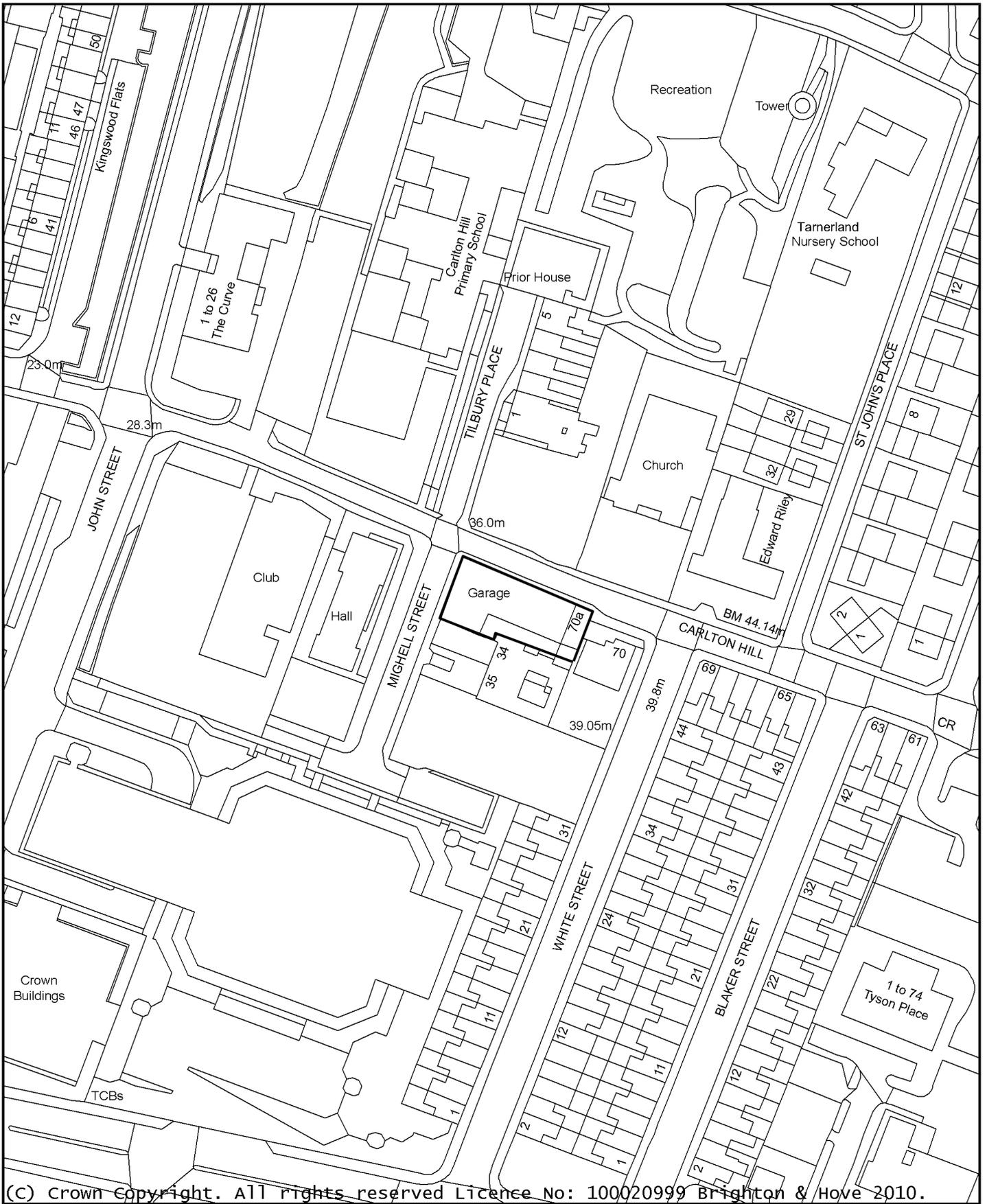
The applicant has provided insufficient evidence that the proposal will not be genuinely car free in the long term. In addition the proposal does not provide disabled car parking or a satisfactory method of cycle parking. The applicant has not undertaken a comprehensive audit of local sustainable transport provision or explored the possibility of contributions to support sustainable modes of travel for future occupants.

The proposal does not achieve the sustainability standards expected in terms of carbon emissions, on-site renewable energy provision and low or zero carbon technologies. Similarly, the proposal will not achieve BREEAM 'excellent' as required by local plan policies and relevant supplementary planning documents. In addition, the proposal pays insufficient regard to providing planting on the site contributing to the ecological enhancement and improvement of local biodiversity. Sufficient greening and planting on the site and/or building have links with the sustainability of the proposal with regard to reducing heat island effect.

9 EQUALITIES IMPLICATIONS

The proposal does not provide any disabled parking spaces. The Access Officer has remarked that as the site is on a hill access is more likely to be suitable for electric scooters rather than wheelchairs and has expressed concern that there is no provision for scooter charging and storage within the development. In addition the space in front of the lifts on each of the floors provides inadequate turning space for wheelchair users. The bathrooms should be configured to allow wheelchair users to affect side transfer to the WC and provide level entry showers. All communal spaces, such as refuse storage and secondary entrances, should allow for wheelchair access.

BH2009/03077 Former Thwaites Garage, 33 Mighell Street



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|--------------------------|---|----------------------------|---------------------|
| <u>No:</u> | BH2009/03078 | <u>Ward:</u> | QUEEN'S PARK |
| <u>App Type</u> | Conservation Area Consent | | |
| <u>Address:</u> | Former Thwaites Garage, 33 Mighell Street, Brighton | | |
| <u>Proposal:</u> | Demolition of existing garage and flint wall. | | |
| <u>Officer:</u> | M Anson, tel: 292361 | <u>Valid Date:</u> | 18/01/2010 |
| <u>Con Area:</u> | Carlton Hill | <u>Expiry Date:</u> | 15 March 2010 |
| <u>Agent:</u> | Vail Williams LLP, 2 Station View, Station Approach, Guildford, Surrey, GU1 4JY | | |
| <u>Applicant:</u> | SPV Mighell Street Ltd, C/O Vail Williams LLP | | |

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in this report and resolves to **REFUSE** Conservation Area Consent for the following reasons:

1. The proposal would result in the demolition of the high flint wall that makes a positive contribution to the special interest and character of the conservation area. As such the proposal would be detrimental to the character and appearance of the Carlton Hill Conservation Area, contrary to policy HE8 of the Brighton & Hove Local Plan.
2. The applicant has failed to demonstrate that the proposed redevelopment would preserve the area's character and the absence of an acceptable replacement scheme would result in the creation of an unsightly cleared site which would be detrimental to the character and appearance of the Carlton Hill Conservation Area, contrary to Policy HE8 of the Brighton & Hove Local Plan.

2 THE SITE

The application site is located on the corner of Mighell Street and Carlton Hill. Carlton Hill is narrow and considerably steep and runs parallel with Edward Street. A high flint wall, in poor condition, bounds the site along the Carlton Hill elevation, although the wall extends below pavement level as ground levels of the site are considerably lower than the street.

The application site is located within the Carlton Hill Conservation Area which is characterised by a number of listed buildings of varying styles and the unifying presence of flint walls. The site sits in a prominent location within the locality and affords views across the valley towards Brighton Station. Adjacent and to the south is a Grade II listed flint faced building known as the Farmhouse which is subdivided into 2 dwellings; numbers 34 and 35 Mighell Street. No. 34 Mighell Street, closest to the proposal, is further subdivided into 2 flats.

Mighell Street runs along a north south axis, truncated by the existing Amex

House where it is intended to reinstate the original street pattern and establish Mighell Street as a pedestrianised route linking Carlton Hill and Edward Street following the demolition of Amex House following the recent approval of a new AMEX office. On the north side of Carlton Hill opposite the site is Carlton Hill Primary School and Tilbury Place containing a Grade II listed terrace. The Grade II listed Greek Orthodox church is also located immediately to the north east of the site which is also in a prominent position. Immediately to the east of the site, 70 Carlton Hill, a two storey brick Victorian residential cottage, currently used as ancillary office space, abuts the site and whilst not a listed building, is considered to positively contribute to the conservation area and wider street scene.

The building on the site consists of a garage which is constructed from painted brick walls with a metal roller shutter on the west elevation and a low pitched roof supported on steel frame girders. Inside to the rear of the site is a brick office structure which is set against the eastern retaining wall. The steel beams rest on a section of low brick wall which abuts the previously demolished wall on the Carlton Hill elevation.

3 RELEVANT HISTORY

The site has been the subject of 5 full planning applications for redevelopment since 2000:

BH2009/03077: Construction of a flint facing building between 4 and 7 storeys to accommodate 87 student units and reinstatement of flint wall. (undetermined – a report on this application is also on this agenda).

BH2007/01443: Demolition of garage and erection of part 5, and part 6 storey building comprising 13 flats and new office space (withdrawn).

BH2006/03567: Demolition of garage and erection of flats and offices (withdrawn).

BH2005/01606: Change of use of garage to car park (withdrawn).

BH2003/00109: Demolition of existing building. Construction of 9 flats and 200sqm of B1 office space (withdrawn).

BH2000/00603: Demolition of existing garage and construction of 3 – 4 storey block of 15 flats with vehicular access to rear via front garden of 34 Mighell Street (refused). Reasons for refusal related to loss of employment floor space, overdevelopment of the site, out of character with adjacent listed building and parking spaces on 34 Mighell Street being detrimental to amenity of occupiers.

Amex Site

BH2009/01477: In November 2009 permission was granted for a 5 – 9 storey office block of approximately 36,000 square metres and a smaller 2 storey data building for American Express adjacent to the proposal site. The office building is bounded by Carlton Hill to the north, John Street to the west and Mighell Street to the east. The data building will be located on what is currently a car park used by American Express employees accessed from Mighell Street. The data building will extend from Mighell Street through to White Street in the east where it will complete the terrace of houses on White

Street.

4 THE APPLICATION

The proposal is for demolition of the flint wall on the south side of Carlton Hill which abuts the Former Thwaites Garage on Mighell Street. The flint wall extends below pavement level and conceals the main garage structure although the corrugated iron pitched roof of the former garage protrudes above the wall and is visible in views down Carlton Hill.

The application also proposes the demolition of the garage structure including the walls, roof and supporting structure and all other internal structures.

5 CONSULTATIONS

External:

Neighbours: Two Letters of objection, regarding the impact the proposal will have on the conservation area, been received from the following addresses: **20 Blaker Street** - object to the destruction of the flint wall which is part of the conservation area.

4 Parks View Upper Park Place - concerned that character walls will be hidden or nominalised

CAG: The group consider this development oversized and of inappropriate design, and fails to conform to the guidance in the Edward Street SPD. They advise that it would harm the setting of the adjoining listed farmhouse, the listed church in Carlton Hill and the listed terrace in Tilbury Place, and therefore the character and appearance of the Carlton Hill conservation area, and for these reasons object to the development. They recommend its refusal.

Internal:

Conservation & Design:

The flint wall is a very important feature of the Carlton Hill conservation area, as set out in the character appraisal. It should not be demolished unless there are approved plans in place to rebuild it and incorporate it into any new development. The main garage building is an unattractive structure of no merit but the garage offices at the eastern end of the site are the remains of the historic mews/stabling buildings that once occupied the site and are of some historic interest. Again they should not be demolished unless there are approved plans in place for a redevelopment scheme that would preserve or enhance the conservation area.

6 PLANNING POLICIES

Brighton & Hove Local Plan

HE8 Demolition in conservation areas

Planning Policy Guidance (PPG)

PPG15 Planning and the Historic Environment

7 CONSIDERATIONS

The main consideration is whether the proposal would maintain or enhance the visual amenity of the Conservation Area.

Policy HE8 of the Local Plan states that where buildings make a positive contribution to the character of the area, demolition will only be permitted where supporting evidence is submitted with the application which demonstrates that the building is beyond economic repair, viable alternative uses cannot be found, and that the redevelopment both preserves the area's character and would produce substantial benefits that would outweigh the building's loss.

The proposal would result in the loss of the flint wall on the Carlton Hill frontage, albeit it is proposed that it be reinstated as part of the student housing proposal (ref: BH2009/03077) subject to full planning permission. However, the Carlton Hill Conservation Area Character Statement identifies flint boundary walls as being part of the special character and interest of the Carlton Hill Conservation Area. The Character Statement goes on to mention that as the road narrows along Carlton Hill with the presence of high flint walls and mature trees in the background of Tilbury Place, there is a brief sense of intimacy. The loss of the high flint wall abutting the site would detract from the special interest of this part of the conservation area and remove the wall as a unifying feature to the detriment of the character of the conservation area.

Whilst it is acknowledged that the current building on the former garage site is of poor architectural quality and does not contribute to the character of the Carlton Hill Conservation Area, its removal along with the demolition of the flint wall would result in a significant change to the appearance of Carlton Hill, particularly the sense of intimacy as described in the Character Statement. Views along Carlton Hill would be significantly altered by the fact that the site would in effect be a large hole in the ground and given that floor levels are considerably below pavement level, views down Carlton Hill would become open and unrestrained, in direct opposition to the sense of intimacy identified as special to this part of the conservation area. In addition, the site will need to be enclosed by an unattractive structure such as hoarding whilst proposal for the redevelopment of the site comes forward. Any scheme resulting in the removal of the flint wall, should reinstate it as an integral architectural feature as part of any subsequent proposal.

The preservation and enhancement of the conservation area of Carlton Hill would also depend upon the quality of the development which is proposed to replace the demolished wall and buildings. Policy HE8 requires detailed plans of the site's redevelopment. Whilst plans have been submitted for a student housing scheme (ref: BH2009/03077) which proposes the reinstatement of the flint wall along Carlton Hill, this application has been recommended for refusal.

It is considered that the proposed redevelopment would not preserve the

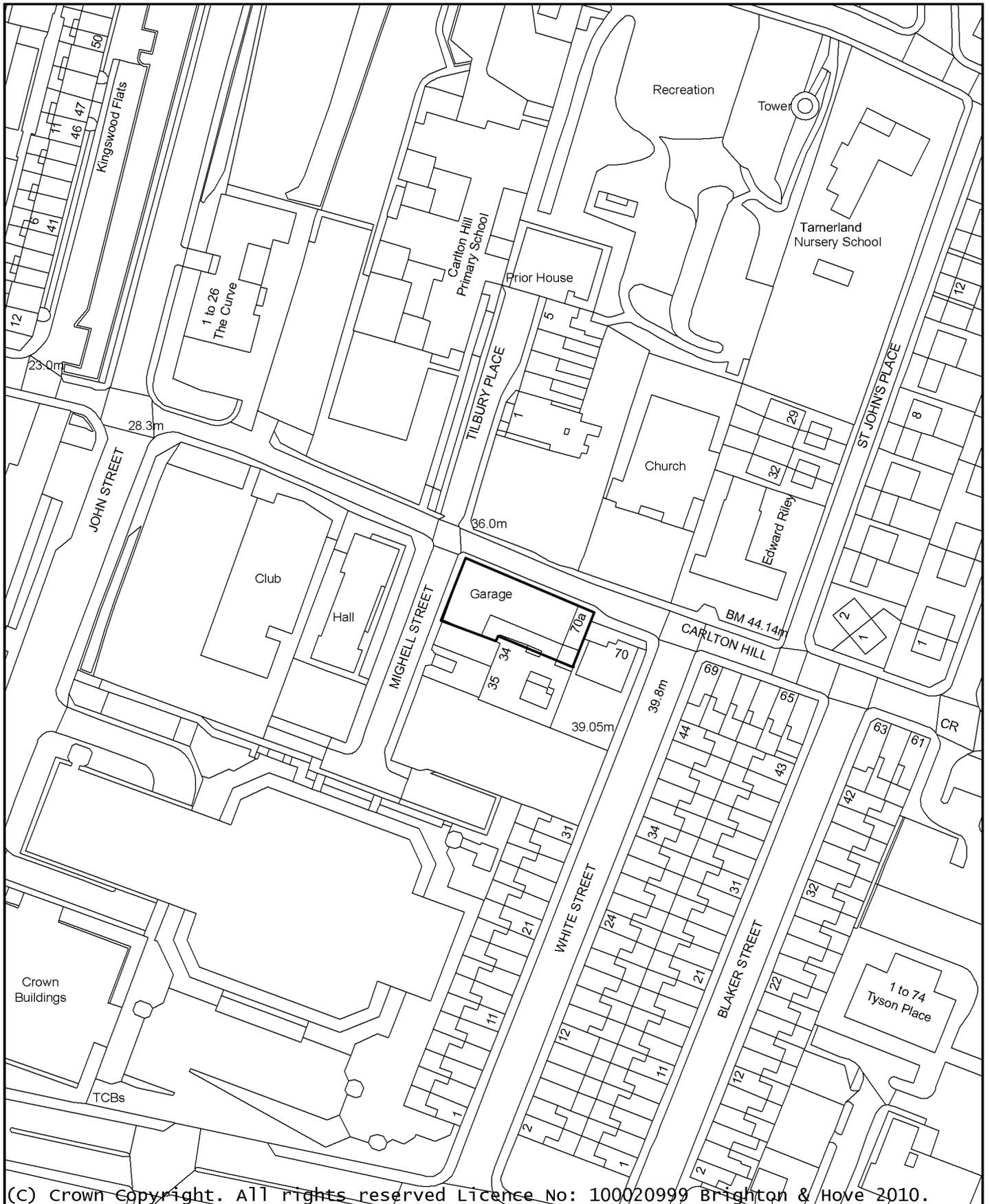
area's character and would not outweigh the loss of the existing garage structure and flint wall and is therefore contrary to policy HE8.

Given the lack of a suitable alternative development for the site, the loss of the flint wall and the demolition of the garage structure is considered to have an unacceptable impact on the Carlton Hill Conservation Area thus is detrimental to its character and is contrary to policy HE8.

8 EQUALITIES IMPLICATIONS

None identified.

BH2009/03078 Former Thwaites Garage, 33 Mighell Street



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| <u>No:</u> | BH2009/03038 | <u>Ward:</u> | QUEEN'S PARK |
| <u>App Type</u> | Full Planning | | |
| <u>Address:</u> | Saunders Glass, Sussex Place, Brighton | | |
| <u>Proposal:</u> | Demolition of existing former glassworks and erection of a 7 storey student halls of residence providing 182 units and ancillary cycle parking. | | |
| <u>Officer:</u> | Anthony Foster, tel: 294495 | <u>Valid Date:</u> | 05/01/2010 |
| <u>Con Area:</u> | Adj Valley Gardens | <u>Expiry Date:</u> | 06 April 2010 |
| <u>Agent:</u> | Lewis and Co Planning, Paxton Business Centre, Portland Road, Hove, BN3 5SG | | |
| <u>Applicant:</u> | Hope Homes, Mr Gavin Howe, C/O Lewis and Co Planning | | |

1 RECOMMENDATION

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

Reasons:

1. Part of the application site is an allocated housing site as designated within the Brighton & Hove Local Plan. The proposed development would not provide any market or affordable housing and would therefore prejudice the delivery of future housing within the City, contrary to policy HO1 of the Brighton & Hove Local Plan and policy HE1 of the South East Plan.
2. The proposal, by reason of the siting, height, design and massing of the building, and the continuous bulk and massing of the roof, would appear incongruous and harmful to the character and appearance of the Valley Gardens Conservation Area, in particular to views of the historic roofline of Grand Parade properties as viewed from Gloucester Place and St. George's Place. The development is considered to be contrary to policies QD1, QD2, QD3, QD4 and HE6 of the Brighton & Hove Local Plan.
3. The proposal, by reason of the siting, height, design and massing of the building, and the continuous bulk and massing of the roof, would appear incongruous and harmful to the historic roofline and setting of the listed buildings adjacent to the site on Grand Parade and would appear out of scale and visually dominate the setting of the rear of these listed buildings when viewed from Sussex Place and Richmond Parade. As such the proposal is contrary to policy HE3 of the Brighton & Hove Local Plan.
4. The proposal, by reason of the lack of any shared amenity space, would be of detriment to the living conditions of future occupiers of the development, contrary to policies HO5 and QD27 of the Brighton & Hove Local Plan.

5. The proposal fails to meet the travel demands that it creates or help to maximise the use of sustainable transport. The Local Planning Authority would expect the scheme to make an appropriate contribution towards local sustainable transport infrastructure. In the absence of an agreement in this respect, the scheme is contrary to policies TR1, TR19, HO7 and QD28 of the Brighton & Hove Local Plan and Supplementary Planning Guidance 04 Parking Standards.

Informatives:

1. This decision is based on drawing nos. 304 (10)001 Rev B, (11)001 Rev B, (11)002, (21)000 Rev F, (21)001 Rev F, (21)002 Rev D, (21)003 Rev D, (21)004 Rev D, (21)005 Rev D, (21)006 Rev A, (31)001 Rev D, (31)002 Rev D, (31)003 Rev D, (31)004 Rev D, (31)011 Rev A, (31)012 Rev A, (41)001 Rev C, Planning Statement, Transport Statement, Travel Plan Framework, Student Arrival Strategy, Daylight Analysis, Heritage Statement, Biodiversity Checklist, Site Waste Management Plan Data Sheet, BREEAM Pre-assessment, Sustainability Checklist, Terratec Service letter dated 11 July 2005, Terratec Services Letter dated 6 November 2009, 3-D photo montage submitted 11 December 2010, drawing nos. 1135-P-01 submitted 4 January 2010 and drawing nos. 304 (41)002 Rev A submitted 5 January 2010.

2 THE SITE

The site is located to the east of Grand Parade and is accessed from the north via Sussex Place, a side road off Richmond Parade. The site, known as Saunders Glassworks, is a vacant, former commercial glassworks site containing a detached, 4 storey (including basement) building. The building is sited centrally on the site and has brick elevations and a flat roof, and there is a lift tower on the roof. The site is bordered by two storey houses in Ivory Place to the east, a blank wall of a two-storey building to the south, the rear of residential and commercial (mainly 4-storey) properties in Grand Parade to the west and a single storey and three-storey commercial building to the north.

The western boundary of the site is adjacent to the Valley Gardens Conservation Area. The site is allocated in the Brighton & Hove Local Plan for residential use.

3 RELEVANT HISTORY

BH2009/00834: Demolition of existing former glassworks and erection of a 7-storey student halls of residence providing 196 units and ancillary cycle parking. Refused at Planning Committee 12/08/2009 for 14 reasons.

BH2005/00343/FP: Demolition of existing former glassworks. Erection of a five-storey block of flats, 2 bungalows and 1 house comprising a total of 50 units, including 20 affordable units. Creation of 3 on-site disabled car parking spaces. Refused at Sub-committee 08/06/2005 on several grounds. Allowed on appeal 20/03/2006.

BH2004/02637/FP: Demolition of existing former glassworks. Erection of a

six-storey block of flats comprising 54 no. residential units including 18 no. affordable residential units. Withdrawn 11/01/2005 from the Sub-Committee agenda 24/11/04, where the recommendation was for refusal on several grounds.

4 THE APPLICATION

The application seeks consent for a new student Halls of Residence, to provide accommodation for 182 students, in the form of 71 studio units and 111 study bedrooms. The proposal will also provide ancillary cycle parking facilities (76 Spaces) and three allocated disabled parking space.

The building would be 7 storeys in height with a curved 'barrel' roofed design and would stand at approximately 16 metres high from the existing ground level, meaning that it would not be classed as a 'tall building' as defined within adopted SPGBH 15 on Tall Buildings.

The building would mainly consist of brick and render materials, some sections of the façade will be fabricated from insulated panels with a pre-rendered finish. The proposed roof is to be finished in zinc.

5 CONSULTATIONS

External:

Cllr Fryer has commented on the application and her comments are attached.

Neighbours: Five letters of objection have been received from the owner/occupiers of **11a, 13a, Flat 8 20, Flat 4 26 Grand Parade, and 36 Normanhurst**. The following grounds of objection are raised:

- The site should be used for social housing;
- Loss of light, overlooking and overshadowing to rear of the properties;
- Noise and disturbance due to the high number of proposed units;
- Parking in the area will be badly affected;
- Public safety issues;
- The proposal is very large and oversized development at 7 storeys;
- The proposed building will dominate the rear of the properties as the footprint has moved closer to the properties fronting Grand Parade;
- The area is already overpopulated, this will increase the strain on services.

CAG: Objection. The group recommend refusal of this application remaining of the view that its height and bulk is excessive and would harm the setting of the adjacent listed buildings.

Sussex Police: Concur with the previous comments and recommendations (as below):

- A 24/7 concierge is proposed, which is probably the best crime prevention measure available for this type of proposal;

- Restrictors would need to be fitted to lower and upper ground floor opening windows;
- Presume that there will be CCTV and suggest the inclusion of movement detectors for use at night;
- Confirm that subject to comments being met in both responses or acceptable compromises being reached approval will be given for “Secured by Design” following a final inspection.

Environment Agency: No objection subject to a condition relating to the risks associated with contamination of the site.

East Sussex Fire & Rescue Service: Provided that the plans indicate compliance with B5 of the Approved Document B of the Building Regulations 2000 the Fire Authority do not object.

Southern Gas Networks: Note the presence of our Low/Medium/Intermediate Pressure gas main in the proximity to the site. No mechanical excavations should take place above or within 0.5 m of the low pressure or medium pressure system and 3 metres of the intermediate pressure system.

Internal:

Design & Conservation: Objection.

The main issues to consider are the impact of the proposal on the appearance and setting of the Valley Gardens conservation area and the impact on the setting of the adjacent listed buildings (notably numbers 9-10, 12-14 and 17-23 Grand Parade), particularly with regard to the height, massing and footprint of the proposal. The previously-approved application (BH2005/00343) for a 5 storey building was considered acceptable in these respects.

Impact on the Conservation Area

The site boundary immediately adjoins the boundary of the conservation area. The primary issue is whether the new building would be visible above the roofline of the Grand Parade buildings when seen from within the conservation area, notably from Gloucester Place and St George’s Place.

The adopted Valley Gardens Conservation Area Study (1995) states that: “it is essential to ensure that any new development immediately behind the frontage buildings does not intrude above the roofline of the frontage buildings when seen from within Valley Gardens”. The proposed building would be 16.1 metres (6 storeys) above existing ground level and would be significantly higher than the historic Grand Parade buildings, particularly those towards the northern end, which are lower. As the photo montages, the Planning Statement and the Design and Access Statement demonstrate, the development would breach this policy and be visible from at least three points on the opposite side of the gardens above the roofline of the historic buildings. Given the scale and massing of the building, and the continuous

bulk of the roof, its visibility would be incongruous and harmful to the appearance and character of the conservation area. Whilst the overall height of the development has been reduced by 1.1m from the previously-refused scheme, most of this reduction has been achieved simply by flattening the roof profile – consequently the front-most edge of the building (the three ‘towers’) is only around 600mm lower than the refused scheme. This is not considered to be a significant reduction on a building of this scale. Experience also suggests that, taking into account constructional tolerances and possible variations in actual site levels, the finished height could be greater than shown and, in a tight situation such as this, even minor variations could increase the harmful visual impact still further.

Impact on the setting of the Listed Buildings

It is considered that the concerns raised above regarding the intrusion of the development above the historic roofline apply equally to the setting of the listed buildings, particularly numbers 11-13. The proposed development remains clearly higher than the ridge lines of the listed buildings, despite the height reduction (as shown in the site section drawing). Buildings immediately behind these grand frontage buildings should be subservient in height to them. This harm to the setting would also be very apparent when viewed along and from Sussex Place, where the new development would appear very much out of scale with, and visually dominate, the listed buildings. In addition, the bulky five storey element at the southern end of the site would be built directly on the boundary at a point where the rear projections to the listed buildings at numbers 17-19 run back almost to that boundary. That five storey element would visually dominate them, causing further harm to the setting of the listed buildings.

Planning Policy: Objection.

The site is partially allocated for housing where policy HO1 applies and is adjacent to a Conservation Area.

This scheme is slightly reduced being for 182 rooms for student accommodation where the earlier application was for 196 units. The site incorporates approximately half of the Sussex Place Local Plan housing allocation which allocated the identified site for 15 units. (NB The housing allocation also merges with the 12 Richmond Parade allocation for 10 units, which is not part of the submitted plans.) The location of the proposed student accommodation is close to university premises along the adjoining Grand Parade. The application site has a current planning permission for 50 units (BH2005/00343/FP) and includes 20 affordable units that were granted on appeal and have been included in the council’s Strategic Housing Land Availability Assessment in order to help meet regional housing targets.

Policy HO1 (LP) & H1 (SE Plan)

The site size of the proposal is 0.14ha with approximately 0.08ha of the site being allocated in the Local Plan for housing (policy HO1). Policy HO1 allocates 15 x C3 units for Sussex Place.

Policy H1 of the South East Plan identifies that Brighton & Hove has a housing allocation of providing 11,400 new homes from 2006 to 2026, ie giving an annual average requirement of 570 dwellings. The Regional housing targets are for C3 accommodation only in the form of market housing or affordable housing and the application does not include any C3 units that can be counted towards meeting this target.

The other part of the site was a glass works where policy EM3 applies which seeks live work units or affordable housing when the site is redundant as an industrial site – neither of which would include student housing.

To conclude although the site boundary of this proposal falls on only part of the Sussex Place housing allocation in the adopted Local Plan, a housing allocation exists at this location. The site already has planning permission (BH2005/00343/FP) for 50 units (including 20 for affordable housing) which although were granted on appeal, and which would make up a proportion of units required to meet the council's regional housing targets for the next 20 years and have been included within the council's Strategic Housing Land Availability Assessment.

Sustainable Transport:

General parking

No general parking (i.e. that for able bodied drivers) is proposed. The applicants report research on comparable sites elsewhere indicating that car ownership and use would be expected to be low at a central site such as this. This analysis draws on consideration of census and travel survey information at the universities of Bristol, Leeds and Manchester and the conclusions drawn are supported by this work. The applicants have agreed to implement measures to discourage car use such as the provision of literature to prospective resident students when they are choosing accommodation and a clause in the tenancy agreement stating that students will be penalised if they are found using private cars at the halls. The applicants are aware that if the CPZ is extended to include this area no residents' permits will be issued to students living here. It is intended to consult on such a CPZ extension. It remains possible that a small amount of displaced parking would occur in the short term but for the reasons discussed above this would be negligible and does not constitute a reason for refusal.

Disabled parking

SPG4 does not prescribe a required amount for student residences, but comparable users would require 4-28 spaces. The applicants propose 3 spaces which are earmarked for the accessible units of the development. The ambulant disabled and disabled visitors would have to park nearby on street. This is not entirely satisfactory but given that the requirements are not exact it is not considered that the shortfall would be a defensible reason for refusal.

Cycle parking

The applicants propose 76 spaces, of which 64 would be for residents and 12 for visitors. This exceeds the SPG4 minimum requirement of 61 spaces in total. The proposal is now to provide standard Sheffield stands rather than the arrangements involving lifting bikes proposed in the previous submission. It is not proposed to cover the visitors' cycle parking as it is felt that this may encourage residents to use these spaces rather than those intended for them. However it is felt that this argument is 'reversible' in that the lack of cover may encourage visiting cyclists to use residents' cycle parking spaces. Given this and the requirements of local plan policy TR14 it is felt that cover should be provided. The applicants have agreed to provide bollards to protect parked visitors cycles. Revised plans showing both these changes should be required by condition.

Student arrival strategy

Following discussions with officers the applicants have now prepared a strategy to ensure that undue congestion and nuisance does not occur at the start and end of terms. This involves the use of the Brighton University Mithras House car park as an assembly point from which students' vehicles will be called forward as spaces become available at the application site. Travel packs will be distributed to students before the start of term and these will describe the arrangements in detail and give information on local provision for sustainable modes. The content of these packs should be subject to approval prior to occupation and this should be controlled by condition. These proposals are good and overcome the problems of the previous application in this respect.

Travel plan

The applicants have submitted a satisfactory draft plan. A final version including targets and providing for annual monitoring and review should be required by condition prior to occupation. (This is in addition to the travel pack described above).

Stopping up order

As with the previous application a stopping up order under the TCPA will be required for a small section of Sussex Place which is currently highway. If the application is approved the applicants will need to pursue this with the government office. This proposed stopping up is acceptable to the Highway Authority.

Contributions

The applicants have estimated the trip generation impact using TRICS and potential contributions have been discussed in the light of this work. As the previous use ended in 2006 it is appropriate to discount generations associated with it in assessing the net impact of the proposed development. Environmental improvements for the Richmond Parade area adjoining the application site are being developed and a contribution towards this work would be appropriate and desirable. The applicants have accepted the

principal of contributions. Officers have used the standard formula to calculate a requirement of £49,500. The applicants however argue that this figure is inappropriately high as reductions in bus journey times since some of the information in the standard method was developed have made this aspect out of date, and the resulting increased accessibility of the site should be reflected in the formula. It is accepted that the standard method is subject to review but nevertheless it would be incoherent to make ad hoc adjustments on a case by case basis to the operation of the formula. The full contribution of £49,500 should therefore be sought and without this the application fails to meet policy TR1 and should be refused.

Conclusion

Substantial improvements have been made with this proposal compared to the previous submission and these have had the effect of overcoming all the previous reasons for refusal with the important exception of the contribution requirement.

Public Art: Disappointing to find that the applicant does not acknowledge the relevance of Local Plan Policy QD6 (Public art) to this application. Particularly considering that in its public realm proposals, detailed in the Design and Access Statement, there seem to be various opportunities to incorporate the requirements of Policy QD6.

It is suggested that the public art element for this application is to the value of 31k.

This level of contribution was reached after the internal gross area of the development (approx. 4,601 sqm) was multiplied by a baseline value per square meter of construction arrived at from past records of public art contributions for similar developments in the Stanford area. This includes average construction values taking into account relative infrastructure costs.

Environmental Health: Have no objections but recommend conditions to require the following:

- The submission of a desk top study contamination study and if necessary a site investigation and remediation work.
- The control of noise from plant and machinery and the soundproofing of all plant and machinery.

A Construction Environmental Management Plan shall be agreed in writing prior to any works commencing as part of a section 106 agreement.

Air Quality Officer: The site is adjacent to the Air Quality Management Area (AQMA). No part of the development resides within the AQMA. In terms of air quality, the site is suitable for university accommodation. The nearest façade is at least 25 metres back from Grand Parade and the majority of units are proposed at a greater distance and or height allowing for favorable dispersion of the nearest traffic emissions.

If the development proposes non-grid energy provisions such as gas or biomass boiler or a combined heat and power plant, emissions to air from a flue or chimney must comply with the Clean Air Act (1993).

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 |
| 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. |
| QD3 | Design - efficient and effective use of sites |
| QD4 | Design – strategic impact. |
| QD5 | Design – street frontages |
| QD6 | Public art |
| QD7 | Crime prevention through environmental design. |
| QD15 | Landscape Design |
| QD25 | External lighting |
| QD27 | Protection of amenity |
| QD28 | Planning obligations |
| HO1 | Housing sites and mixed use sites with an element of housing |
| HO2 | Affordable housing – ‘windfall’ sites |
| 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 |
| HO13 | Accessible housing and lifetime homes |
| HE3 | Development affecting the setting of a listed building |
| HE6 | Development within or affecting the setting of conservation areas |

Supplementary Planning Documents

SPD 03 Construction and Demolition Waste
SPD 08 Sustainable Building Design

Supplementary Planning Guidance Notes

SPGBH4 Parking Standards
Draft SPGBH9 A guide for residential developers on the provision of recreational space. (Draft)

Planning Advisory Notes

PAN03 Accessible Housing and Lifetime Homes

Valley Gardens Conservation Area Study

South East Plan

H1 Regional Housing Provision 2006 - 2026

National Guidance

PPS3 Housing
PPS23 Planning and Pollution Control
PPG13 Transport

7 **CONSIDERATIONS**

Background

This application is the resubmission of the previously refused application BH2009/00824. The applicant has submitted additional information and has altered the design of the proposal in response to the previous reasons for refusal.

The main differences between the previously refused scheme and this current scheme include the design of the main roof resulting in a decrease in the overall building height by 1.1m, and by a further 2.2m at the Sussex Place section of the development. Due to these changes the numbers of bedspaces has been reduced from 196 to 182. As part of this application the applicant has submitted further information relating to highways, sustainability, daylight/sunlight/overshadowing and land contamination.

The main considerations of the proposal remain the same:

- Principle of development;
- Impact on the character and appearance of the area including the adjacent conservation area;
- Impact on the setting of adjacent listed buildings;
- Impact on neighbouring amenity;
- Standard of accommodation to be provided;
- Highway impacts;
- Sustainability;
- Contaminated land/controlled waters;
- Air quality

- Public Art.

Principle of development

The principle of the redevelopment of the site for residential and the loss of the existing employment use (B2) has already been accepted. The previously allowed appeal was for 3,770 sqm of residential floorspace encompassing 49 residential units, 40% of which would be affordable housing.

The first reason of the previous refusal, ref BH2009/00834, related to the principle of the use of the site as student halls of residence. Part of 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). Fifteen residential C3 units 40% of which are required to be affordable housing are indicated for this site within policy HO1. The remainder of the site is not allocated within the Brighton & Hove Local Plan and therefore should be considered as a windfall site where similarly there is a 40% requirement for affordable housing if the site is capable of providing 10 units or more.

Policy H1 of the South East Plan identifies that Brighton & Hove has a housing allocation of 11,400 new homes from 2006 to 2026, with an annual average of 570 units per annum. The Regional housing targets are for C3 accommodation only in the form of market housing or affordable housing.

Student housing does not contribute towards meeting the City's housing targets set in the South East Plan. The City does not currently have a 5 year supply of 'deliverable' housing sites and is therefore struggling to meet the housing targets as specified by the South East Plan.

The Core Strategy (Proposed Submission/ Publication stage) aims to meet the City's housing requirements from within the existing built up area. Identified brownfield housing sites are therefore key in terms of housing delivery. The cumulative loss of such sites will increase pressure on the City's urban fringe for housing which is identified only as a longer term 'contingency' option within the Core Strategy.

Whilst the need for student accommodation is recognised, there is also the need for market and affordable housing within the City, and as part of the site is specifically allocated for market and affordable housing, the need for student accommodation is not considered to outweigh the site's designation within the Local Plan. As such the proposal is contrary to policy HO1. Therefore refusal on such grounds is still recommended.

Impact on character and appearance of the area including the Conservation Area

PPS1 and PPS3 seek 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.

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.

Policy QD4 is concerned with the strategic impact of a development, and the preservation and enhancement of strategic views, important vistas, the skyline and the setting of landmark buildings. All new development should display 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. Views into and from conservation areas and the setting of listed buildings are of particular relevance to this application.

Policy HE6 of the Local Plan requires development within or affecting the setting of conservation areas to preserve and enhance the character and appearance of the area and should show, amongst other things:

- a high standard of design and detailing reflecting the scale, character and appearance of the area, including the layout of the streets, development patterns, building lines and building forms;
- the use of building materials and finishes which are sympathetic to the area;
- no harmful impact on the townscape and roofspace of the conservation area; and

- the retention and protection of trees, gardens, spaces between buildings and any other open areas which contribute to the character and appearance of the area.

The site is located in a sensitive location as it is adjacent to the Valley Gardens Conservation Area and to a number of listed buildings.

Reasons for refusal 2 and 3 of the previous application (ref BH2009/00834) related to the adverse impact of the proposal on both the character and appearance of the adjoining Valley Gardens Conservation Area and the setting of the neighbouring Listed Buildings fronting Grand Parade.

The proposed building remains a 7 storey building in height, however, the overall height of the development has been reduced by 1.1m from the previously-refused scheme, this reduction has been achieved through the remodelling of the previously “barrelled” roof design. The new maximum building height would raise to 16.1 metres above the existing ground level. The building itself would measure a maximum of 56.4 metres in length over the lower five floors, a reduction of 0.8 metres. The building would measure 38.1 metres in length along the barrel roof, a reduction of 12.7m, as part of the building has been reduced by one storey. The building would measure a maximum of 18 metres in width, between the furthest two points, a reduction of 1.25 metres. The sixth floor would be partially contained within the roofspace resulting in a series of domed projections to allow for staircases into and rooms within the dome of the roof. The roof has been redesigned resulting in the creation of a mansard type roof which is now set behind a parapet wall along both east and west elevations.

There also has been the reduction in height of the building at the most northern part of the building fronting onto Sussex Place. A full storey has been removed for a length of 13 metres resulting in a decreased roof height of 13.3 metres above existing ground level.

A flat roofed annex is proposed in the southwest corner of the site which will be connected to the main building but will stand at 10.8 metres above the existing ground floor level, a reduction in height of 2.2 metres. The annex would have a width of 11.1 meters and would project 7 metres from the main building. This flat roofed annex is sited directly adjoining the boundary of the site with 18 and 19 Grand Parade to the west and 20 Grand Parade to the south.

The western boundary of the site abuts the Valley Gardens Conservation Area. The Valley Gardens Conservation Area Study (1995) states that “it is essential to ensure that any new development immediately behind the frontage buildings does not intrude above the roofline of the frontage buildings when seen from within Valley Gardens”. Consequently buildings of more than 4 storeys in height should not be allowed unless it can be demonstrated that there would be no adverse impact upon important views

looking from within the conservation area or framing specific buildings within the conservation area.

The main section of the proposed building would be 16.1 metres (6 storeys) above existing ground level and would be significantly higher than the historic Grand Parade buildings, particularly those towards the northern end, which are lower, this has been clearly demonstrated within the submitted drawings.

At the front-most edge of the building, the three 'towers' which run the height of the building are only around 600mm lower than the refused scheme. Given their projection close to the rear of the properties fronting onto Grand Parade, this is not considered to be a significant reduction on a building of this scale.

The submitted photo montages, the Planning Statement and the Design and Access Statement demonstrate that parts of the development would be visible above the roofline of the historic buildings from at least three points when viewed from Gloucester Place. It may also be the case that the roof of the development would be visible in more oblique views from the southern part of St George's Place, particularly in winter when the trees are bare, but there is no submitted information on this.

The impact of the building on views into the conservation area must also be assessed, in particular from Ashton Rise and Grove Hill to the east of the site. However, it is considered that these views will already be substantially changed by the new building currently under construction at Ebenezer Chapel (BH2007/01591) which was approved at committee on the 18th of July 2007, after an officer recommendation for refusal was overturned. The building currently proposed as part of this scheme would cause some harm to these views, however such harm would not be significant in its eventual context.

Given the siting, height, design and massing of the building, and the continuous bulk and massing of the roof, its visibility would be incongruous and harmful to the character and appearance of the conservation area, particularly views of the historic roofline of Grand Parade properties as viewed from Gloucester Place and St. George's Place. The development is considered to be contrary to policies QD1, QD2, QD3, QD4 and HE6 of the Brighton & Hove Local Plan.

Impact on the setting of listed buildings

HE3 will not permit development where it would have an adverse impact on the setting of a listed building, through factors such as its siting, height, bulk, scale materials, layout, design or use.

A number of the properties which front Grand Parade are listed buildings these being numbers 9, 10, 12 - 14, 17 – 23 Grand Parade. It is considered

that the concerns raised above regarding the intrusion of the development above the historic roofline apply equally to the setting of the listed buildings, particularly numbers 12-14.

The proposed development remains clearly higher than the ridge lines of the listed buildings, despite the height reduction. Buildings which are proposed to be located immediately behind these grand frontage buildings should be subservient in height to them. This harm to the setting would also be very apparent when viewed along and from Sussex Place and parts of Richmond Parade, where the new development would appear very much out of scale with, and visually dominate, the listed buildings.

In addition, the bulky five storey element at the southern end of the site would be built directly on the boundary at a point where the rear projections to the listed buildings at numbers 17-19 run back almost to that boundary. That five storey element would visually dominate them, causing further harm to the setting of the listed buildings.

Given the siting, height, design and massing of the building, and the continuous bulk and massing of the roof, would appear incongruous and harmful to the historic roofline and setting of the listed buildings adjacent to the site on Grand Parade and would appear out of scale and visually dominate the setting of the rear of these listed buildings when viewed from Sussex Place and Richmond Parade.

Impact on neighbouring amenity

Reasons for refusal 4, 5 and 6 of the previous application related to the impact of the development upon the neighbouring amenity. Policy QD27 of the Local Plan will not permit development which would cause a loss of amenity to adjacent residents/occupiers.

Daylight

The BRE guidelines state that where the Vertical Sky Component to a window is less than 27% and there would be more than a 20% reduction in levels of daylight received, the loss of light would then be noticeable to that room. The guidelines are intended to be used for adjoining properties and any existing non-domestic uses where the occupants would have a reasonable expectation of daylight. This would normally include schools, hospitals, hostels, small workshops and most offices.

As the massing of the scheme has changed slightly the applicant has submitted a revised daylight study which includes both Grand Parade and Ivory place.

The report for the properties fronting Grand Parade concludes that a total of 110 windows were assessed out of 12 properties along the rear elevation of Grand Parade. With the approved scheme 18 of the windows would fail to meet the BRE minimum guidelines, 15 of which serve habitable windows.

The currently proposed scheme is worse with 30 of the windows failing to meet the BRE minimum requirements.

Given the restricted access to the properties fronting onto Grand Parade an assessment of the use of the windows (and which rooms they serve) was carried out from the roof of the existing Saunders Glass building. It was apparent that the majority of the additional windows which don't meet the BRE standard were windows serving bathrooms or landings.

When the daylight assessment of the currently proposed scheme was compared to the extant permission, it was found that two of the windows which serve habitable rooms and failed to meet the BRE minimum guidelines previously would now meet the guidelines and an additional four windows that serve habitable rooms would now fail to meet the BRE minimum guideline. Therefore, this results in 17 windows which serve habitable rooms not meeting the BRE minimum guideline, an increase in two windows over the extant permission.

Whilst it is regrettable that two additional habitable windows would fail to meet the BRE minimum guideline, in terms of daylight, it is considered that the proposal would not result in the demonstrable harm of the existing amenities over and above that which would be apparent if the extant scheme were to be implemented.

The report for the properties fronting Ivory Place shows that none of the existing properties currently meets the BRE minimum guideline, in terms of daylight. Within those results the maximum difference in VSC is 3.3% with the result averaging out at 1.2% difference when compared to the extant scheme. It is therefore considered that the proposal would not result in demonstrable harm of the existing amenities over and above that which would be apparent if the extant scheme were to be implemented.

The applicant has submitted an overshadowing assessment submitted with regard to any overshadowing impact on the rear amenity space of properties on Ivory Place. If overshadowing reduces the hours of available sunlight of the amenity areas by more than 25% on 21st March the impact is considered to be significant. The report shows that the overshadowing does not impact on the rear gardens of Ivory Place by more than 25% on 21st March. It is therefore considered that the proposed development by reason of overshadowing would not result in undue and demonstrable harm to the amenities of the occupiers of the properties located on Ivory Place.

Loss of outlook/privacy

In allowing the previous appeal, the Inspector also considered that the distance interface of 13 to 16 metres would not significantly harm the outlook of the neighbouring occupiers. The previously refused scheme had a total of over 96 sqm of fenestration located along the eastern elevation overlooking the rear of the properties fronting onto Ivory Place.

This proposed scheme would contain windows serving bedrooms, communal living areas and stairwells on the eastern elevation. Part of the building which is currently proposed would be slightly closer to the rear elevations of properties on Ivory Close, than the extant permission. This section of the building would contain main windows to the communal shared living areas and would only be 11 metres to the rear elevation of 4 Ivory Place and would only be 6.5 metres from the rear gardens of 3 and 4 Ivory Place.

The amended scheme as proposed reduces the amount of fenestration, which directly overlooks Ivory Place. The applicant proposes that all fenestration, which directly overlooks the rear of both Grand Parade and Ivory Place will be obscurely glazing up to the height of 1.7m above internal floor area. This is to ensure that the possibility of direct overlooking is greatly minimised.

In terms of overlooking it is considered that there is the possibility for neighbouring occupiers to perceive an increase in overlooking given the proposal, however due to the measures proposed to protect against actual overlooking it is considered that the refusal on these grounds could not be sustained.

With regard to the loss of outlook, it is considered that there would be some loss to neighbouring outlook from windows, however, it is considered that this would not be significant enough to warrant a refusal on these grounds.

Standard of accommodation to be provided

Reason for refusal 7 of the previous application related to the standard of accommodation provided for the future occupiers, including the provision of suitable amenity space. Policy QD27 seeks to ensure that development is not permitted which would result in a poor level of amenity for proposed occupiers.

The proposed study bedrooms would provide 14.8 sqm of floorspace whilst the proposed studios would provide 19.4 sqm of floorspace. The study bedrooms have access to a separate communal area including a kitchen and common room of 18.7 sqm to 29.8 sqm. The applicant has provided additional information relating to other recent halls of residents types within Brighton and other university's within the area. The average size of the comparable study rooms is 11.5 sqm and the only comparable studio room is 12.35 sqm. The proposed accommodation is quite favourable in terms of floorspace provision when compared to these other developments.

It is therefore considered that the internal arrangement and size of the rooms would provide a satisfactory standard of living accommodation for future residents.

There is no shared outdoor amenity space. There are no balconies or roof

terraces which could provide any amenity space, however, if these were incorporated into the scheme design they would increase the scheme's potential for overlooking. Policy HO5 is concerned with the provision of amenity space for all residential schemes (C1, C2, C3 use classes). Therefore, although the accommodation is not residential dwellings (C3), they should still provide usable amenity space in line with policy HO5. The applicant has suggested that large areas of open space are located within easy walking distance of the Site, these include The Old Stein, Pavilion Gardens, Victoria Park, Queens Park and The Level. Whilst it is recognised that these areas are communal open space, there should be amenity space provided within the site consistent with policy HO5 of the Local Plan.

It is therefore considered that the lack of any amenity space provision, would result in a scheme in which the future residents would have a poor level of living conditions and amenity and as such is contrary to policies QD27 and HO5 of the Local Plan.

Highway impacts

Reasons for refusal 8, 9, 10, and 11 of the previous application relate to the impact of the proposal upon the surrounding highways network. 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.

Car parking

Policy HO7 will grant permission for car free housing in locations with good access to public transport and local services and where there are complementary on-street parking controls and where it can be demonstrated that the development will remain genuinely car-free over the long term. The most practical way of achieving this is to restrict residents parking permits within Controlled Parking Zones. However, as there is no CPZ this would not be feasible.

No vehicular parking spaces are proposed as part of the application, other than that proposed for people with disabilities. The applicant's Transport Statement reviews comparable student hall of resident sites elsewhere indicating that car ownership and use would be expected to be low at a central site such as this. This analysis draws on consideration of census and travel survey information at the universities of Bristol, Leeds and Manchester. The Council's Sustainable Transport Team agree with the conclusions of this analysis.

The applicant has suggested that they will implement measures to discourage car use through the production of a Travel Plan and a clause in the tenancy agreement stating that students will be penalised if they are found using private cars at the halls. The proposed Travel Plan may be controlled and continually monitored by the Local Planning Authority through

a legal agreement. However the Local Planning Authority is unable to monitor or enforce the use of a restrictive clause on a tenant regarding car ownership.

The applicants are aware that if the CPZ is extended to include this area no residents' permits will be issued to students living here. However, the CPZ may not be implemented and therefore cannot be relied upon to restrict and control on-street parking as a result of this development. However, given the additional survey work and the proposed Travel Plan, the Sustainable Transport Team consider that the previous reason for refusal has been addressed and that the proposed scheme would have an acceptable impact upon parking and that refusal of the scheme on these grounds could not be sustained at appeal.

Disabled Parking

The applicants propose to provide a three spaces for allocated disabled parking. There is no exact requirement for this in SPG4 but the requirements for similar uses indicate that at least 4 spaces should be required. The ambulant disabled and disabled visitors would have to park nearby on street. This is not entirely satisfactory however given that there are no exact requirements it is considered that the shortfall of one space would not be a defensible reason for refusal, therefore it is considered that the previous reason for refusal relating to disabled parking has been addressed.

Cycle Parking

Policy TR19 requires development to meet the maximum parking levels set out within Supplementary Planning Guidance Note 4 'Parking Standards'. The application proposes 76 spaces. It is considered that the number and spacing of the stands is appropriate and that they are secure in the sense that they are within a restricted access zone. The proposal is now to provide standard Sheffield stands rather than the arrangements involving lifting bikes proposed in the previous submission. The 12 visitor spaces are not proposed to be covered and there is the requirement for bollards to be provided to protect the parked cycles.

It is therefore considered that reason for refusal 10 of the previous application has been addressed. Were the application being recommended for approval a suitably worded condition could be applied to ensure that the visitors parking is covered and for the provision of bollards.

Sustainable Contribution

The application includes no substantial measures of transport other than the proposed travel plan to encourage the use of sustainable modes. This is typically achieved by a Section 106 contribution. The applicants have estimated the trip generation impact using TRICS and potential contributions have been discussed in the light of this work. As the previous use ended in 2006 it is appropriate to discount generations associated with it in assessing the net impact of the proposed development.

The methodology expects developers to make a financial contribution in-line with the scale of development to help finance off-site highway improvement works, with regard to sustainable modes of transport. Paragraph 84 of PPG13 states that planning obligations may be used to achieve improvements to public transport, walking and cycling, where such measures would be likely to influence travel patterns to the site involved, either on their own or as part of a package of measures. The Local Transport Plan sets out the Council's local objectives and measures to promote sustainable transport choices in the City. The majority of funding is secured via a settlement from central government. However, part of the funding shortfall must be secured from other private sector organisations, including developers.

The scale of the contribution expected from a developer is based on the predicted level of funding shortfall in the LTP and the person-trip generation of the residential and business allocations set out within the Local Plan. By dividing the funding shortfall by the total person trip generation it is possible to reach a reasonable level of contribution per person trip. This is set at £200 per person-trip for the whole of the City. A reduction factor has been applied to the methodology with regard to this proposal, which is based on the accessibility of the site (based on accessibility zones within the LTP).

The number of trips generated in this scheme has been based on information which was submitted by the applicant within their Transport Assessment.

The standard formula in this case suggests a contribution of £49,500 would be appropriate. The applicants have accepted the principal of contributions, however they argue that this figure is inappropriately high as reductions in bus journey times since some of the information in the standard method was developed have made this aspect out of date, and the resulting increased accessibility of the site should be reflected in the formula. It is accepted that the standard method is subject to review but nevertheless it would be incoherent to make ad hoc adjustments on a case by case basis to the operation of the formula.

The full contribution of £49,500 should therefore be sought and without this the application fails to meet policy TR1, TR17 and HO7 and should be refused. It is therefore considered that reason for refusal 11 of the previous planning application has not been adequately addressed.

Site Access

The site is accessed via Sussex Place which is the only pedestrian and vehicle access to the site. For this reason it would necessarily operate as a shared use street but there are no proposals for improving the design of the street as required by the Manual for Streets. Given the very low vehicular volumes likely to arise this need not be onerous.

Concerns were previously expressed over the potential for substantial congestion problems at the start and end of each term. There are no drop off or pick up facilities to start and finish of term time, which will be particularly important at the start and finish of each university year. Following discussions with officers the applicants have now prepared a strategy to ensure that undue congestion and nuisance does not occur at the start and end of terms.

The strategy involves the use of the Brighton University Mithras House car park as an assembly point from which students' vehicles will be called forward as spaces become available at the application site. Travel packs will be distributed to students before the start of term and these will describe the arrangements in detail and give information on local provision for sustainable modes. Were the application being approved it is considered that this would need to be required via a legal agreement to ensure that the strategy is managed correctly and that the content of these packs is appropriate.

Sustainability

Reason 13 of the previously refused application relates to the sustainability credentials of the scheme. Previously there were concerns that the submitted information was not adequate.

SPD08, Sustainable Building Design, requires the scheme to meet 'Excellent' BREEAM achieving 60% in the energy and water sections, and submit a Sustainability Checklist. It also recommends a commitment to join the Considerate Constructors Scheme, ensure zero net annual Carbon Dioxide from energy use, and a feasibility study on rainwater harvesting and grey water recycling systems.

The applicant has submitted an updated BREEAM pre-assessment which has been completed by JPA Sustainability Consultants., which suggests that the development will be able to achieve 'Excellent' BREEAM with at least 60% in the energy and water sections. If the application were acceptable, to ensure that this is the case a suitably worded condition could be imposed.

The applicant states that PV and a Combined Heat and Power system (CHP) will be provided on site. Limited detail has been submitted relating to these other than their inclusion within the pre-assessment and their location within the site. If the application were considered to be acceptable it is considered that full details of these measures could be requested via a suitably worded condition, and care would be taken to ensure such measures would not adversely impact on the AQMA.

It is therefore considered that the previous reason for refusal relating to sustainability has now been satisfied.

Policy SU13 requires the submission of a site waste management plan for a

scheme of this nature, a plan has been submitted and if the application were acceptable a condition requiring a full submission would be recommended.

Contaminated land & controlled waters

Reason 12 for refusal of the previous application related to the potential for contamination of a principle aquifer and valuable groundwater resource.

A contamination desk study has been submitted dated 11 July 2005 along with an additional report dated 6 November 2009. The Environment Agency have confirmed that they are comfortable with the addendum report and subject to a suitably worded condition they do not object to the proposal.

The Council's Contaminated Land Officer has the same concerns over the submitted report as previously. However, if the application were acceptable the Environmental Health Officer recommends that a condition for a revised desktop study is attached to a planning permission.

Air Quality

Local Plan policy SU9 permits developments within an 'air quality 'hotspot' where the effect on the development's occupants and users will not be detrimental and will not make the pollutions situation worse and where practical helps to alleviate the existing problems.

The site is adjacent to the Air Quality Management Area (AQMA). In terms of air quality it is considered that the site and its location is suitable for university accommodation. The nearest façade is at least 25 metres back from Grand Parade and the majority of units are proposed at a greater distance and height allowing for favourable dispersion of the nearest traffic emissions.

Public art

Policy QD6 of the Brighton & Hove Local Plan seeks provision of new public art in major development schemes, or a financial contribution towards public art, appropriate to the development proposal. The proposal does not incorporate public art other than the suggestion that the Sussex Place elevation could be used for a public art installation therefore the application is contrary to policy QD6.

Other Issues

Southern Water have commented that there is inadequate capacity in the local network to provide foul and surface water sewage disposal to service the proposed development and that the proposed development could increase flows to the public sewerage system, and existing properties and land may be subject to a greater risk of flooding as a result. However, they also comment that as the public sewer is a combined system, receiving both foul and surface water flows, it is possible that by removing some (or all) of the existing surface water entering the sewer, additional foul flows could be accommodated, i.e. no net increase in flows. It is considered that this could

be dealt with via a condition.

8 CONCLUSION

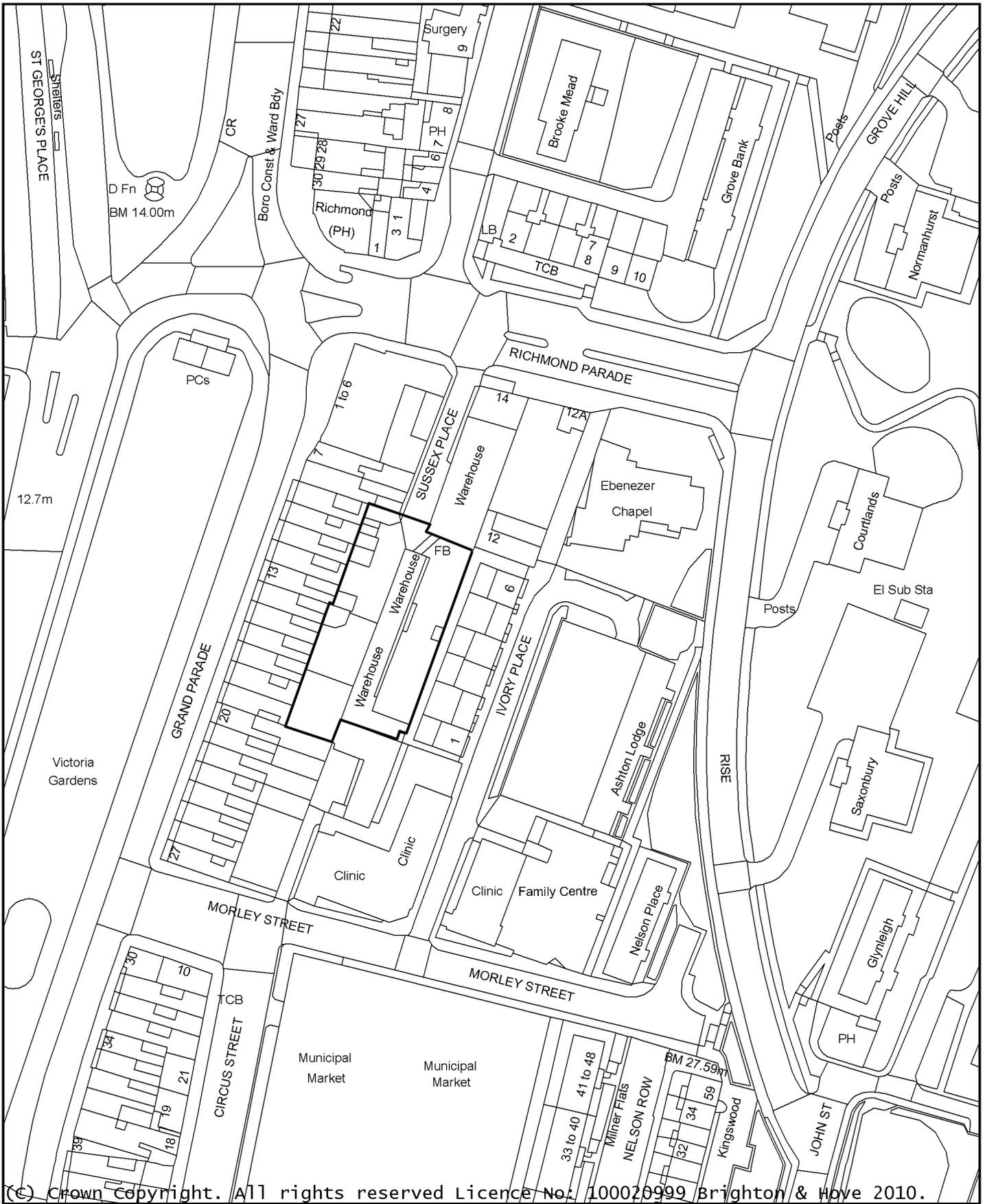
The application has been assessed and the proposal is considered to be contrary to development plan policy for a number of reasons, and therefore refusal is recommended. The proposal does not provide any market or affordable housing which is contrary to part of the site's allocation within the Brighton & Hove Local Plan. The proposal would appear incongruous and harmful to the character and appearance of the Valley Gardens Conservation Area and the setting of adjacent listed buildings at Grand Parade.

The scheme would provide a poor standard of accommodation for future residents of the scheme by virtue of the provision of no amenity space. The scheme fails to make an appropriate contribution towards local transport infrastructure and the proposal fails to incorporate public art.

9 EQUALITIES IMPLICATIONS

The access officer has indicated some concern with the details of this scheme. Thus formal comments are awaited and will be reported in the late list.

BH2009/03038 Saunders Glass, Sussex Place



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Brighton & Hove City Council

PLANS LIST – 17 MARCH 2010

COUNCILLOR REPRESENTATION

From: Rachel Fryer [Rachel.Fryer@brighton-hove.gov.uk]
Sent: 04 February 2010 18:25
To: Anthony Foster
Cc: Rachel Fryer; Ben Duncan; Paul Steedman; Simon Bareham
Subject: comments re Saunders glass application BH2009/03038

Hi

Please find below my comments in relation to this planning application:

This application seems an improvement on the previous one. Concerns remain about the height of the building and possible noise disturbance, particularly as the building is no-smoking. We know from experience elsewhere that disturbance can be caused by smokers outside the building.

If you are minded to grant I would like you to consider the following conditions which I understand the developers are happy to accept:

- There will be a management agreement with the Council. This could be controlled either by condition or a clause in the Section 106 Planning Obligation – requiring the approval of a management plan prior to the occupation of the premises, and with continued occupation to be in accordance with the management plan. Part of the management plan would involve the employment of a 24 hour per day concierge – which will help ensure neighbourliness with regard to students entering and leaving the building. The management plan should provide for the incorporation of a management committee, which should include a student representative.
- Residents are concerned about disturbance during construction. It was agreed that a residents' liaison group should be set up for the period when the building is under construction: this will involve a named person from the construction contractor who the public will be able to contact during the construction period in order to highlight any issues that are arising. Hours of construction are kept in line with recommended best practice.

Best wishes

Councillor Rachel Fryer
Green Party, Queens Park ward
Spokesperson for Children, Families and Schools
Brighton and Hove City Council
Telephone: 01273 296442

LIST OF MINOR APPLICATIONS

| | | | |
|--------------------------|---|----------------------------|----------------|
| <u>No:</u> | BH2009/03047 | <u>Ward:</u> | REGENCY |
| <u>App Type:</u> | Full Planning | | |
| <u>Address:</u> | 123-124 Western Road, Brighton | | |
| <u>Proposal:</u> | Change of use from retail (A1) to retail and café/restaurant (A3) at basement and ground floor levels. | | |
| <u>Officer:</u> | Jason Hawkes, tel: 292153 | <u>Valid Date:</u> | 06/01/2010 |
| <u>Con Area:</u> | Clifton Hill | <u>Expiry Date:</u> | 03 March 2010 |
| <u>Agent:</u> | N/A | | |
| <u>Applicant:</u> | Mr David Hutchison, 6 Pony Farm, Findon, BN14 0RS | | |

1 RECOMMENDATION

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

Conditions:

1. BH01.01 Full Planning.
2. Unless otherwise agreed in writing by the Local Planning Authority, the Class A3 use shall be restricted to the basement and the raised section to the northern part of the ground floor only as shown on drawing no.164/08A hereby approved.
Reason: To retain a retail use and frontage fronting Western Road in accordance with policy SR4 of the Brighton & Hove Local Plan.
3. BH07.03 Odour control equipment.
4. BH07.04 Odour control equipment (sound insulation).
5. The proposed chimney extension shall be finished in painted render to match the existing rendered wall at roof level.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.
6. No alcohol shall be served in the premises except to persons seated and consuming food prepared and purchased from the premises.
Reason: To safeguard the amenities enjoyed by neighbouring properties, in the interests of public order and crime prevention and in accordance with policy QD27 of the Brighton & Hove Local Plan.
7. The use hereby permitted shall not be open to customers except between the hours of 0800 and 0000 Mondays to Saturdays and 0900 to 2300 Sundays and Bank Holidays.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on the Design & Access Statement, Waste Minimisation Statement, Heritage Statement, Ventilation / Extraction Details and drawing nos. 164/01, 01A, 02, 03, 04, 05, 06, 07, 08, 09, 10, 10A, 11A & 12 received on the 14th December 2009 and 6th January 2010.

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

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

SU10 Noise nuisance

SU13 Minimisation and re-use of construction industry waste

SR4 Regional shopping centres

QD1 Design – quality of development and design statements

QD2 Design- key principles for neighbourhoods

QD10 Shopfronts

QD27 Protection of amenity

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Document:

SPD03: Construction and Demolition Waste, and:

(ii) for the following reasons:-

The proposed development would retain a healthy balance and mix of uses within the Regional Shopping Centre as well as retaining a retail element fronting Western Road. The scheme would not result in a significant impact on the amenity of any adjacent residential properties and is also deemed appropriate in terms of its impact on the appearance of the surrounding conservation area.

3. The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: ehl.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing). It is also the responsibility of the applicant to ensure that they comply with food safety legislation, including registration of the premises under EC Regulation 852/2004.

4. Please note that advertisement consent is likely to be required for proposed advertisements. Please contact the Planning Department if you wish to discuss this further. The applicant is advised to refer to the

Council's guidance on advertisements in Supplementary Planning Document 8: Advertisements for further assistance.

2 THE SITE

The application site relates to a retail unit located within a part three / part four storey building located on the corner of Western Road and Temple Street. The unit occupies the basement and ground floor of the unit. The upper floors are flats accessed via a separate door onto Temple Street. The unit has a traditional shopfront with a large fascia and is within the Clifton Hill Conservation Area.

3 RELEVANT HISTORY

An application for the change of use from retail (A1) to restaurant (A3) was withdrawn in February 2009 (**BH2008/03923**).

4 THE APPLICATION

Planning permission is sought for the change of use from retail (A1) to retail (A1) and café/restaurant (A3) at basement and ground floor levels. The retail element of the scheme is proposed to be retained at the front of the unit onto Western Road with the café / restaurant to the rear. The basement is proposed to be used for storage, plant rooms, toilets and a kitchen. The scheme includes the construction of a new rendered chimney at roof level to house an extract duct but does not propose any alterations to the existing shopfront.

5 CONSULTATIONS

External:

Neighbours: 13 letters and emails (including 3 anonymous letters) have been received from **121-122 Western Road, 3 Temple Street, 68 St Leonards Gardens (3 letters), 17 Stafford Road, 17 Dartmouth Crescent (2 letters)** and **56 Lancaster Court**, as well as a **petition** of 6 signatures, objecting to the proposal on the following grounds:

- This area is already saturated with coffee shops and café bars. Losing a prominent retail space like this will be detrimental to the area. The owners obviously believe they can obtain higher rent if it is converted to a different use.
- There is concern the late night use of the café / restaurant could result in noise disturbance in Temple Street.
- The use of the Temple Street side door for deliveries could cause also cause noise and disturbance. The side door of the Temple Bar used to open to the public which caused noise disturbance. This entrance is now closed and the result of this door being closed has been satisfactory for residents. Allowing the use of the side door at 123-124 Western Road may set a precedent and result in the side door of the Temple Bar being reopened.
- The scheme will not add to the vitality of the immediate local area. This is because there will be an increase volume in car borne traffic in an area where parking is already a problem. There is also a high volume of

restaurants, fast food outlets and public houses serving meals in the nearby vicinity.

- The existing light fitting shop is an independent establishment and its loss will reduce the amount choices for inhabitants in the area.
- There are other vacant premises in the area which could be occupied by the use. The current shop could be occupied by a retailer once the economy picks up.
- If the café / shop is allowed to open it will no doubt require extended opening hours.
- The public consultation for this application was severely lacking. More local businesses in the area should have been notified of the proposal.

Sussex Police Crime Prevention Design Adviser: No objection is raised on the design and layout subject to a condition that no alcohol is sold or supplied except to persons who are taking meals on the premises and who are seated at tables.

Internal:

Environmental Health (Food Safety): No comment to make at this stage. The officer does not have enough information at this stage to make a decision on compliance with food safety laws. However, the officer knows the people involved from his work with the Taj supermarket and will keep in contact with them during development.

Environmental Health (Public Safety): No objection subject to the recommended conditions:

- The opening hours of the premises for the A3 aspect should be restricted to the general public to the hours of 0800 to 0000 Monday to Saturday and 0900 to 2300 on Sundays and Bank Holidays.
- No development shall commence until a scheme for the fitting of odour equipment to the building has been submitted to and approved in writing by the Local Planning Authority.
- No development shall commence until a scheme for the fitting of sound insulation of the odour equipment to the building has been submitted to and approved in writing by the Local Planning Authority.
- Amplified music or other entertainment noise from within the proposed premises shall not be audible at any adjacent premises.
- No development shall commence until a scheme has been submitted and approved by the Local Planning Authority for proposals for the satisfactory storage of refuse.

Sustainable Transport: No comment.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

- TR1 Development and the demand for travel
- SU2 Efficiency of development in the use of energy, water and materials
- SU10 Noise nuisance

SU13 Minimisation and re-use of construction industry waste
SR4 Regional shopping centres
QD1 Design – quality of development and design statements
QD2 Design- key principles for neighbourhoods
QD10 Shopfronts
QD27 Protection of amenity
HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Document:

SPD03: Construction and Demolition Waste

7 **CONSIDERATIONS**

The main issues arising from this application are the effect the proposal would have on the retail character of the Regional Shopping Centre, the character and appearance of the existing building and surrounding area and any impact on the amenity of adjoining residential properties.

Change of use

123-124 Western Road is part of the Regional Shopping Centre (outside the prime frontage) as identified on the Brighton & Hove Local Plan proposals map and is therefore protected by policy SR4 of the Brighton & Hove Local Plan.

The policy states that outside the prime retail frontage of the regional shopping centre, the loss of retail use will be permitted provided that a healthy balance and mix of uses (including Class A1 retail) is retained and concentration of other uses is avoided. The proposed use should still attract pedestrian activity to the centre and should not have a significantly harmful impact on the amenity of the area.

The current scheme is for a specialist themed food shop (Lebanese and eastern Mediterranean foods and cuisine) which also seeks to offer the same themed café / restaurant experience within the same premises utilising the split level ground floor as two separate areas although it should be made clear that the Local Planning Authority only has powers to control the use, and not the end user. The proposal is for the raised part of the split level ground floor (the existing split level arising as the Temple Street frontage is on a hill) to be mainly used as a café / restaurant space while the lower part of the split level ground floor (the Western Road frontage) will be mainly be food counter and chilled cabinets. It is anticipated that around half the turnover of the premises will come from the sale of specialist food. It should be noted that a similar approach was recently granted for 98-99 Western Road (Taj The Grocer) for the change of use from retail (A1) to retail (A1), restaurant (A3) and takeaway (A5) (**BH2009/01216**).

The key planning policy issue of policy SR4 is whether the proposal would lead to an imbalance of non-A1 retail uses. 123-124 Western Road is within an area of the regional shopping (outside the prime frontage) between

Holland Road and Montpelier Road which is characterised by a distinct lack of A1 (retail uses) as it is dominated by non-A1 uses including estate agents (A2), restaurants (A3) and public houses (A4). To this end, it is considered important that a retail element is retained within the proposal onto Western Road. The scheme does retain a strong retail element at the front of the unit with the café / restaurant element proposed to the rear part of the unit, which is a split level and is divided from the front part of the shop by stairs. Subject to the retention of a significant retail element onto Western Road, the scheme is considered to be in accordance with Policy SR4 of the Brighton & Hove Local Plan. The proposal will also add to the vitality of the area and will not result in a significant impact on residential amenity, as outlined below.

Due to the importance of retaining a retail element to the scheme, a condition is therefore recommended that the proposed use shall be implemented in accordance with the approved floor plans which indicate the retail element being retained fronting Western Road and restricting non-retail users to the remaining areas.

Impact on neighbouring residential amenity

There are a number of properties in the vicinity which could be affected by the proposal, including separate flats above the premises. Policy QD27 states that planning permission will not be granted for any development where it would cause material nuisance and loss of amenity to adjacent residents.

Environmental Health have been consulted and raise no objection. The proposed change of use necessitates the installation of a new kitchen extraction system. Although a detailed specification of the system is not present, a broad explanation of what is proposed to be installed is. The Environmental Health officer states that he is confident that suitable details can be provided and installed so that neither odour from cooking smells, or noise from the functioning of the system, would detrimentally impact on the surrounding properties.

Consequently, subject to conditions it is considered the development would not result in material detriment to neighbouring properties provided suitable safeguards are put in place. These include restricting the opening hours of the unit from 0800 to 0000 Monday to Saturday and 0900 to 2300 Sundays and Bank Holidays.

The Sussex Police Crime Prevention Officer also commented that they have no objection to the scheme subject to a condition that no alcohol is served or supplied except to persons who are taking meals on the premises and are seated at tables. The accompanying planning statement states that no alcohol will be served nor will a licence be sought as this is an Islamic premises. However, for the avoidance of doubt and for possible future occupiers who may wish to serve alcohol, a condition is recommended in line with the Crime Prevention Officer's comments.

A number of residents have raised concern regarding the use of the existing side doors onto Temple Street. The applicant has stated that the side doors will not be used as an entrance to the unit but will be used for service deliveries. This is the existing use of the doors and it is felt that the continued use of the side doors for deliveries and service access will not significantly harm the amenity of any adjacent properties.

The application form states that a separate refuse store will be provided in the basement which uses the access doors from Temple Street. This is a continuation of the existing arrangements with a separate refuse store being provided for recyclable waste. The Food Safety Officer has commented that this is appropriate and will keep in contact with the applicant during the development to ensure Environmental Health standards are met.

Having regard to the above and subject to appropriate conditions, the scheme is considered acceptable in terms of its impact on the amenity of adjacent residential properties.

Design and appearance

The scheme does not propose any alterations to the front of the property. If approved, it is likely that advertisements will be proposed for the new use. An informative is therefore recommended advising the applicant that advertisement consent may be required for any alterations and new signs.

The scheme proposes the installation of an extract duct to the roof of the building. The duct is for the basement kitchen and goes up through the building and then exits at roof level. At roof level the duct would be concealed within a chimney extension built onto the side of the roof of 124 Western Road. The chimney is proposed in matching render and does not go higher than the existing roof. It is felt that subject to being finished in matching render, the chimney would blend in with the existing building and would not look out of place within the context of the conservation area.

Traffic issues

The Sustainable Transport Manager has raised no objection to the scheme on highway grounds. It is considered that the use would not create a significant increase in the demand for travel when compared to the previous established A1 use. The proposed development therefore raises no highways concerns.

Sustainability

Policy SU13 and Supplementary Planning Document 03 on Construction and Demolition Waste seek to reduce construction waste and require a Waste Minimisation Statement demonstrating how elements of sustainable waste management have been incorporated into the scheme in order to reduce the amount of waste being sent to landfill. Sufficient information has been submitted with the application to demonstrate how these requirements have been met. The scheme is therefore in accordance with the above policy and supplementary planning document.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposed development would retain a healthy balance and mix of uses within the Regional Shopping Centre as well as retaining a retail element fronting Western Road. The scheme would not result in a significant impact on the amenity of any adjacent residential properties and is also deemed appropriate in terms of its impact on the appearance of the surrounding conservation area.

9 EQUALITIES IMPLICATIONS

The scheme does not propose any alterations to the access to the premises which is an existing level access.

BH2009/03047 123-124 Western Road



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| | | | |
|--------------------------|--|----------------------------|-----------------|
| <u>No:</u> | BH2009/02741 | <u>Ward:</u> | WITHDEAN |
| <u>App Type</u> | Householder Planning Consent | | |
| <u>Address:</u> | 7 Station Road, Brighton | | |
| <u>Proposal:</u> | Erection of two storey outhouse, incorporating double garage and parking bay to ground floor and home office to first floor (roofspace) over. | | |
| <u>Officer:</u> | Charlotte Hughes tel: 292321 | <u>Valid Date:</u> | 17/11/2009 |
| <u>Con Area:</u> | Adjoining Preston Park | <u>Expiry Date:</u> | 12 January 2010 |
| <u>Agent:</u> | Arch-angels Architects, 128 Edward Street, Brighton, BN2 0JL | | |
| <u>Applicant:</u> | Mr Marc Whiteside, The Denes, 7 Station Road, Brighton, BN1 6SF | | |

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. BH03.02 Samples of materials.
3. The garage building hereby permitted shall not be used for any purpose other than as a private and domestic garage and home office, incidental to the enjoyment of the associated house.
Reason: To safeguard to amenities of neighbouring properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
4. No development shall take place until fences for the protection of trees to be retained have been erected in accordance with the details specified in Section 5 of the accompanying Arboricultural Report. 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 to be retained on the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.
5. Any excavation work within the existing crown spread of the trees to be retained shall be carried out only by hand. Any roots over 40 mm in diameter shall not be severed without the prior agreement of the Local Planning Authority.
Reason: To protect the trees which are to be retained on the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.
6. The soil levels within the root protection area of the trees to be retained shall not be raised or lowered without the prior written approval of the Local Planning Authority.

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

7. The driveway shall either be constructed of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the cartilage of the dwellinghouse, details of which are to be submitted to and approved in writing by the Local Planning Authority prior to development commencing on site. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

Reason: To prevent the increased risk of localised flooding and to comply with policy SU4 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing no. 0911P01a and the Arboricultural Report received on 4 February 2010 and drawing no. 0911POZ and the Waste Minimisation Statement received on 12 November 2009.

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

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

QD1 Design – quality of development and design statements

QD2 Design – key principles for neighbourhoods

QD14 Extensions and alterations

QD16 Trees and hedgerows

QD27 Protection of amenity

SU4 Surface water run-off and flood-risk; and

- ii) for the following reasons:

The proposed development is considered to be acceptable in terms of its design and visual impact on the surrounding area. Furthermore it would not have a significant detrimental impact on neighbouring residential amenity and it is considered that the development can be implemented without causing harm to trees which are to be retained on the site. The proposal would therefore be in accordance with development plan policies.

2 THE SITE

The site comprises the dwelling and grounds of a large 2-storey detached house in the suburban area of Preston Park. The house is served by a drive from Station Road to the west. The site borders the Preston Park Conservation Area on its north, east and southern sides. A pair of semi-detached modern houses lie to the west at a higher ground level and the rear gardens of these properties back onto the application site. A block of flats – Robin Lodge - is situated to the north west. There is also a detached house lying on the plot to the south of the access drive. The land slopes upward from east to west. Along the northern boundary is a line of Leylandii

with one Sycamore tree in the line, which is covered by an Area Tree Preservation Order 1975 (16).

3 RELEVANT HISTORY

BH2008/03078: Demolition of existing dwelling and erection of 7 new houses. Refused 7th January 2009.

4 THE APPLICATION

The application seeks full planning permission for the construction of an outbuilding which incorporates a double garage and parking bay to the ground floor and a home office within the roof space over.

The outbuilding would be sited to the west of the main house and would be accessible via the drive which leads off Station Road. The building would measure some 5.2m in height, 8.3m in width and 5.2m in depth. It would be set away from the northern boundary by 7m and the western boundary by 1.1m. Furthermore the outbuilding would be sunk into the ground by 1m at its western end. Detailed drawings showing existing and proposed ground levels have been submitted.

The outbuilding would have a barn-end roof, three dormer windows facing south, a traditional timber frame clad with sweet chestnut and clay tiles to the roof.

5 CONSULTATIONS

EXTERNAL:

Neighbours:

3 letters of objection from **5 & 6 Station Road:**

- Our home and that of our neighbour at 6 is orientated so that the main living area is to the rear of the house, facing east, overlooking our modest garden and the proposed development at no.7.
- We believe that an outbuilding that is two stories high – 5.2m according to the plans – with the gable so close to our boundary will result in overshadowing of our living area and garden.
- We believe that if a two-storey outbuilding is required then this should and could be located within the extensive grounds in a way that would have little impact on the amenity of neighbouring properties.
- We believe that any building on the current proposed location should be restricted to single storey.
- The current application by virtue of proximity and being two stories high does dominate and overshadow with increased sense of enclosure, loss of light and outlook.
- No.6 would be directly impacted, causing us to lose privacy in various parts of our house and garden including the two back bedrooms that currently enjoy no direct line of sight from neighbours and stunning views over a natural landscape.

1 letter of objection from **8 Station Road:**

- We do not object to the erection in principle of new garages but the plans presented are for a building that is too large.
- A smaller proposal would be more acceptable.

1 letter of objection from **1 Robinia Lodge, Station Road**:

- The planned building is too large for the given space and compromises the neighbouring properties in terms of outlook and light.
- Two storeys is excessive for the situation making the land surrounding to the north, east and west of it overcrowded.

Councillor Pat Drake: Objects (comments attached).

CAG: The group agreed with the comments from the Preston & Old Patcham Society and welcomed the retention of the house and agreed the affect the proposal would have on views along the road would be minimal. The group requested it be conditioned that the hard standing be permeable paving to avoid runoff adding to flood risks. Subject to this condition the group agreed to raise no objection to this application.

INTERNAL:

Conservation & Design: The site is just outside the conservation area boundary and the outhouse as proposed would have only very limited visibility from within the conservation area in Station Road. The footprint and scale of the building would be subservient to the main house and would preserve the suburban grain of the area. The form and materials of the building would ensure that the building sits comfortably in its context, preserving the setting of the conservation area.

The new area of block paving appears to be larger than necessary and the introduction of some soft landscaping would be desirable.

Sustainable Transport: No objection. There is no material concern in terms of highway safety. So acting as Highway Authority we would not wish to raise an objection.

Arboriculturist: Trees at this location are covered by an Area Order Tree Preservation Order 1975 . To the north of the proposed development, in the garden of no.7, is a line of Leylandii (old hedge not maintained) with one sycamore in the line. In the neighbouring garden (number 5) there are 2 mature trees that are not covered by the TPO and are not within a conservation area. All of the above trees may be affected by the proposed development.

The ideal would be for a tree survey to be carried out that calculates the root protection areas of all the trees, then puts the footprint of the garage outside this area, at least for the neighbouring trees if not for the sycamore and leylandii.

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
- QD16 Trees and hedgerows
- QD27 Protection of amenity
- SU4 Surface water run-off and flood-risk

7 CONSIDERATIONS

The main issues are considered to be whether the proposed development is acceptable in terms of its design, its visual impact on the host property and the surrounding conservation area, and whether it would have a detrimental impact on neighbouring residential amenity or the health of existing trees within close proximity to the site.

During the course of the application amended plans and a tree survey were submitted on 4th February 2010. The following alteration was made:

- The location of the garage has been moved 6.4m to the south, to take the footprint of the garage outside of the root protection zone of the nearest trees.

Design/Visual impact

Policy QD2 requires that development be designed to emphasise and enhance the positive qualities of the local neighbourhood by taking into account local characteristics. Policy HE6 states that those proposals within or affecting the setting of a conservation area should preserve or enhance the character and appearance of that area.

The proposed garage is traditional in appearance and would be constructed from good quality materials, subject to samples being submitted for approval which can be dealt with via a condition. The design, scale and form of the garage building are considered satisfactory and it would clearly be subservient to the main dwelling.

Concern has been expressed that the structure is too large, however the ridge height of the garage would be no higher than the eaves height of the main house and furthermore the 1st floor accommodation would be contained within the roof structure and it would be dug into the ground at its western end.

It is considered that in its context, when viewed against 7 Station Road which is a large detached dwelling, the proposed garage would not appear oversized and visually dominant. Only glimpses of the proposed garage would be visible from along Station Road and while it is noted that the applicant intends to remove the Leylandii hedge along the northern boundary (which does not require consent to be removed) and consequently the proposal would have a greater visibility from views to the north, this

could be softened by appropriate landscaping.

The 1st floor of the garage is proposed to be used as a home office and it is considered that an appropriately worded condition would ensure its use remains incidental to that of the main house. There is an existing garage on the site, which is integrated into the main house at its southern end, however it is understood that this would become part of the main house should this application be approved.

No objection has been raised by the Conservation Officer. In terms of its design and visual impact the proposed development is considered to be acceptable and it therefore would preserve the character and appearance of the adjoining conservation area in accordance with policies QD2 and HE6 of the Local Plan.

Amenity

Policies QD14 and QD27 require that developments must not result in significant noise disturbance or loss of privacy, outlook, daylight/sunlight or amenity to neighbouring occupiers.

Concern has been expressed by the residents of 5 and 6 Station Road, which back onto the site from the west, that the development would cause harm to their amenity in terms of loss of light/overshadowing and loss of outlook.

The revised position of the garage as now proposed would mean that the structure would sit relatively equally across both gardens now, rather than being sited across the bottom of No's 5 rear garden alone.

The garden area of No.7 is proposed to be excavated to accommodate the garage and it would therefore be sited 1m below existing ground level at its western end. Detailed plans and sections showing both existing and proposed ground levels have been submitted to illustrate this. The rear gardens of 5&6 Station Road are marked by a 1.8m high panel close board fence and the properties themselves are sited at a higher ground level than 7 Station Road due to the natural gradient of the land which slopes down from west to east. The south elevation of the proposed garage would be approximately 2.2m higher than the height of the boundary fence; however the garage incorporates a barn hip meaning that at a height of 1.3m above the fence line the roof of the garage will slope away from the neighbouring property for the remaining 0.9m thereby lessening its impact.

The rear gardens of 5 & 6 are approximately 11m in length which means that the garage will be sited over 10m away from rear windows in the western elevation of these properties. This distance together with the changes in levels is considered to be sufficient to prevent any material overshadowing or loss of light to these houses. The development would also not result in material harm by reason of loss of outlook or creating an

overbearing presence.

With regard to potential overlooking, the dormer windows would face south and due to the revised location of the garage it is considered that only oblique views into the garden of No 6 would be possible. Furthermore there is already a considerable amount of mutual overlooking possible between 7 Station Road and No's 5 & 6 Station Road and it is therefore considered that the proposed garage would not be considered unacceptable on these grounds.

Concern has also been expressed that the garage would overshadow the garden areas of 5 & 6 Station Road. Due to the orientation of the Sun, any shade from the garage is likely to be cast at the eastern end of the garden of No.5 during the morning period. However this end of the garden lies within the canopy of two fairly large trees and it is therefore considered that this area would already experience overshadowing from these trees, particularly in the summer months when the garden is more likely to be in use and when the trees would be in leaf.

For these reasons it is considered that the garage would not result in a significant detrimental impact on neighbouring residential amenity in terms of overshadowing and furthermore the removal of the Leylandii hedge is likely to improve the levels of light to the area in question.

Finally with regard to loss of outlook, now that the location of the garage has been revised, none of the properties would have a full side elevation at the bottom of their garden.

Trees

There are several trees within close proximity to the development and a Tree Survey was therefore requested. This has confirmed (paragraph 6.3) that the trees at no.5 would not be affected by the proposed development as the garage would be in excess of 10m away and the changes in levels between the largest tree and the location of the garage would render the construction area unavailable for associated root development.

As a result of the findings of the Tree Survey, the garage has been moved outside of the root protection zone of the Sycamore tree along the northern boundary of 7 Station Road. Nevertheless it would be prudent to impose suitable conditions to ensure that the health of this tree would not be jeopardised during the construction of the development.

Sustainability

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.

Conclusion

The proposed garage is considered to be of an appropriate scale, traditional design and entirely acceptable in terms of its visual impact on the surrounding area. The impact of the development on neighbouring residential amenity has been carefully assessed, however it is considered that it would not result in an unacceptable impact in terms of loss of light, overshadowing, loss of privacy or outlook. Likewise the impact on trees within the site and those at the neighbouring property has also been considered; the location of the garage has been revised accordingly and it is considered that the development can be implemented without causing a detrimental impact to the health of these trees.

The proposal is therefore considered to be in accordance with the development plan and is recommended for approval.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposed development is considered to be acceptable in terms of its design and visual impact on the surrounding area. Furthermore it would not have a significant detrimental impact on neighbouring residential amenity and it is considered that the development can be implemented without causing harm to trees which are to be retained on the site. The proposal would therefore be in accordance with development plan policies.

9 EQUALITIES IMPLICATIONS

None identified.

BH2009/02741 7 Station Road



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Brighton & Hove City Council

PLANS LIST – 17 MARCH 2010

COUNCILLOR REPRESENTATION

From: Pat Drake [Pat.Drake@brighton-hove.gov.uk]
Sent: 18 December 2009 12:18
To: Charlotte Hughes
Subject: Application Number BH2009/02741 The Denes, 7 Station Road, Preston

Dear Charlotte

This major extension will have a detrimental impact on the neighbouring properties at numbers 5 and 6 station Road and in these circumstance I support their objection to the height and overshadowing that this will occasion. It will clearly be detrimental to the enjoyment of the gardens of neighbouring property. A single storey development might be acceptable but two storeys have too great an impact so close to the boundaries. If such a major development is pursued it could be sited closer to the existing house at number 7 where it would not impact in the same manner on neighbours.

Kind regards
Pat Drake
Councillor Withean ward

| | | | |
|-------------------|---|-----------------------|----------------------------|
| No: | BH2009/02158 | Ward: | ROTTINGDEAN COASTAL |
| App Type | Full Planning | | |
| Address: | Land to rear of 11 Longhill Road, Ovingdean | | |
| Proposal: | Erection of detached 2 storey, 4 bed dwelling house. | | |
| Officer: | Ray Hill, tel: 293990 | Received Date: | 09 September 2009 |
| Con Area: | N/A | Expiry Date: | 20 November 2009 |
| Agent: | Bold Architecture Design, The Cottage, 104 Hallyburton Road, Hove | | |
| Applicant: | Ms Helen Sywak, 11 Longhill 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. BH02.03 No permitted development (extensions) (amenity & character).
3. BH02.07 Refuse and recycling storage (facilities).
4. The two windows in the 'Proposed North Elevation' shown on drawing no. 05 Rev. B submitted on 1 March 2010, shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan.
5. BH03.01 Samples of materials Non-Cons Area (new buildings).
6. BH04.01 Lifetime Homes.
7. Unless otherwise agreed in writing by the Local Planning Authority, no residential development shall commence until:
 - (a) evidence that the development is registered with the Building Research Establishment (BRE) under the Code for Sustainable Homes and a Design Stage Assessment Report showing that the development will achieve Level 3 of the Code for Sustainable Homes for the residential unit has been submitted to the Local Planning Authority; and
 - (b) a BRE issued Design Stage Certificate demonstrating that the development will achieve an Interim Code for Sustainable Homes Certificate demonstrating that the development will achieve at least Code Level 3 for the residential unit has been submitted to, and approved in writing by the Local Planning Authority.

A completed pre-estimator will not be acceptable.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

8. Unless otherwise agreed in writing by the Local Planning Authority, the residential unit hereby approved shall not be occupied until a Building Research Establishment issued Post Construction Review Certificate or Final Code Certificate confirming that the residential unit built has achieved a Code for Sustainable Homes rating of level 3 has been submitted to, and approved in writing by the Local Planning Authority
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.
9. Unless otherwise agreed in writing by the Local Planning Authority, the measures for the recovery and re-use of demolition and construction waste shall be implemented in strict accordance with the Waste Minimisation Statement submitted on 9 September 2009.
Reason: To ensure that the development would include the re-use of limited resources, to ensure that the amount of waste for landfill is reduced and to comply with policy WLP11 of the East Sussex & Brighton & Hove Waste Local Plan, policy SU13 of the Brighton & Hove Local Plan and Supplementary Planning Document 03 Construction & Demolition Waste.
10. BH06.01 Retention of parking area.
11. BH06.04 Sustainable transport measures
12. BH06.03 Cycle parking facilities to be implemented.
13. Unless otherwise agreed in writing, no development shall commence until details of the construction of the brown roofs has been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement and the seed mix. The scheme shall then be carried out in accordance with the approved details.
Reason: To ensure that the development contributes to ecological enhancement on the site and in accordance with policy QD17 of the Brighton & Hove Local Plan.
14. Unless otherwise agreed in writing with the Local Planning Authority, the landscaping scheme shall be implemented fully in accordance with the landscaping details shown on plan numbered 02 Rev A submitted on 12 November 2010.
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.
15. BH11.02 Landscaping/ planting (implementation/ maintenance).

Informatives:

1. This decision is based on drawing nos. 041/01 Design & Access Statement, Biodiversity Checklist, Waste Minimisation Statement and Ecohomes Pre-Assessment submitted on 9 September 2009, drawing no's 06 & 07 submitted on 25 September 2009, drawing no's 041/02A submitted on 12 November 2009 and drawing no's 041/03A, 04A & 05B submitted on 1 March 2010.

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 and Supplementary Planning Documents:

Brighton & Hove Local Plan

| | |
|------|---|
| TR1 | Development and the demand for travel |
| TR7 | Safe development |
| TR14 | Cycle access and parking |
| TR19 | Parking standards |
| SU9 | Pollution and nuisance control |
| 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 |
| QD1 | Design-quality of development and design statements |
| QD2 | Design-key principles for neighbourhoods |
| QD3 | Design-efficient and effective use of sites |
| QD15 | Landscape design |
| QD27 | Protection of amenity |
| QD28 | Planning obligations |
| HO4 | Dwelling densities |
| HO5 | Provision of private amenity space in residential development |
| HO13 | Accessible housing and lifetime homes |

East Sussex and Brighton & Hove Waste Local Plan

WLP11 Construction industry waste

Supplementary Planning Guidance

SPGBH4 Parking Standards

Supplementary Planning Documents

SPD03 Construction and Demolition Waste

SPD08 Sustainable Building Design; and

ii) for the following reasons:

The proposed development would have a satisfactory appearance and would have no adverse impact on the character and visual amenity of the area. There would be no material detriment to the amenities of adjoining and nearby residential occupiers. Parking and access arrangements are satisfactory and sustainability measures are acceptable subject to condition.

3. IN04.01 Lifetime Homes.

4. IN05.02 Code for Sustainable Homes.

5. The applicant is advised that the requirements of Condition 11 may be satisfied by the completion of a Unilateral Undertaking or Agreement under s106 of the Town and Country Planning Act 1990, to provide

£2,000 to fund improved sustainable transport infrastructure in the vicinity.

6. The Council's Sustainable Transport team advises that the crossover should be constructed in accordance with the Council's approved Manual for Estate Roads and under licence from the Highways Operations Manager prior to the commencement of the development.

2 THE SITE

The application site is located on the north-eastern side of Ainsworth Avenue 100 metres to the north-west of its junction with Longhill Road. It is roughly rectangular in shape with a frontage width of 19 metres to Ainsworth Avenue, a maximum depth of 23 metres and an area of 315 square metres (0.0315 ha). The site previously formed part of the rear garden of a two storey detached house fronting Longhill Road (No.11). Land levels within the site rise steeply from south-west to north-east following the prevalent topography of the area.

The surrounding area is wholly residential in character comprising detached two storey houses and bungalows of a variety of styles and designs, set within relatively spacious plots.

3 RELEVANT HISTORY

BH2006/01584: In August 2006, planning permission was granted for the erection of a three bedroom house fronting Ainsworth Avenue (Resubmission of withdrawn application BH2006/00082).

BH2006/00082: A planning application was submitted and subsequently withdrawn in March 2006 for the erection of a three bedroom house fronting Ainsworth Avenue.

BH2003/01877/FP: In August 2003, planning permission was granted for the erection of a double garage with handrail on roof to enclose patio, with access from Ainsworth Avenue.

BH2000/03049/FP: In September 2001, planning permission was refused for the erection of a dwelling with off-street parking.

BN/90/1461/F: In December 1990, planning permission was refused for the erection of a detached bungalow with basement garage. A subsequent appeal against the Council's decision to refuse planning permission was dismissed.

4 THE APPLICATION

The application seeks full planning permission for the erection of a detached part two storey/ part single storey four bed dwelling house.

The proposed dwelling would have a width of 12.3m and a maximum depth of 9.6m. The two storey element of the building, which would be set in 2m from the north-western boundary of the site with No.53 Ainsworth Avenue, would have a maximum eaves height of 5.4m and a ridge height of 6.2m, whilst the single storey element would be set in 1.5m from the south-eastern boundary

with no.9 Longhill Road and have a maximum height to ridge of 3.9m. The dwelling would have a staggered front building line set in from the back edge of the footway on Ainsworth Avenue by a maximum of 8.5m and a minimum of 2.8m.

The proposed house would be of contemporary design with white painted rendered elevations, front facing timber balustraded balconies and extensive areas of full height glazing surmounted by a shallow pitched green roof.

There would be a 5.5m deep rear garden comprising a patio with raised terrace laid to lawn. One parking space would be provided on the frontage accessed from Ainsworth Avenue.

The application has been amended during the course of its consideration, a blue profiled metal roof being replaced with a green/ sedum roof.

5 CONSULTATIONS

External:

Neighbours: Seventeen letters have been received from the occupiers of **42, 44, 50, 52, 54, 56 and 68 Ainsworth Avenue, 7, 9(x2), 13, 17 and 24(x2) Longhill Road, The Hames Ovingdean Road and Field End (x2 un-numbered)** objecting to the application on the following grounds:

- bulk/scale/design (particularly the blue corrugated roof) out of character;
- increased traffic;
- increased noise/ disturbance;
- overlooking/ loss of privacy;
- loss of light/ overshadowing;
- overbearing;
- would appear overly dominant/ incongruous in street scene;
- overdevelopment;
- plot size smaller than the original planning permission;
- planning permission for a smaller property on the site has been refused;
- approval would be inconsistent with recent planning decisions;
- garden too small;
- insufficient space for any meaningful landscaping/ planting;
- residential use would be intensified because originally approved scheme had 3 bedrooms and the current submission 4 bedrooms;
- bio-diversity statement inaccurate; and
- like 11 Longhill Road it could be used as a holiday let resulting in noise and disturbance.

One letter has been received from the **Ovingdean Residents and Preservation Society** objecting to the application on the following grounds:-

- design and plot size out of character with the area;
- plot size smaller than the original planning permission;
- inadequate landscaping provision;
- loss of boundary screening;

- building would be overbearing in the street scene.

Internal:

Sustainable Transport: No objections subject to conditions to secure the provision of parking facilities, appropriate crossover construction and a financial contribution of £2,000 towards the provision of sustainable transport improvements.

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 |
| SU9 | Pollution and nuisance control |
| SU10 | Noise nuisance |
| SU13 | Minimisation and re-use of construction industry waste |
| SU15 | Infrastructure |
| QD1 | Design-quality of development and design statements |
| QD2 | Design-key principles for neighbourhoods |
| QD3 | Design-efficient and effective use of sites |
| QD15 | Landscape design |
| QD27 | Protection of amenity |
| QD28 | Planning obligations |
| HO4 | Dwelling densities |
| HO5 | Provision of private amenity space in residential development |
| HO13 | Accessible housing and lifetime homes |

East Sussex and Brighton & Hove Waste Local Plan

WLP11 Construction industry waste

Supplementary Planning Guidance

SPGBH4 Parking Standards

Supplementary Planning Documents

SPD03 Construction and Demolition Waste

SPD08 Sustainable Building Design

7 CONSIDERATIONS

The main considerations in the determination of this application are:-

- The principle of the proposed development;
- Design and visual impact on the locality;
- The impact on the amenities of neighbouring occupiers;
- The amenities of future occupiers;
- Highways and parking; and
- Sustainability.

The principle of the proposed development

Planning permission was granted (BH2006/01584) in August 2006 for the erection of a dwelling house on the site. That permission has expired, but remains relevant. At that time the Local Plan was adopted and with respect to the principle of development the policy framework has not changed significantly. PPS 3: Housing encourages the re-use of previously developed land, (including residential gardens), for housing, on that basis there are no objections in principle to the proposed development. However, the proposal is subject to the considerations highlighted below.

Design and visual impact on the locality

Brighton & Hove Local Plan policies QD1, QD2 and QD3 require a new development to make efficient and effective use of the site, reflect the key principles of the neighbourhood in terms of height, scale and bulk, and exhibit a high standard of design that makes a positive contribution to the visual quality of the environment.

Although the depth of the application site has been reduced by between 1.5 and 3 metres, the siting, height, bulk and massing of the proposed building is comparable to that previously approved in August 2006 (BH2006/01584). The proposed house would occupy a central position within the site. It would be set well back from the front boundary with Ainsworth Avenue (i.e. between 2.8m and 8.5m compared to 2.3m and 7.9m as originally approved) with 2m and 1.5m separations to the north-western and south eastern site boundaries respectively (as originally approved). This arrangement would be in keeping with the staggered front building line established by the properties immediately to the north-west on Ainsworth Avenue and satisfactorily reflect the prevalent spacing characteristics of the street scene.

As with the previously approved scheme, the proposed house would have a comparable frontage width to the properties to the north-west and a height and massing which will take into account the changes in ground level, with the two storey part of the building being located on the lowest part of the site so that it would sit comfortably below the ridge level of No.53 Ainsworth Avenue by some 0.4m. Accordingly, it is considered that the proposed house, with the siting, height and form would compare satisfactorily to the previously approved scheme and would be in keeping with the character of the area.

Although the properties in the immediate locality are generally traditional in design, they are varied in terms of their sizes, external finishes and architectural detailing. In its consideration of the previously approved scheme, the Council acknowledged that the modern design and in particular the shallow pitched profiled metal roof, would differ from the local vernacular but considered that this would not detract from the character or visual amenity of the area. Relatively minor alterations to the elevations of the building have been made, which include the re-positioning of fenestration, modified entrance arrangement, the formation of an additional front facing terrace at raised ground floor level and the replacement of the asymmetric profiled metal

roof with a symmetrical green/sedum structure. It is considered that the contemporary design principles have been maintained and the external appearance of the building would significantly improve upon that which was previously approved. Therefore, the scheme is considered to be acceptable and in accordance with the design policies of the Local Plan.

The impact on the amenity of adjoining occupiers

Policy QD27 of the Local Plan seeks to ensure that new development does not adversely affect the amenities of adjoining and nearby properties.

Given that the properties to the rear of the site fronting Longhill Road are set at a significantly higher ground level than that of the proposed dwelling, the development would have no material impact in terms of overshadowing, and loss of light or outlook. One window serving a habitable room would be included at first floor level in the rear elevation of the property compared to two in the approved scheme. It is considered that any potential overlooking would be commensurate with a suburban area such as this, and would be satisfactorily ameliorated by the land level variations. In respect of the properties to the south-east of the site on the opposite side of Ainsworth Avenue, building to building separations of some 30 metres would be achieved, which is sufficient to preclude any overlooking/ loss of privacy from the proposed front facing balconies.

It was noted by the Council in its consideration of the previously approved scheme that the most likely property to be affected would be No.53 Ainsworth Avenue. However, it was concluded that due to the position of the proposed dwelling in relation to No.53 (i.e. 2m to the boundary and a building to building separation of 4m) and the fact that the only windows proposed for the north-west facing flank elevation would be obscure glazed, there would be no significant harm to the amenity of the occupiers in terms of overshadowing, loss of light or privacy. The only material difference between the current application and the previous approval is that the proposed house would project 4.7m beyond the rear elevation of No.53 rather than 4.3m. The applicant has satisfactorily demonstrated that this increased rearward projection of 0.4m would not prejudice light or outlook from the nearest rear facing window of No.53. It is also considered that this would not result in any significant increase in overshadowing or visual intrusion to an extent that would warrant refusal. An obscure glazing condition is recommended in relation to the two windows that would face No. 53.

The amenities of the future occupiers

The proposed development would provide a satisfactory standard of living accommodation for the future occupiers in terms of room sizes, light, outlook and privacy in accordance with policy QD27 of the Local Plan.

Policy HO13 of the Local Plan requires new residential development to comply with Lifetime Homes Standards. The Design and Access Statement indicates that the development would comply with Lifetime Homes Standards

providing accessible off-street parking, level threshold access and appropriate circulation space and doorway widths. Notwithstanding this, a condition should be imposed to secure compliance.

Owing to a reduction in the plot size, the level of private amenity space provision has been reduced compared to the previously approved scheme. The rear garden would now have a maximum depth of 5.5m with an area of approximately 68 sqm rather than a depth of 8m and an area of 117 sqm. Although this would constitute a significant reduction in the size of the rear garden, it is considered that it would still be of sufficient size to serve the recreational needs of the future occupiers and to accord with policy HO5 of the Local Plan.

Highways and parking

Policy TR1 of the Local Plan requires applicants to provide for the travel demands that their proposal creates and to maximise the use of public transport, walking and cycling.

The parking arrangements are identical to that previously approved providing one forecourt space which is capable of use by disabled persons. In addition, two covered secure cycle parking spaces would be provided in the rear garden in accordance with policy TR14. It is recommended that a condition be imposed to secure the provision and retention of these arrangements.

Although the Sustainable Transport Team have no objections to the development, a financial contribution of £2,000 towards the provision of improved sustainable transport infrastructure in the vicinity of the site has been requested. It is recognised that this was not a requirement of the previous permission which was approved in August 2006. However, the contributions methodology has been in use by the Council since February 2008, and therefore it is considered reasonable to now require improvements for sustainable transport infrastructure, and this condition is now recommended.

It is considered that the access and parking arrangements are acceptable and the proposal would not be of detriment to the local highway network nor would it jeopardise highway safety.

Sustainability

Policy SU2 of the Local Plan requires all new development to be efficient in the use of energy, water and materials and with regard to small-scale new build residential development such as this, Supplementary Planning Document 08 Sustainable Building Design requires applicants to submit a completed Sustainability Checklist and recommends that the development achieves a minimum rating of Level 3 of the Code for Sustainable Homes.

The Applicant has submitted a satisfactory Sustainability Checklist and has indicated that the development would incorporate energy efficiency measures

with regard to lighting, hot water heating, insulation and water consumption reduction measures by means of low flow sanitary ware, WCs and rainwater harvesting. The Applicant has confirmed that the original scheme was registered with the BRE and that an Ecohomes Pre-Assessment rating of 'Very Good' achieved. The condition relating to the submission of EcoHomes details in relation to the existing planning permission has been discharged.

It should be noted that the "Very Good" Ecohomes rating referred to above is equivalent to Level 3 of the Code for Sustainable Homes. However, given that Ecohomes is no longer applicable to new build development, it is recommended that a condition be imposed to secure compliance with the Code for Sustainable Homes as required by SPD08.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposed development would have a satisfactory appearance and would have no adverse impact on the character and visual amenity of the area. There would be no material detriment to the amenities of adjoining and nearby residential occupiers. Parking and access arrangements are satisfactory and sustainability measures are acceptable subject to condition.

9 EQUALITIES IMPLICATIONS

The proposed dwelling should comply with Part M of the Building Regulations and has been conditioned to meet Lifetime Homes Standards.

BH2009/02158 Land rear of 11 Longhill Road



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| | | | |
|-------------------|---|---------------------|--------------------------------------|
| No: | BH2009/03043 | Ward: | ST. PETER'S & NORTH LAINE |
| App Type | Full Planning | | |
| Address: | Unit 1 Centenary Industrial Estate, Hughes Road, Brighton | | |
| Proposal: | Erection of a two-storey extension to existing factory to provide secure car parking at ground floor and further manufacturing/storage at first floor. | | |
| Officer: | Hamish Walke, tel: 292101 | Valid Date: | 25/01/2010 |
| Con Area: | N/A | Expiry Date: | 22 March 2010 |
| Agent: | PRP Architects, Studio 3, 62 Benett Drive, Hove BN3 6UQ | | |
| Applicant: | Shaws Glass Ltd, Unit 1, Centenary Industrial Estate, Hughes Road, Brighton, BN2 4AW | | |

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 that it is **MINDED TO GRANT** planning permission subject to the receipt of an amended south east elevation which shows the proposed windows as high level and to the following Conditions and Informatives:

Conditions

1. 01.01AA Full Planning.
2. 03.02A Matching Materials.
3. The premises shall not be open or in use except between the hours of 07:30 and 19:00 Monday to Saturday. The premises shall not be open or in use at anytime on Sundays or Bank Holidays.
Reason: To safeguard the amenities of adjoining occupiers and to accord with policies QD27, SU9 and SU10 of Brighton & Hove Local Plan.
4. The first floor windows in the south east elevation of the development hereby permitted, facing towards the gardens of properties in Richmond Road, shall be obscure glazed and non-opening, and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property, to reduce potential for noise disturbance and to comply with policies SU9, SU10, QD14 and QD27 of the Brighton & Hove Local Plan.
5. The internal and external vehicle parking areas shown on the approved plans shall not be used otherwise than for the parking of motor vehicles belonging to the occupants of and visitors to Unit 1, Centenary Industrial Estate.
Reason: To ensure that adequate parking provision is retained and to comply with policies TR1 and TR19 of the Brighton & Hove Local Plan.
6. The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the

development hereby permitted and shall thereafter be retained for use at all times.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

7. No development shall commence until a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration 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 occupation of the development and shall thereafter be retained as such.

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

8. The development hereby permitted shall not be commenced until details of sustainability measures to be incorporated within the extension have been submitted to and approved in writing by the Local Planning Authority. These details shall demonstrate how the development would be efficient in the use of energy, water and materials. The development shall be carried out in strict accordance with the approved details.

Reason: To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

Informatives:

1. This decision is based on the location plan submitted on 26 October 2009 and the block plan, drawing nos. 07073/01 and 07073/05, the Design and Access Statement, Waste Minimisation statement and Biodiversity Checklist submitted on 25 January 2010.
2. The applicant is advised that new legislation on Site Waste Management Plans (SWMP) was introduced on 6 April 2008 in the form of Site Waste Management Plans Regulations 2008. As a result, it is now a legal requirement for all construction projects in England over £300,000 (3+ housing units (new build), 11+ housing units (conversion) or over 200sq m non-residential floorspace (new build)) to have a SWMP, with a more detailed plan required for projects over £500,000. Further details can be found on the following websites (www.netregs.gov.uk/netregs/businesses/construction/62359.aspx and www.wrap.org.uk/construction/tools_and_guidance/site_waste_2.html).
3. 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, and to all relevant material considerations, including

Supplementary Planning Guidance:

| | |
|------|---|
| 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 |
| SU9 | Pollution and nuisance control |
| SU10 | Noise nuisance |
| SU13 | Minimisation and re-use of construction industry waste |
| QD1 | Design – quality of development and design statements |
| QD2 | Design – key principles for neighbourhoods |
| QD3 | Design – efficient and effective use of sites |
| QD14 | Extensions and alterations |
| QD25 | External lighting |
| QD27 | Protection of amenity |

Supplementary Planning Guidance Documents: (SPD's/SPG's)

| | |
|----------|---|
| SPGBH4: | Parking Standards |
| SPGBH16: | Energy Efficiency & Renewable Energy; and |

ii) for the following reasons:

The proposal has an appropriate design and appearance for an extension to Unit 1 and would allow the growth of the existing business with benefits for the local economy. The extension, subject to appropriate conditions, would have no adverse impact upon neighbouring residential properties. Adequate and secure on site vehicle parking would be provided.

2 THE SITE

The site is situated on Centenary Industrial Estate, which is characterised by a number of similar flat roofed industrial buildings with a mixture of brick and corrugated metal elevations. The estate is accessed from Hollingdean Road.

Unit 1 is two storeys and has areas of red/brown brick, grey corrugated metal clad elevations and red glazing bars to the windows. To the north east of the site is an existing parking area containing seven spaces. The parking area is largely used for the storage of containers and waste at present.

The site slopes up steeply to the rear of the unit on the southern and western boundaries to a height of approximately 4 metres in height. There is vegetation on the embankment. Beyond the embankment are the rear gardens of the residential terraces which front onto Richmond and Mayo Road. The embankment also forms the boundary of the Round Hill conservation area.

3 RELEVANT HISTORY

BH2008/00412: Extension on two storeys to existing factory to provide secure car parking at ground floor level and further manufacturing/storage at first floor. Granted 29 July 2008.

BH1999/01748/FP: Change of use from class B1 (light industrial) to B8

(Storage and Distribution). Granted 8 September 1999.

4 THE APPLICATION

The proposal seeks planning permission to erect a two storey extension to be sited within the existing car parking area. The extension will provide five secure parking spaces on the ground floor and manufacturing/storage space at first floor level. The proposed extension would have a floorspace of 260 square metres.

5 CONSULTATIONS

External:

Neighbours: Eight letters of objection have been received from **Unit 11 Centenary Industrial Estate, No. 11A Mayo Road and Nos. 37, 39(x2), 45, 47, 49 Richmond Road.**

The objectors raise the following issues:

A two storey building would look inappropriate and the additional height will exceed the height of embankment. The extension will be even closer to the embankment. As Richmond Road gardens slope down, the new extension at the front would be more prominent than the existing building and would reduce light to the adjoining gardens. The scheme would have an adverse impact upon the character and appearance of the conservation area.

The proposed windows will cause overlooking and loss of privacy to gardens. There would be loss of views across the city. There would be overshadowing of and loss of light to neighbouring properties.

The proposal would create additional traffic movements, causing increased disturbance to neighbours. The proposal would cause the loss of parking spaces in Hughes Road. Shaws already park on double yellow lines and cannot use their own parking spaces as they have containers permanently stored on them.

Expansion of the industrial estate is inappropriate in this residential area. Brighton will be less popular if residential areas are made more unpleasant, devoid of space, light and open space. The adjoining residential area is becoming industrialised. This will add to existing noise and disturbance from the industrial estate and waste facility. Residents are already disturbed at night by movement of vehicles, skips etc, including by Shaws. The roller shutter doors will cause disturbance. The existing bank partially screens noise and if the building is above the embankment it will increase noise disturbance. There would also be noise and dust from construction work. Lighting could also cause disturbance.

The proposal would lower property values. If Shaws have outgrown the unit, they should move to more suitable premises. The scheme could create a precedent for other extensions.

Internal:

Sustainable Transport: Existing parking on double yellow lines is an enforcement matter and should be addressed by the parking team. This site is on the Industrial Estate around the back of Hollingdean Road, near the Sainsburys access. The road is public highway that only serves the industrial estate. It would be very difficult to support a reason to object and prove the unlawful parking only relates to this unit.

One of the proposed parking spaces has a length of only 4.5 metres. This is insufficient but amending the staircase may satisfactorily address this issue.

Advise that we should use the standard condition to secure the parking for that use only and no other use. Cycle parking is also required.

Environmental Health: No response.

Economic Development: Fully supports the application as it provides additional manufacturing/storage space for the existing occupier to develop the business in its current location.

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 |
| SU9 | Pollution and nuisance control |
| SU10 | Noise nuisance |
| SU13 | Minimisation and re-use of construction industry waste |
| QD1 | Design – quality of development and design statements |
| QD2 | Design – key principles for neighbourhoods |
| QD3 | Design – efficient and effective use of sites |
| QD14 | Extensions and alterations |
| QD25 | External lighting |
| QD27 | Protection of amenity |

Supplementary Planning Guidance Documents: (SPD's/SPG's)

SPGBH4: Parking Standards

SPGBH16: Energy Efficiency & Renewable Energy

7 CONSIDERATIONS

The main considerations are the suitability of the site to accommodate the proposed extension having regard to the use, design, the character of the surrounding area, neighbouring residential amenity, transport and sustainability.

Principle of proposed development

The extension is considered to be acceptable in principle. It would allow the expansion of an existing business in an industrial estate location, which accords with Local Plan policy and would help the local economy.

In addition, planning permission was granted in 2008 for a similar extension. This decision is a material consideration in determining the application. The current proposal is approximately four metres longer than the previously approved scheme, but is of the same width and general design. Besides its length, the other main change is that the previous approval showed high level windows facing south east, whereas the current scheme has windows of normal depth.

Design

The proposed extension is to be sited to the north east of the main building on the existing parking area. The parking bays are currently occupied by storage containers which would be replaced by the proposed extension. The ground floor would retain the existing parking spaces and manufacturing/storage space would be provided above.

The site lies on an industrial estate which is characterised by similar style industrial style buildings, predominantly two storeys in height. The extension would have exactly the same height as the existing building. The proposed scheme has been designed to match that of the existing structure, with grey corrugated metal cladding and glazing with red glazing bars. It is considered prudent to condition that the materials will be retained as such in order to aid the proposal's visual integration with the main building. The extension's height and design is appropriate to the character and appearance of the existing building.

The extension would abut the pavement at one point, with a small landscaped strip in the corner of the site. Despite this proximity to the pavement, the adjoining embankment would largely screen the extension from view from either the residential properties or people entering Hughes Road. It would project slightly above the top of the embankment, but this projection would only be seen from the houses against a backdrop of the industrial estate itself.

Overall, the extension is considered of an appropriate design and appearance for this industrial estate location.

Residential amenity

As previously stated, the site slopes up very steeply to its south east and south west boundaries. At the top of the embankment lie the rear gardens of houses in Mayo Road and Richmond Road.

The proposal has revised the fenestration facing towards houses in Richmond Road. The increased depth of the windows compared to the previous approval now proposed does offer some potential for overlooking towards the

rear gardens of Richmond Road. If open, the windows could also allow noise disturbance to adjoining houses.

These houses are located a minimum of 30 metres away from the proposed extension. This distance would avoid any overlooking of windows in the houses, particularly since the proposed side windows would partially screened by the embankment and fencing. However in order to avoid any perception of overlooking an amended south east elevation has been requested which shows the proposed windows to be at high level. A condition to secure the windows as obscure glazed and non-opening is also recommended.

Further, adequate distances are considered to be maintained between the proposed extension and neighbouring industrial uses to preclude any adverse overshadowing or overbearing affect.

For the previous scheme, the Environmental Health Officer raised no objection to the scheme subject to conditions relating to soundproofing or plant and machinery and restricting the hours of operation to ensure the protection the residential amenity of neighbouring dwellings. The hours of use are already restricted under planning permission BH1999/01748/FP to between the hours of 07:30 and 19:00 hours on Mondays to Saturdays and not at anytime on Sundays or Bank Holidays. These hours were also attached by condition to the 2008 permission for an extension. A similar condition is recommended for the current application.

Transport

There is a problem with existing parking at the unit. Although there are seven parking spaces on the site, five are currently used for storage of large shipping containers and waste from the premises. This has resulted in increased on street parking. At the time of the officer's site visit, five vehicles associated with Shaws were observed parked on double yellow lines outside the premises.

Whilst illegal parking is not a planning matter, the apparent unauthorised use of the existing on site parking has been referred to the planning enforcement team for investigation. Regardless of this current concern, the proposal would involve the removal of the unsightly containers and waste and the retention of seven parking spaces on the site. These spaces can be secured for parking use only by condition. Construction of the extension should therefore help to secure the availability of long term parking provision to serve the premises.

Cycle parking is not shown on the submitted plans but can be secured by condition.

Sustainability

With respect to sustainability issues, the applicant has not submitted any details relating to minimisation of construction waste. However, this scheme

would be covered by Site Waste Management Plans Regulations 2008. This can be addressed by an informative.

The proposed development is an extension rather than a new build and as such is not expected to reach a BREEAM Standard of 'very good.' However, demonstration of proposed sustainability measures utilised within the scheme are expected. Details of the general sustainability measures to be integrated in the scheme are to be requested by condition.

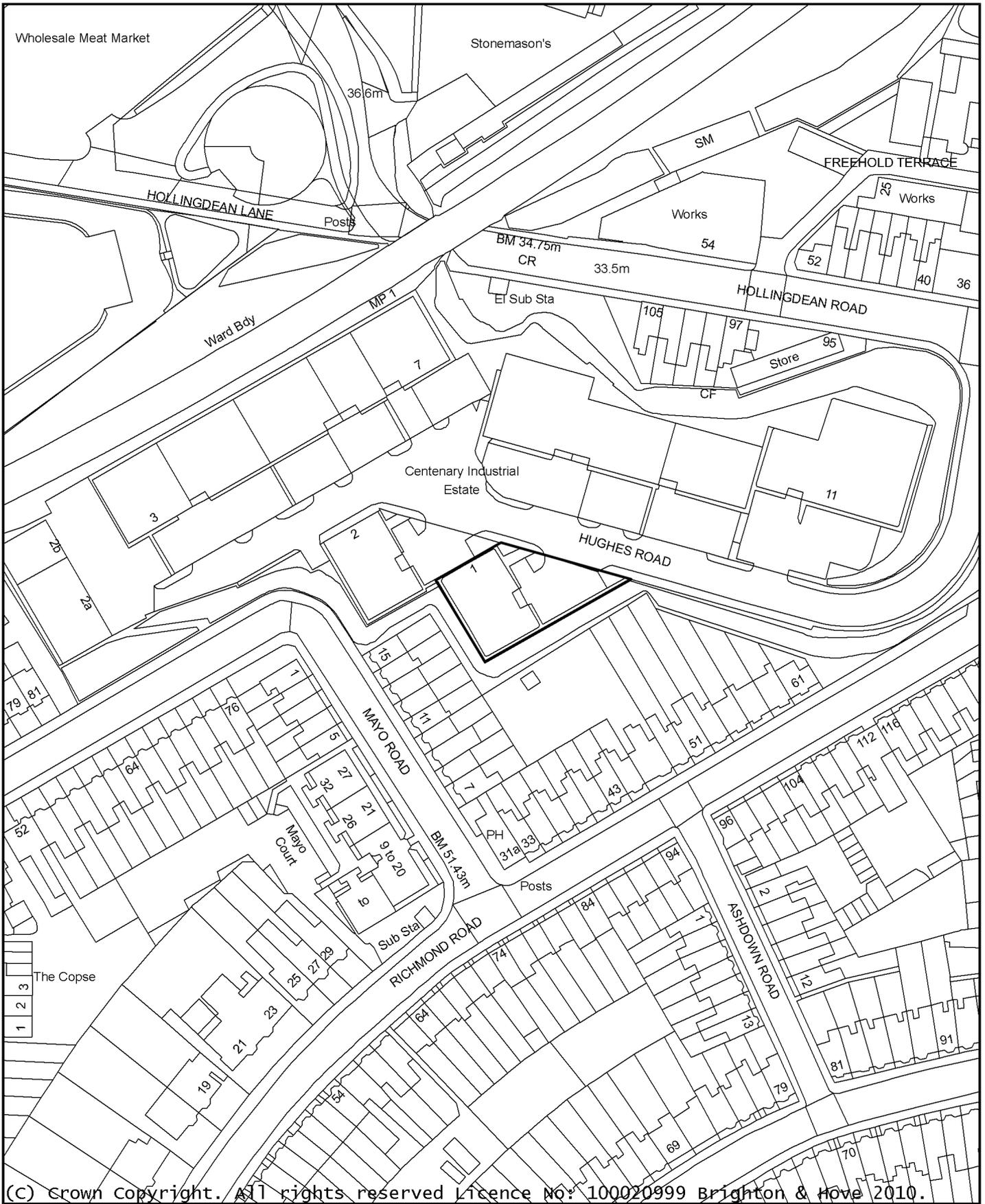
8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposal has an appropriate design and appearance for an extension to Unit 1 and would allow the growth of the existing business with benefits for the local economy. The extension, subject to appropriate conditions, would have no adverse impact upon neighbouring residential properties. Adequate and secure on site vehicle parking would be provided.

9 EQUALITIES IMPLICATIONS

Level access would be available to the ground floor only. The building has no lift and none is proposed, so the only first floor access is by stairs.

BH2009/03043 Unit 1, Centenary Industrial Estate, Hughes Road



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Date: 02/03/2010 02:18:26

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PLANS LIST – 17 MARCH 2010

Brighton & Hove City Council

Meeting: Planning Committee

Date: 17 March 2010

Subject: BH2009/00696

39 Salisbury Road, Hove

Demolition of existing building and erection of a four storey private residential building containing nine mixed size units and community area on ground floor.

Ward(s) affected: Brunswick & Adelaide

1. Purpose of the report

- 1.1 To consider and re-determine planning application reference BH2009/00696 following the receipt of amended and additional information.

2. Background

- 2.1 On 2nd September 2009 Planning Committee considered an application for the following development:-

Demolition of existing building and erection of a four storey private residential building containing nine mixed size units and community area on ground floor.

- 2.2 The Committee, following a visit to the site and adjoining properties, resolved that planning permission be granted subject to the completion of a s106 obligation to secure the provision of the community facility as a community benefit, a management plan for the community facility to ensure its use as such; and a number of conditions and informatives. The original Committee report and minutes of this meeting are attached at Appendix I. Planning permission has not been issued as the s106 agreement has not yet been completed.
- 2.3 Following this resolution a Judicial Review Letter Before Claim has been received. The letter states that inaccuracies on the submitted plans had been identified and, as a result, the conclusions reached within the Committee report were based on flawed and incorrect information. The Letter advised that if planning permission were issued on the basis of the current Committee resolution it was intended to issue Judicial Review proceedings against the Council with the aim of obtaining an Order to quash the decision. It was therefore requested that a full daylight sunlight impact report be carried out; accurate survey plans of all

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properties and level survey of the application site and adjoining properties be submitted; and that the application then be reconsidered.

- 2.4 It is agreed that plans originally submitted with the application were inaccurate in so far as they relate to the position and presence of the rearmost window in the basement flat of no. 9 Palmeira Avenue; a patio door of the basement flat to no. 11 Palmeira Avenue; and associated 25 degree lines, drawn from window openings to the rear of Palmeira Avenue to assess the impact of the development on daylight to adjoining properties.
- 2.5 These inaccuracies affect considerations relating to the impact of the proposed building on adjoining properties and having sought the advice of the Head of Law it was considered appropriate to take matter back to Committee for redetermination.
- 2.6 The applicant has submitted amended drawings, with sections through the proposed development and adjoining properties on Palmeira Avenue, drawn to a recognised scale for planning purposes (as were the previous plans); and a report assessing the potential loss of daylight to rear windows of properties on Palmeira Avenue as a result of the proposed development.
- 2.7 In light of the above it is considered appropriate that the application be reconsidered based on the additional information and amended plans. It is only the impact of the development on overshadowing and daylight to adjoining properties which requires consideration and there are no new material considerations in respect of the other key issues.

3. Recommendation

- 3.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 5 of this report and resolves to **MINDED TO GRANT** planning permission subject to:

- (i) A Section 106 obligation to secure the following:
- The provision of the community facility as a community benefit (i.e. not to occupy any of the residential units until the community facility has been provided to “shell and core” standard).
- (ii) The following conditions and informatives:

Conditions

1. BH01.01 Full Planning
2. The ground floor of the building, excluding the communal cycle, refuse, recycling stores and access to upper levels, shall only be used for uses falling within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to

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that Class in any statutory instrument revoking and re-enacting that Order with or without modification) unless prior written consent is obtained from the Local Planning Authority for any community uses falling outside this Class.

Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policy QD27 of the Brighton & Hove Local Plan.

3. BH14.01 Archaeology (Investigation/Programme of work).
4. BH03.01 Samples of Materials Non-Cons Area (new buildings).
5. BH11.01 Landscaping / planting scheme.
6. BH11.02 Landscaping / planting (implementation / maintenance).
7. No development shall commence until details of the ground floor community facility details of boundary screening along the eastern (rear) boundary of the site have been submitted to and agreed in writing by the Local Planning Authority.
Reason: To safeguard the amenities of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan.
8. The boundary screening shall be completed in accordance with the details approved under condition 7 prior to occupation of the ground floor community facility and be retained as such thereafter.
Reason: To safeguard the amenities of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan.
9. The lower sections of windows to the rear elevation at first, second and third floor levels, as indicated on approved drawing no. BRX 201 02, shall not be glazed otherwise than with fixed shut obscured glass and shall thereafter permanently retained as such.
Reason: To safeguard the amenities of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan.
10. Access to the flat roof areas at first, second and third floor levels to the rear of the building shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policy QD27 of the Brighton & Hove Local Plan.
11. The rear outdoor space and rear access doors shall not be open or in use except between the hours of 09.00 and 18.00 Monday to Friday, 10.00 and 16.00 on Saturdays and at no times on Sunday's or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

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- Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan
12. Prior to occupation of the ground floor of the building details of the management of the rear outdoor space shall be submitted to and approved in writing by the Local Planning Authority. The rear outdoor space shall only be used in accordance with the approved details thereafter. The management plan for the outdoor space shall be reviewed annually and submitted to and agreed in writing by the Local Planning Authority, unless otherwise agreed in writing by the Local Planning Authority.
- Reason:** To ensure the effective management of the outdoor space and safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.
13. BH07.02 Soundproofing of building.
14. BH06.02 Cycle parking details to be submitted
15. BH05.01 Code for Sustainable Homes – Pre-Commencement (New build residential) Code Level 3.
16. BH05.02 Code for Sustainable Homes – Pre-Occupation (New build residential) Code Level 3
17. Notwithstanding the submitted details no development shall take place until a written Site Waste Management Plan, confirming how demolition and construction waste will be recovered and reused on site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be implemented in strict accordance with the approved details.
- Reason:** To ensure that the development would include the re-use of limited resources, to ensure that the amount of waste for landfill is reduced and to comply with policies WLP11 of the East Sussex and Brighton & Hove Waste Local Plan and SU13 of the Brighton & Hove Local Plan and Supplementary Planning Document 03 Construction and Demolition Waste.
18. BH04.01 Lifetime Homes.

Informatives:

- 1) This decision is based on drawing nos. BRX 203 0 & 206 0 submitted 23rd March 2009; BRX 100 02, 200 02 & 205 01 submitted 9th April 2009; drawing no. BRX 201 02 submitted 17th April 2009; drawing nos. BRX 202 03, 203 03, 204 01 & 207 00 submitted 7th December 2009; and 'potential loss of daylight to rear windows in Palmeira Avenue, Hove, due to proposed development at 39 Salisbury Road' report submitted 22nd December 2009.
- 2) This decision to grant Planning Permission has been taken:

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

| | |
|-------|--|
| 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 |
| SU9 | Pollution and nuisance control |
| SU10 | Noise nuisance |
| SU13 | Minimisation and re-use of construction industry waste |
| 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 |
| QD5 | Design - street frontages |
| QD15 | Landscape design |
| QD27 | Protection of amenity |
| HO3 | Dwelling type and size |
| HO4 | Dwelling densities |
| HO5 | Provision of private amenity space in residential development |
| HO7 | Car free housing |
| HO13 | Accessible housing and lifetime homes |
| HO19 | New community facilities |
| HO20 | Retention of community facilities |
| HE6 | Development within or affecting the setting of conservation areas |
| HE12 | Scheduled ancient monuments and other important archaeological sites |
| SPD03 | Construction and Demolition Waste |
| SPD08 | Sustainable Building Design; and |

- ii) for the following reasons:

The development is of an appropriate height, scale, bulk and design having regard to the local characteristics and will provide modern flexible D1 community floorspace at ground floor level and a good standard of residential accommodation at upper floors.

The development will result in a greater impact on adjoining properties than currently exists. However, it has been demonstrated that sufficient light will remain available to adjoining properties, and despite additional overshadowing to adjoining gardens to the east

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the remaining light is considered sufficient in this location and the harm will not be significant.

The development will be 'car free' and therefore no increase demand for on-street parking will result.

- 3) The applicant is advised that in respect of condition 6 details relating to the means of enclosure to the western boundary of the site should have regard to achieving noise attenuation between the ground floor Class D1 use(s) and adjoining residential properties.
- 4) The applicant is advised than in respect of condition 14 the cycle parking facilities should include the provision of a roof over the cycle parking areas.

4. Consultations

4.1 Prior to Planning Committee on 2nd September 2009 two additional letters were received too late for inclusion in either the Committee Report or Late Representations List. The letters were received from:-

132 Portland Road objecting to the application for the following reasons:-

- the proposal represents an underdevelopment of the site which should deliver at least 10 flats, and therefore require the provision of affordable housing. The Council's Housing Strategy have not been consulted;
- believe the applicant will obtain evidence to change the ground floor to residential as well, thus evading the requirement of affordable housing on the site;
- no means have been proposed to ensure a non-profit level of charge for any community facility.

Cornerstone supporting the application which would provide an additional community facility.

4.2 Local residents have been re-consulted on the amended plans and additional information. Additional letters have been received on behalf of **9, 11 & 13 Palmeira Avenue** (*and all other interested parties*) and **132 Portland Road** objecting to the application for the following reasons:-

- rather than re-determining the same application the applicant should be required to make a new planning application;
- the BRE guide states that 'both the total amount of skylight (*i.e. the VSC test*) and its distribution within the building are important', and daylighting of an existing building may be adversely affected if either the VSC or

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daylight distribution tests are transgressed. The conclusion within the submitted report is based solely on the VSC and the daylight distribution test has not been carried out. Therefore consider that the report cannot be relied upon and a decision should be deferred until the second test has been carried out.

- 4.3 Any subsequent letters will be reported, and if necessary responded to, in the Late Representations List.

5. Considerations

- 5.1 As set out at paragraph 2.7 it is only the impact of the development on overshadowing and daylight to adjoining properties which requires further consideration and there are no new material considerations in respect of the other key issues.

- 5.2 Overshadowing: the previous committee report stated:-

“a ‘sun on ground study’ has been submitted which illustrates the impact of the existing building, the previous appealed scheme, and the proposed building on adjoining properties to the rear. The key points of the study are:-

- *the rear garden of no. 9 will be unaffected by the development;*
- *the development will result in overshadowing of no. 11 approximately 1 hour earlier than at present (at 16.00 instead of 17.00);*
- *the proposed building will result in additional overshadowing to no. 13. The southern part of the rear garden would be overshadowed approximately 20 minutes earlier than at present (at 15.25 instead of 15.45), with the northern part of the garden overshadowed 60 mins earlier than at present (at 17:00 instead of 18:00 hours).*

The findings of the study have been assessed by the Building Research Establishment (BRE) who concluded that ‘sunlight provision to the rear of Palmeira Avenue would remain satisfactory with the development in place. It would meet the guidance in the BRE report Site layout planning for daylight and sunlight: a guide to good practice’.

- 5.3 These conclusions were accepted at the September 2nd Planning Committee Meeting.
- 5.4 The inaccuracies on the submitted plans, as outlined in section 2.3, have not compromised the submitted ‘sun on ground’ study which indicates overshadowing of rear garden areas on Palmeira Avenue, as opposed to the impact on adjoining

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window openings. There are no reasons, and none have been given, to question the methodology or conclusions of the submitted sun on ground study.

5.5 It is therefore considered that the submitted information satisfactorily demonstrates the additional overshadowing resulting from the development will not lead to significant harm for occupiers of adjoining properties on Palmeira Avenue.

5.6 Loss of daylight: the previous committee report stated in respect of loss of light:-

“A drawing has been submitted showing the relationship between the proposed building and existing ground floor window openings to the rear of 9 and 11 Palmeira Avenue. The drawing demonstrates that the proposed development, with the set-back at third floor level, does not subtend the 25 degree line as projected from the rear of these properties. On this basis it is it has been adequately demonstrated that the proposed building will not result in significant effect on light levels to adjoining properties.”

5.7 As set out in paragraphs 2.4 and 2.6 it has since emerged that plans submitted with the application were inaccurate, and that amended plans and additional information have been submitted.

5.8 The BRE Report ‘Site layout planning for daylight and sunlight: A guide to good practice’ recommends that to assess the impact of a development on the amount of diffuse daylighting entering existing buildings the vertical sky component (VSC) be calculated. The VSC is a ratio of the amount of sunlight falling on a wall or window and is recognised as being a good measure of the amount of daylight entering it.

5.9 A report calculating the vertical sky components to windows at lower ground and ground floor rear windows of nos. 7, 9 and 11 Palmeira Avenue has been prepared by the BRE and submitted by the applicant: this report is based on accurate drawings. The report concludes that the impact of loss of light to these window openings would still meet the BRE guideline in respect of VSC. In accordance with the BRE guide the resulting loss of light can be considered small and would not be so harmful as to justify refusal of planning permission for the development.

5.10 The report referred to in paragraph 5.9 also notes that windows on the upper floors and those further along the terrace, i.e. no. 13 Palmeira Avenue onwards, would be less affected than nos. 7, 9 & 11 by the new development and therefore also meet the BRE guideline.

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- 5.11 There are no apparent reasons to dispute the methodology of this report and the impact of the development on the total amount of skylight (the VSC) to adjoining properties is considered acceptable.
- 5.12 As referred to in paragraph 4.2 a letter of objection has been received stating that by itself the VSC analysis is not conclusive and the distribution of daylight to rooms of adjoining properties should also be assessed, as recommended by the BRE guide, in order to determine whether loss of daylight resulting from the development would be significant.
- 5.13 Whilst this representation is noted, further daylight analysis is not considered to be necessary. The daylight report concludes that the loss of daylight is small and insignificant on the basis of the application of the VSC. Had the results of the VSC exercise indicated anything of significance then a daylight distribution exercise would be useful in further testing the impact. However given the findings from the VSC this is not necessary.

The Local Planning Authority is therefore satisfied on this basis that it has been adequately demonstrated that the proposed building will not result in significant effect on light levels to adjoining properties.

- 5.14 The eastern side of Salisbury Road is characterised by flatted development of a comparable scale and relationship to adjoining properties on Palmeira Avenue to that proposed by this application. In this circumstance a higher degree of obstruction is considered necessary in order for development on the site to reflect the height of adjoining buildings. The configuration at second and third floor levels, which are set back from ground and first floor levels, is considered sufficient to minimise the impact on daylight to adjoining properties. The impact of the development on daylight for occupiers of adjoining properties is not therefore considered to be an overriding reason to refuse planning permission.
- 5.15 The Judicial Review Letter Before Claim, as set out in paragraph 2.3, requested a sunlight report be carried out. However, in respect of sunlight to adjoining properties the BRE guide recommends that living room windows of existing buildings should be checked if they are within 90 degrees of due south. The windows to the rear of Palmeira Avenue are north of due west and do not therefore need to be checked for sunlight.

6. S106 Agreement

- 6.1 The minded to grant resolution from Planning Committee on 2nd September 2009 required a s106 agreement to secure:-
- 1) The provision of the community facility as a community benefit; and
 - 2) A management plan for the community facility to ensure its use as such.

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6.2 Since this resolution discussions have taken place to finalise a s106 agreement in accordance with these heads of terms. With regards to this first matter, and for Members' benefit, officers have taken the opportunity to clarify the wording of this clause which effectively requires that none of the residential units shall be occupied until the Community Facility has been provided to at least shell and core standard. The Head of Law has advised that the requirement for a management plan (no. 2 above) is not necessary as planning permission would be granted for Class D1 use and this provides security as to the future use of the ground floor premises. It is also noted that it would be unreasonable to require a management plan for the ground floor unit when the end user has yet to be identified or secured. It is therefore recommended that a management plan does not necessarily need to be secured as part of a s106 agreement, as outlined in paragraph 3.1.

7. Conclusion

7.1 The application required further consideration in light of amended and additional information relating to the impact of the proposed development to adjoining properties on Palmeira Avenue. To this end revised, accurate drawings have been submitted and local residents have been consulted in respect of these.

7.2 For the reasons outlined in section 5 the development will not result in significant harm to neighbouring amenity, by way of overshadowing and loss of light, for occupiers of adjoining properties on Palmeira Avenue.

7.3 It is therefore recommended that planning permission be granted for the proposed development, subject to the heads of terms and conditions outlined in section 3 of this report.

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APPENDIX I

| | | | |
|--------------------------|--|------------------------------|-------------------------------|
| <u>No:</u> | BH2009/00696 | <u>Ward:</u> | BRUNSWICK AND ADELAIDE |
| <u>App Type:</u> | Full Planning | | |
| <u>Address:</u> | 39 Salisbury Road, Hove | | |
| <u>Proposal:</u> | Demolition of existing building and erection of a four storey private residential building containing nine mixed size units and community area on ground floor. | | |
| <u>Officer:</u> | Guy Everest, tel: 293334 | <u>Received Date:</u> | 23 March 2009 |
| <u>Con Area:</u> | Adjoining Willett Estate | <u>Expiry Date:</u> | 12 June 2009 |
| <u>Agent:</u> | Town & Country Planning Solutions Ltd., Sandhills Farmhouse, Bodle Street Green, Hailsham | | |
| <u>Applicant:</u> | Brightwell Homes, 2 Goldstone Street, Hove | | |

This application was deferred at the last meeting for a Planning Committee site visit.

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:

- (i) A Section 106 obligation to secure the following:
 - The provision of the community facility as a community benefit
- (ii) The following conditions and informatives:

Conditions

1. BH01.01 Full Planning.
2. The ground floor of the building, excluding the communal cycle, refuse, recycling stores and access to upper levels, shall only be used for uses falling within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) unless prior written consent is obtained from the Local Planning Authority for any community uses falling outside this Class.
Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policy QD27 of the Brighton & Hove Local Plan.
3. BH14.01 Archaeology (Investigation/Programme of work).
4. BH03.01 Samples of Materials Non-Cons Area (new buildings).
5. BH11.01 Landscaping / planting scheme.
6. BH11.02 Landscaping / planting (implementation / maintenance).
7. The lower sections of windows to the rear elevation at first, second and third floor levels, as indicated on approved drawing no. BRX 201 02, shall

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not be glazed otherwise than with fixed shut obscured glass and shall thereafter permanently retained as such.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan.

8. Access to the flat roof areas at first, second and third floor levels to the rear of the building shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.

Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policy QD27 of the Brighton & Hove Local Plan.

9. The rear outdoor space and rear access doors shall not be open or in use except between the hours of 09.00 and 18.00 Monday to Friday, 10.00 and 16.00 on Saturdays and at no times on Sunday's or Bank Holidays unless otherwise agreed in writing by 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

10. Prior to occupation of the ground floor of the building details of the management of the rear outdoor space shall be submitted to and approved in writing by the Local Planning Authority. The rear outdoor space shall only be used in accordance with the approved details thereafter. The management plan for the outdoor space shall be reviewed annually and submitted to and agreed in writing by the Local Planning Authority, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the effective management of the outdoor space and safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.

11. BH07.02 Soundproofing of building.

12. BH06.03 Cycle parking facilities to be implemented.

13. BH05.01 Code for Sustainable Homes – Pre-Commencement (New build residential) Code Level 3.

14. BH05.02 Code for Sustainable Homes – Pre-Occupation (New build residential) Code Level 3

15. Notwithstanding the submitted details no development shall take place until a written Site Waste Management Plan, confirming how demolition and construction waste will be recovered and reused on site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be implemented in strict accordance with the approved details.

Reason: To ensure that the development would include the re-use of limited resources, to ensure that the amount of waste for landfill is reduced and to comply with policies WLP11 of the East Sussex and Brighton & Hove Waste Local Plan and SU13 of the Brighton & Hove Local Plan and Supplementary Planning Document 03 Construction and Demolition Waste.

16. BH04.01 Lifetime Homes.

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Informatives:

1) This decision is based on drawing nos. BRX 202 01, 203 0, 204 0 & 206 0 submitted 23rd March 2009; BRX 100 02, 200 02 & 205 01 submitted 9th April 2009; and drawing no. BRX 201 02 submitted 17th 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, including Supplementary Planning Documents:

| | |
|-------|--|
| 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 |
| SU9 | Pollution and nuisance control |
| SU10 | Noise nuisance |
| SU13 | Minimisation and re-use of construction industry waste |
| 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 |
| QD5 | Design - street frontages |
| QD15 | Landscape design |
| QD27 | Protection of amenity |
| HO3 | Dwelling type and size |
| HO4 | Dwelling densities |
| HO5 | Provision of private amenity space in residential development |
| HO7 | Car free housing |
| HO13 | Accessible housing and lifetime homes |
| HO19 | New community facilities |
| HO20 | Retention of community facilities |
| HE6 | Development within or affecting the setting of conservation areas |
| HE12 | Scheduled ancient monuments and other important archaeological sites |
| SPD03 | Construction and Demolition Waste |
| SPD08 | Sustainable Building Design; and |

ii) for the following reasons:

The development is of an appropriate height, scale, bulk and design having regard to the local characteristics and will provide modern flexible D1 community floorspace at ground floor level and a good standard of residential accommodation at upper floors.

The development will result in a greater impact on adjoining properties than currently exists. However, it has been demonstrated that sufficient light will remain available to adjoining properties, and despite additional overshadowing to adjoining gardens to the east the remaining sunlight is

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considered sufficient in this location and the harm will not be significant.

The development will be 'car free' and therefore no increase demand for on-street parking will result.

- 3) The applicant is advised that in respect of condition 6 details relating to the means of enclosure to the western boundary of the site should have regard to achieving noise attenuation between the ground floor Class D1 use and adjoining residential properties.

2 THE SITE

The application site relates to a site on the eastern side of Salisbury Road which contains a single-storey building. The building currently appears vacant but represents a hall-type community facility. The eastern side of Salisbury Road is predominantly relatively recent flatted development, with the western side historic semi-detached houses within the Brunswick & Adelaide Conservation Area.

3 RELEVANT HISTORY

Planning permission was refused in 2008 for 'demolition of existing building and erection of four storey private residential building containing nine mixed size units and community area on ground floor' (ref: **BH2008/01967**). The reasons for refusal were:-

1. The existing community use is not incorporated or replaced within the proposed development and it has not been demonstrated that there is a demand for the type of speculative community space to be provided within the local area, or that the space would be accessible to all members of the community and include demonstrable benefits to people from socially excluded groups.

Furthermore it has not been demonstrated the community use is, or has, relocated to a location that improved accessibility to its users; that existing nearby facilities are to be improved to accommodate the loss; or that the site is not needed for its existing use, or other types of community use.

The proposal is therefore contrary to policies HO19 and HO20 of the Brighton & Hove Local Plan.

2. There is insufficient information to demonstrate that the proposed development will not result in harmful overshadowing of adjoining gardens to the rear of the application site on Palmeira Avenue. The proposal is therefore contrary to policy QD27 of the Brighton & Hove Local Plan which seeks to protect residential amenity.

Planning permission was refused in 2007 for demolition of existing building & erection of four storey private residential building containing nine mixed size units (ref: **BH2007/00144**). The reasons for refusal were:-

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1. Policy HO20 of the Brighton & Hove Local Plan resists the loss of community facilities except where it can be demonstrated that the use is incorporated or replaced in the new development, is relocated to a location which improves its accessibility to users, nearby facilities are to be improved or the site is not needed, not only for its existing use but also for other types of community use. No justification has been made for the loss of the existing use on the site, contrary to the aims of the above policy, to the detriment of the amenities of the local population.
2. The proposal represents an overdevelopment of the site by reason of its excessive depth in relation to adjoining development. The height of the building is out of keeping with adjoining development by virtue of an unduly prominent fourth floor which would represent a highly visible component of both the building, wider street and adjoining conservation area. Furthermore the detailing of the front elevation fails to incorporate vertical relief appropriate to the conservation area setting. The proposal is therefore considered contrary to policies QD1, QD2, QD3 and HE6 of the Brighton & Hove Local Plan.
3. Policy QD27 of the Brighton & Hove Local Plan seeks to protect amenity. The proposed building by reason of its close proximity to the rear boundary of the site, particularly at first floor level, will result in overlooking of adjoining properties on Palmeira Avenue above that which would reasonably be expected from development on this site. The proposal is therefore contrary to the above policy to the detriment of neighbouring residential amenity.
4. Policy HO13 of the Brighton & Hove Local Plan requires new residential units be built to a lifetime homes standard whereby the accommodation can be adapted to meet the needs of people with disabilities without major structural alterations. Insufficient information has been submitted, particularly with regards the accessibility of bathrooms and the communal staircase, to demonstrate how the requirements of policy HO13 have been incorporated into the design of the development.
5. Policy TR1 of the Brighton & Hove Local Plan requires that development proposals should provide for the demand for travel they create and maximise the use of public transport, walking and cycling. Whilst the applicant has demonstrated a willingness for the development to be car free no delivery mechanism to ensure the development will remain genuinely car-free over the long term has been submitted. Therefore, in the absence of information to indicate demonstrate otherwise the proposal makes no provision for the increase in traffic likely to be generated and will exacerbate on-street parking demand.
6. Policy SU2 of the Brighton & Hove Local Plan requires proposals demonstrate a high standard of efficiency in the use of energy, water and materials. Insufficient information has been submitted with the application to demonstrate how these requirements have been met, particularly with regards the presence of internal

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bathrooms with no natural light or ventilation.

However, a subsequent appeal against this decision was dismissed solely due to loss of the community facility (reason 1 above), and overshadowing and loss of daylight to 7, 9, 11 & 13 Palmeira Avenue (part of reason 3 above). All other matters either did not constitute sufficient reasons for refusing the proposal or could be satisfactorily resolved by condition.

Permission was granted in 1988 for a conversion of the church to form ground floor offices with first and second floor extensions to form eight self-contained flats (ref: **3/88/0711**). Further permission was granted in 1989 for demolition of the existing building and construction of terrace of 3 three-storey offices with nine parking spaces (ref: **3/89/0648**). None of these approvals were implemented.

Planning permission was granted in 1951 and 1955 for a church building for public worship and religious instruction (ref: **M/1740/51** and **M/3518/54**).

4 THE APPLICATION

The application seeks consent for demolition of the existing building and erection of a four storey building comprising ground floor D1 floorspace with 9 self-contained flats above (1 x one-bed and 8 x two-bed).

5 CONSULTATIONS

External:

Neighbours: Ten (10) letters have been received from **7 (flats 4 & 5), 9 (flats A & E), 13 (flats 1, 2, 3, 4 & 5) Palmeira Avenue; 15 (flat 5) Salisbury Road** and **1 letter of no address objecting** to the proposal for the following reasons:-

- the development is not addressing a priority need for affordable housing in the area: in light of the current recession there will be no shortage of this type of property in the foreseeable future;
- no discernable attempt has been made to consult with the local community to assess what the local need is or how the facility is likely to be used. The community space is not addressing any identified community need and is not fit for purpose;
- loss of light;
- overshadowing as a result of the proposed height;
- overlooking and loss of privacy;
- the plans suggest a balcony or communal garden at the upper stories which will cause increased noise and disturbance;
- lack of parking facilities;
- a recent application for an additional storey at 38 Salisbury Road was recently refused (*ref: BH2008/03885*) with one of the reasons that the proposal was contrary to QD14 and QD27 which seek to protect residential amenity. The height of the new building as proposed will be at a similar level and the same objections apply;
- believe it should be possible to develop a more appropriate building;
- noise pollution, dust and dirt from demolition and construction works;

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- security issues resulting from the erection of new flats adjoining existing dwellings;
- loss of property value.

Cllrs Elgood & Watkins: Object – letter attached.

Country Archaeologist: (previous comments) the development is situated within an archaeologically sensitive area designated because of a large Bronze Age burial mound. The barrow contained at least one burial accompanied by a very rich and important assemblage of artefacts. There is also a strong possibility that this monument was surrounded by satellite burials and may have various phases of construction and use, possible pre-dating the Bronze Age, as well as subsequent use during later periods. The site is of national importance in the understanding of early to middle Bronze Age transition. In light of the potential significance of this site the area affected by the proposal should be subject to a programme of archaeological works to enable any deposits and features, disturbed during the works, to be adequately recorded.

Internal:

Environmental Health: No comment.

Sustainable Transport: The proposed application will generate fewer trips than the existing consented use and will therefore not have a material impact on the highway network requiring a financial contribution. The proposed application is within the City's controlled parking zone N which currently does not have a waiting list for a residential parking permit.

The cycle parking provision has been designed in accordance with policy TR14 and SPG4.

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
- SU9 Pollution and nuisance control
- SU10 Noise nuisance
- SU13 Minimisation and re-use of construction industry waste
- 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
- QD5 Design - street frontages
- QD15 Landscape design
- QD27 Protection of amenity
- HO3 Dwelling type and size

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HO4 Dwelling densities
HO5 Provision of private amenity space in residential development
HO7 Car free housing
HO13 Accessible housing and lifetime homes
HO19 New community facilities
HO20 Retention of community facilities
HE6 Development within or affecting the setting of conservation areas
HE12 Scheduled ancient monuments and other important archaeological sites

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 are the loss of the existing building and use on the site; and the impact of proposed development on amenity for occupiers of adjoining properties, the visual amenities of Salisbury Road and the adjoining conservation area, the impact on the demand for travel, and sustainability issues. The previous decisions, and associated appeal decision, are also material considerations.

Existing community facility

The existing building was originally built as a church building for public worship and religious instruction, and it is understood that between 1991 and 2006 the building was used as a function room available for hire. It is not in question that the former use of the premises was as a community facility.

Local plan policy HO20 states that planning permission will not be granted for development proposals that involve the loss of community facilities, and that exceptions may apply when:

- a) the community use is incorporated, or replaced within a new development;
- b) the community use is relocated to a location which improves its accessibility to its users; or
- c) existing nearby facilities are to be improved to accommodate the loss; or
- d) it can be demonstrated that the site is not needed.

The ground floor of the proposed development is indicated as community space within Class D1. The applicant considers that this provision complies with criteria (a) of policy HO20 and notes that although the site still remains in D1 use the building has been vacant for 3 years and as such there is no community facility to replace. It is not being suggested that the community facility is being replaced elsewhere, that existing nearby facilities are to be improved to accommodate the loss, or that the site is not needed for community use; accordingly criteria (b), (c) and (d) do not apply to the proposal.

The proposed ground floor provides modern flexible space, capable of

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accommodating 1 or 2 users, and will be DDA compliant. The application is accompanied by supporting information from local agents advising that the community facility is likely to be attractive to a number of end-users; and outlining probable future management arrangements. Although the D1 element of the scheme is speculative, with no known end user, on the basis of the submitted information there are no apparent reasons why a community use would not be realised within the premises and meet a demand in the local area.

The proposal must also be considered against the provisions of local plan policy HO19, which relates to the provision of new community facilities. For the reasons outlined above, there are no reasons to believe the facility would not be accessible to all members of the community, and include demonstrable benefits to people from socially excluded groups.

Character and appearance

The existing building on the site is of little architectural merit and does not positively contribute to the overall character and appearance, or setting, of the Willett Estate Conservation Area. The principle of redevelopment is therefore acceptable in design terms.

Scale

The eastern side of Salisbury Road is generally characterised by relatively modern flatted development of between 3 and 5 storeys in height. The proposed four-storey height of the building is generally comparable with adjoining buildings and would be in keeping with the prevailing scale on Salisbury Road.

Design

A previous planning application (ref: BH2007/00144) was partly refused as the proposed building was considered excessive in depth, out of keeping with adjoining development by virtue of an unduly prominent fourth floor, and poorly detailed in relation to the adjoining conservation area.

However, when considering a subsequent appeal, the Planning Inspector considered that the depth of the proposed building would not be unreasonably excessive, the overall height of the building would be generally comparable with that of other buildings on this side of the road, the detailing of the front elevation would compare favourably with that of other modern buildings in the vicinity. This appeal decision is a material consideration in the determination of this application.

The overall design approach of the building proposed by this application has not altered following the earlier appeal decision and for this reason it is considered that refusal on design grounds could not be justified.

Impact on neighbouring amenity

Proposed building

The existing building on the site is lower than the adjoining buildings fronting

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Salisbury Road to the north and south of the site. The proposed building would rise to about half a storey above the height of the adjoining buildings on either side, and would obstruct the open aspect across the site that is presently enjoyed by the occupiers of the upper flats at 7, 9 and 11 Palmeira Avenue. However, if the development is acceptable in other respects (i.e. with regards light levels) the loss of aspect would not be an overriding reason for refusing planning permission.

The Planning Inspector, when considering an appeal for a comparable building on the site, raised concerns that upper parts of the proposed building would overshadow and lead to a reduction in light to the lowest flats and gardens at 7, 9, 11 & 13 Palmeira Avenue. The Inspector did not raise any other concerns with regards neighbouring amenity that would warrant refusal of the application.

In response to the appeal decision the third floor of the proposed building has been set back approximately 3.7 metres from the floor below and additional information on sunlight / overshadowing has been submitted.

Overshadowing - a 'sun on ground study' has been submitted which illustrates the impact of the existing building, the previous appealed scheme, and the proposed building on adjoining properties to the rear. The key points of the study are:-

- the rear garden of no. 9 will be unaffected by the development;
- the development will result in overshadowing of no. 11 approximately 1 hour earlier than at present (at 16.00 instead of 17.00);
- the proposed building will result in additional overshadowing to no. 13. The southern part of the rear garden would be overshadowed approximately 20 minutes earlier than at present (at 15.25 instead of 15.45), with the northern part of the garden overshadowed 60 mins earlier than at present (at 17:00 instead of 18:00 hours).

The findings of the study have been assessed by the Building Research Establishment (BRE) who concluded that 'sunlight provision to the rear of Palmeira Avenue would remain satisfactory with the development in place. It would meet the guidance in the BRE report *Site layout planning for daylight and sunlight: a guide to good practice*'. There are no apparent reasons to question these findings and whilst additional overshadowing will result for occupiers of adjoining properties, the resulting harm to amenity will not be significant.

Loss of light - a drawing has been submitted showing the relationship between the proposed building and existing ground floor window openings to the rear of 9 and 11 Palmeira Avenue. The drawing demonstrates that the proposed development, with the set-back at third floor level, does not subtend the 25 degree line as projected from the rear of these properties. On this basis it has been adequately demonstrated that the proposed building will not result in significant effect on light levels to adjoining properties.

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Loss of privacy - in accordance with the previous appeal decision on the site lower sections of windows to the rear elevation at 1st, 2nd and 3rd floor levels are to be obscurely glazed; this is indicated on the proposed plans and required by condition. This is considered sufficient to prevent overlooking and no significant loss of privacy will result for occupiers of adjoining properties. The plans do not indicate access to the flat roofed areas at first and third floor levels and a condition is recommended to prevent any future use as amenity space.

Proposed use(s) – the ground floor community facility has potential to create noise and disturbance for occupiers of adjoining properties: although it is noted there is no apparent history of noise complaints from the previous community use on the site. Whilst Environmental Health have not raised any concerns, to minimise the potential for such harm, conditions are recommended restricting hours of use and access to the rear garden area(s); requiring details of soundproofing between the ground floor and upper levels of the building, which may need to be in excess of that required by Building Regulations; and details of boundary treatment. The outlined conditions are considered sufficient to minimise the potential for noise and disturbance from future use of the ground floor premises.

Standard of accommodation

The development incorporates (8) 2 bed units and (1) 1 bed unit. This is considered to be an appropriate mix of units and whilst private amenity space is only provided for four units this is considered acceptable due to amenity and design constraints. The applicant has submitted a statement indicating that lifetime home standards have been incorporated into the design and this is apparent from the proposed floor plans.

Transport

The development proposes 9 residential units and a ground floor community centre with no provision for on-site parking, and due to the constraints of the site none can realistically be provided. An earlier application for 9 residential units on the site (see section 3) was partly refused as it was considered the development would exacerbate the demand for on-street parking. However, in an appeal decision against this refusal the Inspector considered an agreement to ensure that the development would remain genuinely car-free would overcome this.

A Unilateral Undertaking has been submitted to amend the Traffic Regulation Order so that future occupants of the development would not be eligible for resident parking permits. This approach is consistent with the preceding appeal decision on the site and will ensure no harmful demand for on-street parking will result from the development.

The proposed development has been assessed by the Transport Planning Team and is envisaged to generate fewer trips than the existing use of the site. On this basis the proposed development does not require the provision of additional sustainable transport infrastructure in the vicinity of the site.

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Secure cycle storage is located in a readily accessible position to the side of the property. The plans indicate the store could accommodate 12 cycles and this is considered acceptable with regards the requirements of LP policy TR14.

Sustainability

Policy SU2 requires proposals demonstrate a high standard of efficiency in the use of energy, water and materials. Further guidance within supplementary planning document 08, sustainable building design, recommends that for a development of this scale the application should include a completed Sustainability Checklist and achieve Level 3 of the Code for Sustainable Homes.

The sustainability checklist states the development will achieve a Level 3 or 'very good' rating. Further information in the Planning, Design & Access Statement outlines measures, such as solar panels to supplement the domestic hot water supply and water saving devices, which will contribute towards this being achieved. An earlier appeal decision considered that there were no reasons why this could not be secured by condition and as such suitable conditions are recommended to require further details.

Policy SU13 and Supplementary Planning Document 03 on Construction and Demolition Waste seek to reduce construction waste and require, as best practice, a Site Waste Management Plan demonstrating how elements of sustainable waste management have been incorporated into the scheme. A statement has been submitted demonstrating that there are no reason why construction and demolition waste cannot be minimised as part of the works and further details are required by condition.

Archaeological issues

Policy HE12 of the Brighton & Hove Local Plan aims to ensure developments preserve and enhance sites of known and potential archaeological interest and their settings. The application site forms part of a large Bronze Age burial mound and within an Archaeologically Sensitive Area.

In light of the potential significance of this site, the area affected by the proposal should be subject to a programme of archaeological works to enable any deposits and features, disturbed during the works, to be adequately recorded. A condition is therefore recommended to require a programme of archaeological works to be carried out before any development of the site takes place.

Conclusion

The existing building on the site contrasts with the prevailing scale and form of development on the eastern side of Salisbury Road. The proposed building is of an appropriate scale with the design and detailing, having regard to a previous appeal decision on the site, suitable for the location.

The development will provide modern flexible D1 floorspace at ground floor

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level and there are no apparent reasons why a community use would not be realised within the premises and meet a demand in the local area. At upper floors the development will provide nine residential units with a good standard of accommodation throughout.

The proposed building will result in a greater impact on adjoining properties than currently exists. However, it has been demonstrated that sufficient light will remain available to flats on Palmeira Avenue and whilst additional overshadowing of adjoining garden areas, and primarily no. 13, will result, the remaining sunlight is considered sufficient in this location and the harm will not be significant.

To ensure the development does not increase demand for on-street parking, which is in limited supply, future occupants of the residential units will not be eligible for resident parking permits.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The development is of an appropriate height, scale, bulk and design having regard to the local characteristics and will provide modern flexible D1 community floorspace at ground floor level and a good standard of residential accommodation at upper floors.

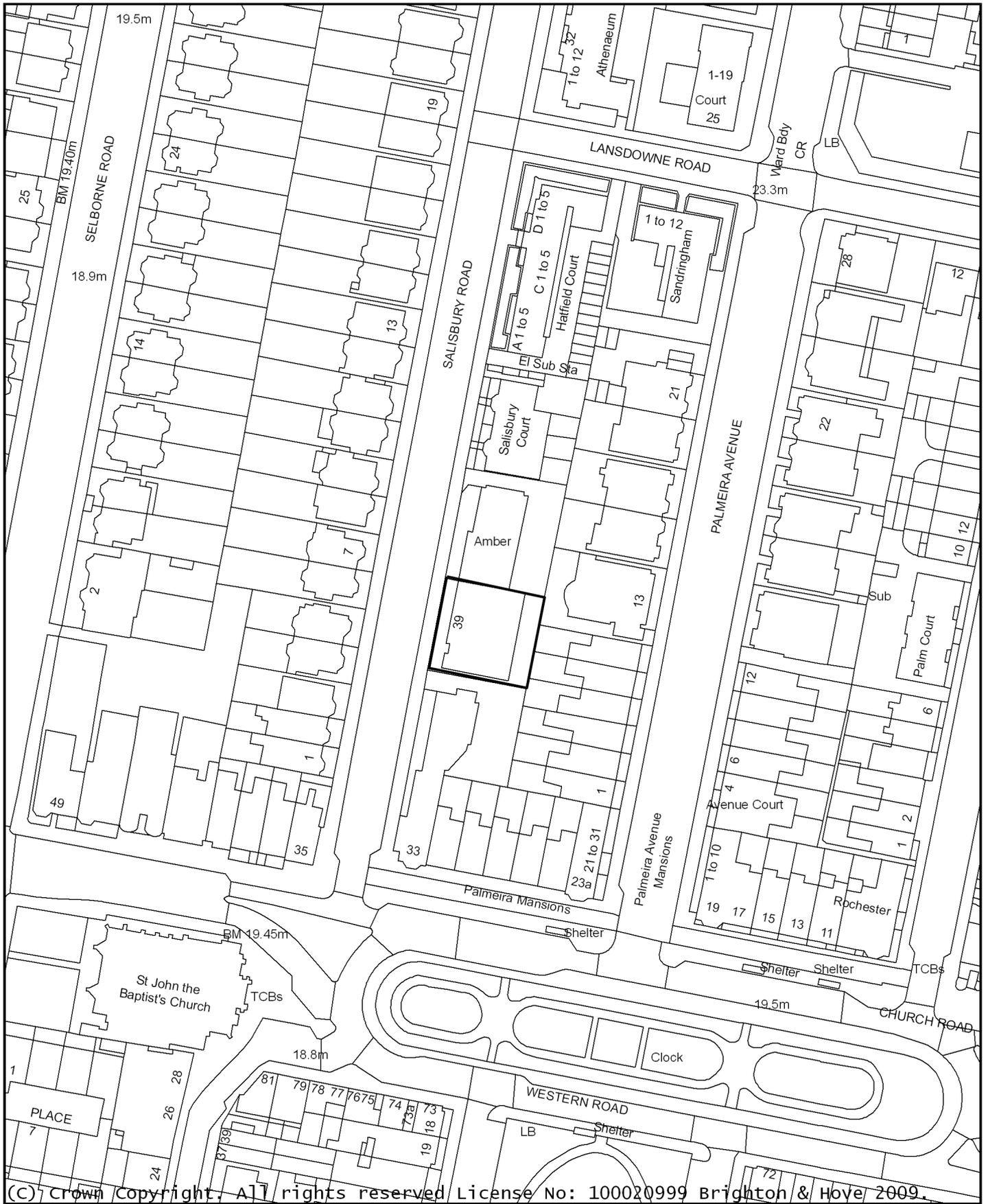
The development will result in a greater impact on adjoining properties than currently exists. However, it has been demonstrated that sufficient light will remain available to adjoining properties and, despite additional overshadowing to adjoining gardens to the east, the remaining sunlight is considered sufficient in this location and the harm will not be significant.

The development will be 'car free' and therefore no increase demand for on-street parking will result.

9 EQUALITIES IMPLICATIONS

The development should be built to Lifetime Home standards.

BH2009/00696 39 Salisbury Road



Date: 07/07/2009 02:02:31

Scale 1:1250



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Brighton & Hove City Council

PLANS LIST – 2 SEPTEMBER 2009

COUNCILLOR REPRESENTATION

From: Paul Elgood [Paul.Elgood@brighton-hove.gov.uk]
Sent: 06 August 2009 13:18
To: Penny Jennings; Guy Everest
Cc: David Watkins
Subject: Late representations for BH2009/00696 - 39 Salisbury Road, Hove

Dear Penny, Guy,

As the local Ward Councillors, we would like to make late representations for the above application, which comes before the Planning Committee on Wednesday.

Residents have contacted us concerned that the development will cause a considerable loss of privacy to neighbouring properties (especially to the rear). The proposal will cause loss of light to these properties, reduce daylight hours, cause overlooking (especially from the proposed balcony) and increase noise and disruption. These residents purchased their properties based on the existing use of the building, not as residential units.

We are concerned that the development will lose one of the few large community facilities in the area. The previous use of the building included a nursery which helped to meet a growing need for families in the ward who have limited other opportunities locally. The report does not mention the previous use as a nursery, and we would like to seek urgent clarification. There are a large number of community uses such a building could offer, and to lose it will impact negatively on residents.

Indeed, the comments within the report regarding the 'community' space are too vague and do not address how the space would be used, managed and made available to the public. Firmer undertakings need to be undertaken before any decision is made.

In addition, we are concerned that none of the nine units will be offered on an affordable basis, access to affordable housing is a vital issue in an area such as this.

We would like to suggest a site visit is undertaken for the committee to assess the level of intrusion for the homes to the rear.

We would be grateful if you would kindly draw our views to the attention of the committee.

Best wishes

Councillor Paul Elgood & Councillor David Watkins

(iii) MINOR APPLICATIONS

B. Application BH2009/00696, 39 Salisbury Road, Hove – Demolition of existing building and erection of a four storey private residential building containing nine mixed size units and community area on ground floor.

- (1) The Area Planning Manager (West) gave a presentation detailing the constituent elements of the scheme, and referred to floor plans and elevation drawings. He stated that the application was sited on a known Bronze Age burial ground, although emphasised that the burial ground covered a large area and there was no suggestion that this application was being built over actual archaeological remains.

The Area Planning Manager (West) noted there were issues of overshadowing on the site, but this was not severe enough to constitute a reason for refusal. The standard of accommodation to be provided was acceptable and the retention of the community space within the building was desirable. He referred to two late responses from the Manager of Cornerstone Community Centre in support of the application, and a letter from a member of the public that did not support the application.

- (2) Mr Tanner, a local objector to the scheme, addressed the Committee and stated that his main concern was in relation to loss of light. The BRE assessment originally conducted had taken measurements at incorrect angles and had resulted in an outcome that stated there was a satisfactory loss of light suffered by the residents. However, a new assessment taken at the correct angles had significantly increased the loss of light likely to be suffered by residents and Mr Tanner felt this was unacceptable. He also felt that the assessment took no account of interior light loss and did not consider the effect the development would have on the living room on 11 Palmeira Square, which would suffer the greatest impact. The local residents accepted the principle of development on this site and welcomed the community use, but asked that the issue of loss of light be resolved before the application was agreed.
- (3) Councillor Caulfield asked if parking in the area was difficult and Mr Tanner agreed that it was but that the area was permitted.
- (4) Mr Pickup, the applicant, addressed the Committee and stated that the building had been marketed up to 2007 but had fallen into disrepair and was currently unusable. It was a building of little architectural merit and attracted squatters despite several security measures. A new building was proposed to ensure a mix of use and be of benefit to the community. The building would have full disabled access and all of the units would comply with lifetime homes standards. Mr Pickup felt that all elements of the scheme were now acceptable, including the loss of light that the neighbouring properties would suffer.
- (5) Councillor Davey asked how the community space would be managed once the development was built, and how many cycle parking spaces there were on site. Mr Pickup replied that the management would form part of the planning obligation and had been designed to be flexible in its use to ensure feasibility. Kitchens could be added to the development if there was a need for them. There were 24 cycle spaces provided at the front and back of the development.

- (6) Councillor Caulfield asked who would manage the community space on a day to day basis, and why it was not considered to put a 10th flat in the development instead of a community space. Mr Pickup stated that the management of the community space would be subject to agreement of the planning obligation and the Planning Inspector had rejected a previous appeal on the site because of the lack of community space offered.
- (7) Councillor Mrs Theobald asked if disabled toilets were provided as part of the development, whether there was any car parking available on site and where the obscured glazed windows were situated. Mr Pickup replied that all the toilets were DDA compliant, there was no car parking on site and the obscured glazed windows were part of some bathrooms, some bedrooms and some living accommodation of the units.
- (8) Councillor Smart asked why there were rear balconies if there was no access to them. Mr Pickup explained that part of the design was to step back the building, which created artificial balconies. However, these were not intended for use as such.
- (9) Councillor Smart recognised that the building had been marketed for two years but felt that it was unlikely to find a buyer in its current state and asked why it was allowed to get into disrepair. Mr Pickup agreed and stated that the building had squatters despite the security measures implemented which made it almost impossible to market.
- (10) Councillor Watkins addressed the Committee as Ward Councillor and stated that it was unacceptable that some of the residents would lose up to an hour of sunlight a day due to this development. He felt the facility was underused and had not been marketed properly and although the residents welcomed the community use for the building the current proposals were too high and too intrusive. He also raised concerns about the ongoing management of the community space and felt that these issues should be resolved before the application was approved.

Questions/Matters on Which Clarification was Sought

- (11) Councillor Kennedy and Councillor Smart expressed concern that this was an archaeological site, and Councillor Kennedy asked if the recommended condition regarding archaeology was strong enough given the sensitivity of the possible remains. The Area Planning Manager (West) confirmed that this was a condition recommended by central government and as a consequence was very robust. The process was clearly defined and took the form of two stages. The development would be closely monitored and progress halted if remains were found on site.
- (12) Councillor Kemble noted that this was to be a car-free development and asked when this was agreed. The Area Planning Manager (West) replied that an agreement to this had been reached on 30 June 2009 and formed part of the policies of Brighton & Hove City Council.
- (13) Councillor Mrs Theobald asked if the general public would be able to use the community space provided with the application, whether any of the units were designated for disabled use and if there was a lift planned as part of the application. The Area Planning Manager (West) stated that a lift was provided, and although all of the units were

wheelchair accessible, none were specifically designated for wheelchair disabled use. He was unable to say who would use the community space as this was a matter for the owners of the building, but stated there was an identified need in the area.

- (14) Councillor Mrs Theobald asked if there was any car parking provided on site and the Area Planning Manager (West) replied there was not.
- (15) Councillor Steedman asked where it was stated that the development would be car-free and the Area Planning Manager (West) replied that there was a unilateral agreement between the developers and the Council to this effect.
- (16) Councillor Davey noted the intention for community use of the facility and asked if a Community Facility Management Plan would be drawn up to guarantee this. The Area Planning Manager (West) stated that there could not be a guarantee that the community would use the facility, but the intention of this use could form part of the Section 106 Agreement.
- (17) Councillor Davey asked if the cycle parking area was covered and the Area Planning Manager (West) stated that an informative could be added to the decision to ensure this was the case.
- (18) Mr Small, CAG, asked what the dimensions of the community space would be under the new development. The Area Planning Manager (West) replied that the total community space would be 320 square meters in the new development, which would constitute a loss of 76 square meters from the existing building dimensions.
- (19) Councillor Caulfield asked if the community use could be stipulated as part of the decision to ensure it was not returned to residential use at any point. The Area Planning Manager (West) stated that this would be intrinsic to the decision, but added that if the community space was not being used a further application could be submitted to change the use back to residential.
- (20) Councillor Smart stated that he was worried about the intrusion of the use of the proposed garden on the nearby residential properties and asked what enforcement was available to the Council to ensure the amenity of the neighbours was protected. The Area Planning Manager (West) stated that a condition could be added to improve screening along the garden cartilage and noted that the Environmental Health Department would deal with any statutory nuisance created by the garden and could take enforcement action if necessary.
- (21) Councillor Steedman asked what items could be secured by a Section 106 Agreement and referred specifically to kitchens on the development. The Development Control Manager stated that the Head of Term could be expanded to include this and a management plan for the premises.

Debate and Decision Making Process

- (22) Councillor Mrs Theobald welcomed the proposed community space in the building but felt that the application required some car parking facility on site. She felt that the development would increase the number of cars on the street, which was already

congested. She also felt that application was too high compared with other buildings on the street and was concerned about the issues of overshadowing that the neighbours would suffer.

- (23) Councillor Smart was also unhappy about the issues of lack of parking and overshadowing, which had not been resolved satisfactorily, and stated he could not support the development.
- (24) A vote was taken and on a vote of 6 for, 4 against and 2 abstentions Minded to Grant planning permission was granted.

96.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves it is Minded to Grant planning permission subject to the conditions and informatives set out in the report and the following additional conditions and informatives:

- (a) A Section 106 obligation to secure the following:
- The provision of the community facility as a community benefit, and
 - A management plan for the community facility to ensure its use as such.
- (b) A condition for the details of the boundary treatment.
- (c) Informative: That the cycle parking area should be a covered area for the storage of cycles in all weathers.

C. Application BH2009/014000, 32 Redhill Drive, Brighton – Demolition of existing house and construction of a pair of semi-detached houses.

- (1) The Area Planning Manager (West) gave a presentation detailing the constituent elements of the scheme, and referred to floor plans and elevation drawings. He stated that the application had previously been refused, which was upheld at appeal. The Planning Inspector had agreed with the reasons for refusal regarding the roofscape but did not agree that the neighbours would suffer detrimental impact. The new application sought to resolve this with an increased roof pitch. The development was close to badger sets but a condition to ensure their successful relocation was included in the recommendation.
- (2) Mr Gibson, a local objector, addressed the Committee and stated that the development was inappropriate in terms of size and appearance. The demolition of the detached residence for two semi-detached residences was out-of-keeping with the area and contravened Brighton & Hove's planning policies. He felt the development felt cramped in and the footprint had increased by 100 percent which would make the building appear bulky and over-dominant. Mr Gibson was concerned about the effect of the hard-standing at the front of the building, and felt that the problem of the badger sets was unresolved. He also felt that the development would create extra parking on the street.
- (3) Ms Cattell, Agent for the applicant, addressed the Committee and stated that the Planning Inspector's decision at appeal had been helpful in designing a more acceptable building. The principle of development on the site was accepted and only the

