

<u>No:</u>	BH2023/00722	<u>Ward:</u>	Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	100 - 104 Church Road Hove BN3 2EB		
<u>Proposal:</u>	External alterations including changes to rear lift shaft, louvres and boundary wall, installation of new plant and associated works.		
<u>Officer:</u>	Michael Tucker, tel: 292359	<u>Valid Date:</u>	09.03.2023
<u>Con Area:</u>	The Avenues	<u>Expiry Date:</u>	04.05.2023
<u>Listed Building Grade:</u>	Grade II	<u>EOT:</u>	
<u>Agent:</u>	Alder King Planning Consultants Pembroke House 15 Pembroke Road Bristol BS8 3BA		
<u>Applicant:</u>	Sainsbury's Supermarkets Ltd 33 Holborn London EC1N 2HT		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

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

Plan Type	Reference	Version	Date Received
Report/Statement	Noise Impact Assessment	3	4 May 2023
Location and block plan	100	B	9 March 2023
Proposed Drawing	109	B	9 March 2023
Proposed Drawing	111	T	11 July 2023
Proposed Drawing	113	D	9 March 2023
Proposed Drawing	200	N	11 July 2023
Proposed Drawing	201	M	9 March 2023
Proposed Drawing	230	K	11 July 2023
Proposed Drawing	231	A	9 March 2023
Proposed Drawing	251	G	11 July 2023

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

3. The external finishes of the works to the rear lift shaft and boundary wall hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.

Reason: To ensure the satisfactory preservation of this listed building and to comply with policies DM27 of Brighton & Hove City Plan Part Two, and CP15 of the Brighton & Hove City Plan Part One.

4. Noise associated with external plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS4142:2014 (or the relevant updated Standard).

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the obligations and responsibilities the applicant has under the Equalities Act 2010.

2. SITE LOCATION

- 2.1. The application relates to the ground floor and basement of four-storey terraced buildings on the southern side of Church Road. The site covers three addresses, 100, 102 and 104 Church Road, which at present are amalgamated as one single retail unit (Class E), with two entrances onto Church Road.
- 2.2. The buildings are Grade II listed and are located within The Avenues Conservation Area. The site is also located within Hove Town Centre as designated within the development plan.

3. RELEVANT HISTORY

- 3.1. **BH2023/01128** (Listed Building Consent) - Installation of replacement signage to front elevation. Approved

- 3.2. **BH2023/01127** - Display of 2no internally illuminated fascia signs, 1no externally illuminated projecting sign and window mounted vinyl signs. Under Consideration
- 3.3. **BH2023/00723** (Listed Building Consent)- Internal and external alterations including changes to rear lift shaft, louvres and boundary wall, installation of new plant and associated works. Under Consideration
- 3.4. **PRE2023/00021** - Interior and exterior alterations, including works to the front and rear of the retail unit. Response issued
- 3.5. **BH2022/02650** - Internal and external works comprising replacement lift and shaft, installation of new plant and louvres to rear, alterations to layout, revisions to access and associated alterations. Withdrawn
- 3.6. **BH2022/02649** - Internal and external works comprising replacement lift and shaft, installation of new plant and louvres to rear, alterations to layout, revisions to access and associated alterations. Withdrawn

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for external alterations to the rear, including changes to the lift shaft, louvres and boundary wall. The application also includes the replacement of existing (currently unauthorised) plant units and associated works.
- 4.2. The application is to facilitate re-occupation of the unit for continued retail (Class E) use, and no change of use is therefore proposed.
- 4.3. During the course of the application the plans have been amended to remove the outwards re-hinging of the front doors, to address the objection from the Transport consultee. In addition, an updated noise report has been prepared to address the concerns raised by Environmental Health colleagues.
- 4.4. A concurrent application for Listed Building Consent (BH2023/00723) is under consideration.

5. REPRESENTATIONS

- 5.1. **Five (5)** letters of objection, have been received raising the following concerns:
 - Some elements of the proposals are welcomed
 - No deliveries or servicing to the rear is a positive
 - Concerns regarding disturbance from the proposed plant units
 - Concerns regarding the methodology of the noise assessment as the measurements were taken at the front of the premises and not the rear where the issues previously arose.

Note: Following the consultation of the application, an updated noise survey has been carried out at the rear.

6. CONSULTATIONS

6.1. **Environmental Health:** First comment 18th April 2023: Further information required

The proposed Noise Assessment uses an inappropriate location for the baseline sound survey and is therefore not sufficient to demonstrate there would not be a harmful impact upon neighbours arising from the proposals.

Update 8th June 2023: No objection

6.2. The updated Noise Assessment uses sound methodology and is considered to satisfactorily demonstrate that the proposed plant would not have a significant harmful impact upon neighbouring occupiers.

6.3. A condition should be attached to secure operation of the plant at or below existing baseline levels, and consideration should be given to restricting the hours and location of servicing and deliveries by condition.

6.4. **Heritage:** First comment 5th April 2023: No objection

This application follows a recent history of unacceptable proposals by previous occupiers, and pre-application advice was provided to the current applicant earlier this year.

6.5. The current proposals incorporate feedback given at pre-application stage.

6.6. No objection is raised to the proposed external alterations, which would result in a net heritage gain and are welcomed. Conditions should be added to ensure the material finishes match the existing building.

Update 11th July 2023: No objection

6.7. The proposed arrangements for the double entrance have been amended, and the doors are now proposed to open inwards, with the sliding internal doors deleted from the scheme. The Heritage Team confirms that this is acceptable.

6.8. **Sustainable Transport:** Verbal comments: Objection

The proposed doors would open outwards onto the public highway (the footway). This will result in an increase in risk to the safety of other highway users, that may be struck unexpectedly by the door(s) when opened. The door(s) may also be left unattended and open on the public highway, causing obstruction and nuisance to highway users. This would be contrary to the Highways Act 1980 and therefore the door(s) may be subject to highway enforcement due to their danger to the public.

7. MATERIAL CONSIDERATIONS

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

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
CP4 Retail provision
CP8 Sustainable buildings
CP9 Sustainable transport
CP10 Biodiversity
CP11 Flood risk
CP12 Urban design
CP13 Public streets and spaces
CP15 Heritage

Brighton & Hove City Plan Part Two

DM12 Regional, Town, District and Local Shopping Centres
DM18 High quality design and places
DM20 Protection of Amenity
DM21 Extensions and alterations
DM23 Shopfronts
DM26 Conservation Areas
DM27 Listed Buildings
DM33 Safe, Sustainable and Active Travel
DM36 Parking and servicing
DM40 Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste
SPD06 Trees & Development Sites
SPD11 Nature Conservation & Development
SPD12 Design Guide for Extensions and Alterations
SPD14 Parking Standards

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the design, appearance and heritage impact of the proposals and the impact upon neighbouring amenity.

Principle of Development:

- 9.2. No change of use is proposed - the site would remain in its current retail (Class E) use. This is supported in principle as the site is located within the Hove Town Centre, within which retail uses are encouraged as per Policy CP4 of the City Plan Part One and Policy DM12 of the City Plan Part Two.

Design, Appearance and Heritage:

- 9.3. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Moreover, when considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.4. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation should be given “considerable importance and weight”.
- 9.5. During the course of the application the proposed arrangement for the double front entrance has been amended. These doors would now be retained on the existing inward opening hinges, and with the previously proposed internal sliding doors deleted from the scheme. This is to address concerns raised by the Transport consultee regarding the potential for obstruction of the footway. The Heritage consultee has confirmed there would be no objection to this change.
- 9.6. As amended, the proposed external alterations relate to the rear elevation only. These works comprise:
- The raising of the existing lift shaft (at ground floor level) by 0.28m to meet the level of flat roof behind and the blocking up of the lift shaft doors, to be finished in render and standing seam roof material to match existing.
 - The removal of the existing gas cooler and lean-to housing.
 - The removal of the existing unauthorised A/C plant units.
 - The removal of one of the existing gates, to be re-walled to match the existing boundary wall.
 - The addition of penthouse louvres to the area of flat roof at first floor, serving basement plant.
 - The addition of two fan condenser units, sited at ground floor behind the boundary wall.

- Associated 'tidying-up' works including the removal of unused conduits and vents, and the replacement of wire mesh openings at ground level with louvres.
- 9.7. The proposals are considered to better rationalise the currently cluttered and unsympathetically altered rear elevation of the building, and are considered acceptable in terms of design, appearance and Heritage. The proposed 'penthouse louvres' would not be readily visible behind the existing parapet.
- 9.8. Individually the alterations would make a small contribution to the appearance of the site, but cumulatively the proposals are considered to result in a significant improvement to the appearance of the rear elevation of the grade II listed building, enhancing its appearance from the public realm and benefitting the Avenues Conservation Area in accordance with Policies CP12 and CP15 of the City Plan Part One and Policies DM21, DM26 and DM27 of the City Plan Part Two.
- 9.9. Conditions are recommended to ensure acceptable materials and finishes for the proposed external alterations. Subject to compliance with the conditions, the proposed alterations are considered acceptable in terms of design and impact on the Conservation Area.
- Impact on Amenity:**
- 9.10. Policy DM20 of the City Plan Part Two states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.11. The site is currently host to a number of unauthorised A/C plant units which are understood to have caused a number of complaints from local residents due to noise disturbance. This is subject to an ongoing investigation by both the planning enforcement team and Environmental Health teams.
- 9.12. The proposals would involve the removal of these existing plant units, and their replacement with two externally located fan condenser units.
- 9.13. The original Noise Assessment submitted with the application was reviewed by the Environmental Health consultee, who raised concerns regarding part of the methodology used, in particular the location chosen for the baseline sound survey being some distance from the closest neighbours to the site. Objecting residents raised similar concerns during the consultation period.
- 9.14. An updated Noise Assessment was subsequently provided and reviewed by Environmental Health. This second survey used a more appropriate location for the baseline at the rear and is considered to be sound in terms of methodology. The results of the survey indicate that the proposed new plant should not have any significant impact on the nearest residential receptors. Conditions are recommended to ensure operation is within acceptable sound levels not exceeding the existing baseline. On this basis it is considered that

the proposals would comply with Policies DM20 and DM40 of the City Plan Part Two.

- 9.15. The concerns raised by public objections are noted. The removal of the existing unauthorised plant is anticipated to be beneficial in terms of the noise environment for close neighbours of the site. The impact of the proposed replacement plant has been robustly assessed within the submitted Noise Assessments, reviewed by the Environmental Health consultee and found to be acceptable. The proposals are therefore considered to alleviate the problems of the existing arrangement, and the recommended conditions will allow the Council a greater degree of control compared to the existing arrangement in the event of any subsequent enforcement complaints.
- 9.16. Environmental Health comments have also regarding conditions that would ensure the deliveries and servicing takes place at the front of the store and that the timings are in line with the store operating hours. As the proposal does not include a change of use, it is not considered that the imposition of conditions restricting the timings or location of deliveries would be reasonable or necessary since the operator could use the store presently without planning permission. The site is located within a designated retail/commercial area where servicing and deliveries to units are commonplace and to be expected.
- 9.17. Nevertheless, it is noted that the applicant has stated that deliveries will take place from Church Road rather than Albany Mews. It is also noted that the proposed works to the rear lift shaft would effectively remove its potential for use in stock replenishment.

Sustainable Transport:

- 9.18. As set out above, the Transport consultee objected to the original submission on the grounds of the proposed outwards opening doors being a potential highways obstruction.
- 9.19. In response to these concerns, the scheme has been amended to retain the doors on their existing, inwards-opening hinges. The Transport consultee has confirmed no objection to the amended proposals, on this basis.

Conclusion:

- 9.20. The proposal is supported in principle as it would make for continued occupation of a retail unit within the designated Hove Town Centre. The proposed external alterations are considered to cumulatively result in a significant improvement to the appearance of the grade II listed building and the Avenues Conservation Area. The replacement of the existing unauthorised plant units would have a beneficial impact upon neighbouring amenity, and on the basis of the amended plans there is no objection from the Local Highways Authority.
- 9.21. Approval is therefore recommended, subject to conditions.

10. EQUALITIES

10.1. The proposed double doors will open automatically, improving accessibility into and out of the building. The pavement outside the site is uneven in places however it is recognised that this is the existing situation.

11. CLIMATE CHANGE/BIODIVERSITY
No issues identified.

