

<b>Subject:</b>	<i>Chandlers, Victoria Road, Portslade</i> <i>Request for a variation of s106 dated 21 July 2004 signed in association with BH2003/00751/FP</i>		
<b>Date of Meeting:</b>	28 April 2010		
<b>Report of:</b>	<i>Director of Environment</i>		
<b>Contact Officer:</b>	Name: Paul Earp	Tel: 29-2193	
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<b>Wards Affected:</b>	South Portslade		

### 1. PURPOSE OF THE REPORT:

- 1.1 To consider a proposed variation to the s106 Agreement.

### 2. RECOMMENDATIONS:

That the Committee resolves to authorise officers to complete a variation to the s106 planning agreement dated 21 July 2004 relating to land at Chandlers, Victoria Road, in the terms set out in section 6 of this report.

### 3. BACKGROUND INFORMATION:

Application **BH2003/751/FP** granted approval for the demolition of a factory building on the site and construction of a car showroom and service centre on the site, together with the construction of a 3 storey speculative office (B1) building. Approval was subject to a Section 106 Obligation requiring four elements. These included:

- i) within four years following the first occupation of any part of the Chandlers Development to complete development of the B1 building;
- ii) that the Affordable Housing in Carlton Terrace shall be completed and transferred to a Registered Social Landlord not later than 7 years from the date of first occupation of the Chandlers Development at a peppercorn rent on a 125 year lease at a cost of no more than 90% of Housing Corporation Total Cost Indicators for the relevant year of construction;
- iii) that the Affordable Housing in Carlton Terrace shall not be used other than as Affordable Housing for sale by the Registered Social Landlord on a Shared Ownership basis;
- iv) before the Commencement of Development to pay to the Council the Crossing Payment.

The provision of the B1 building is the only outstanding matter to be secured. The building should have been constructed within 4 years following completion of the car showroom and workshops, which was by February 2009.

The site is designated in the Local Plan as an EM1 employment site which identifies sites primarily for industrial and business use under Use Class B1 and B2. The office component of the approval was to address concerns regarding loss of the site to a non-conforming car showroom and in order to make efficient use of the site.

Condition 2 of application BH2003/00751/FP stated:

*"The area indicated as B1 and B2 use on the approved site layout plan shall remain in such use, and the area indicated as car sales, showroom and associated customer parking shall not increase without the prior written approval of the Local Planning Authority. Reason: To prevent expansion of the car showroom element of this proposal which has been permitted as an exception to policy EM1 of the Brighton and Hove Local Plan Second Deposit Draft, which seeks to ensure that the use of the site is maximised for B1 and B2 employment uses."*

Approval was given to condition 2 on the 26 March 2010.

- 3.5 An application was submitted in June 2009 for the change of use of the vacant land (land allocated to be B1 office space) to customer car park (ref: **BH2009/01450**). The applicant has indicated that this application will be withdrawn pending the variation of the s106 Agreement since a change of use is not necessary because the vacant land formed part of the site under application BH2003/00751/FP.

#### **4. PROPOSAL:**

The developer has requested a Variation of the s106 attached to application BH2003/00751/FP to remove the requirement to provide the B1 office space.

#### **5. CONSULTATION:**

- 5.1 **Sustainable Transport:** No objection. The additional formalised parking provision remains within the threshold as set within SPG4 for this site. The site is not expanding in anyway and is solely increasing its available formalised off-street parking provision. The additional parking will not result in an increase in generated trips by the site.
- 5.2 **Environmental Health:** No comment.
- 5.3 **Planning Policy:** No objection. Under normal circumstances the proposal would be contrary to policy EM1 and EM3 in the Brighton & Hove Local Plan as it results in the loss of a B1 employment site secured through a Section 106 Agreement linked to the original planning consent for Car Sales and servicing. The applicant, however, has made a strong case for an exception being made to policy on the

grounds of the number and type of jobs being created by Chandlers on the site, the proportion of local employees and the necessity of the additional space for parking to enable the use to function effectively. For these reasons it is considered that an exception can be made to policy.

- 5.4 **Economic Development:** Support the request. The economic development team fully supported the original application (2003/00751) which allowed the redevelopment of the site to facilitate the relocation of Chandlers, a major employer in the city to consolidate their operations onto one site and allow the release of their other sites in the city for more appropriate uses including employment. As part of the original application a Section 106 agreement was agreed this included the development of an office block at the rear of the site.

Since the original development approval, the applicant has expanded its operations on site from initially just cars which employs 125 staff to now motor bikes and also a separate development for the sale and maintenance of mini cars. This has subsequently increased the employment levels on site by an additional 32 jobs which has been confirmed by the applicant. A small element of these jobs (12 in total) are sales jobs and are therefore A use class jobs, the remainder of the jobs created are office, servicing and maintenance which can be classed as B use class jobs. Together with this, the existing business base is expanding and the company expect further employment on site to be in excess of 20 new jobs.

The business has developed their own bespoke apprenticeship scheme which is fully accredited by the Institute of the Motor Industry.

In economic development terms, although the site is well served by public transport etc, the site (located at the rear of the overall site) is not a prominent location and therefore not best suited for modern business requirements. All the demand for office accommodation that is being received, and has been for some considerable time is city centre location (Brighton) rather than edge of city locations such as this site.

Whilst there will be some 'loss' of B1 employment space on the overall site, there has been additional space created by the development of the mini car dealership and the site has grown both in development terms and also in employment terms. The quality of the B1 jobs, especially in the servicing and maintenance element are considered to be high value jobs because of the specialist nature of the work and in essence, the employment levels on site have continued to grow with the expansion of operations on the site.

Discussions have been held between the owners and the economic development team with regards to the appropriateness of this site for B1 office accommodation and it is the professional opinion of the economic development team that this site would not be attractive to businesses looking for good quality office accommodation in the city because of its location.

## 6. COMMENT:

The proposal is for the use of the site reserved for the office building to be used for the parking of cars being serviced, for cars which are being exchanged and customer parking. This will facilitate the continued expansion of the services offered by Chandlers.

Since the construction of the main dealership, a further 32 jobs have been created with the provision of the Mini showroom, motorbike sales, telesales (located within the main building), finance, executive and maintenance jobs. It is anticipated that the use of the land for parking would enable expansion of services on site and create a further 23 jobs through MOT expansion, servicing, telesales, car collection and delivery. The existing and proposed expansion of services on the site will create an additional 55 jobs of which 9 are technicians, 22 clerical, 7 drivers, 5 management, 10 sales and 2 caretaking. The proposed use would enable Chandlers to continue to expand and create a similar number of jobs anticipated from office use. Additionally, Chandlers have recruited 9 apprentices through the BMW Apprentice Programmes providing training leading to a skilled profession for local people.

Relating to the viability of an office development on the site, the Economic Development Officer is of the opinion that although the site is well served by public transport, as the area is located at the rear of the overall site and not in a prominent location, it is not best suited for modern business requirements. Both vehicular and pedestrian access to the land is through the car sales and servicing area which may also present safety issues. No scope exists to provide alternative vehicular access to the site as the adjacent Southdown Avenue which is a cul-du-sac, is narrow, and with on-street parking is usually reduced to a single lane. For these reasons it is not considered that the site is best suited for an independent and speculative office development.

The original planning approval enabled Chandlers to relocate to the site, provide retail and affordable housing on their former site in Carlton Terrace, and together with the servicing element of the car sales use have provided highly skilled jobs. Whilst the proposal also required the provision of a speculative office building within the northwest corner of the site which was anticipated to create approximately 60 jobs, the business has expanded with the provision of a further 32 jobs associated with the Mini showroom and from telesales based within the main building. Whilst car sales nationally have been struggling, the serving part of the business is buoyant and the use of the land for parking will enable to secure its continued viability and expansion. The number of jobs secured by the expansion of the business is approximately 52 which is similar to the number anticipated from the office development. For these reasons it is considered acceptable for the land to be used for parking in lieu to the provision of the office building as it secures employment in the area.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### **7.1 Financial Implications:**

Awaiting comments.

Finance Officer Consulted: Peter Sargent

### **7.2 Legal Implications:**

Section s106A of the Town and Country Planning Act 1990 provides that an agreement under s106 of that Act may be varied by agreement between the local planning authority and the person against whom the agreement is enforceable. Insofar as the Report concludes that the office building required to be completed under the terms of the s106 planning agreement dated 21 July 2004 is no longer necessary it is appropriate to vary the terms of the agreement to remove that obligation.

*Lawyer Consulted: Hilary Woodward*

*Date: 15 April 2010*

### **7.3 Equalities Implications:**

None identified.

### **7.4 Sustainability Implications:**

None identified.

### **7.5 Crime & Disorder Implications:**

None identified.

### **7.6 Risk and Opportunity Management Implications:**

None identified.

### **7.7 Corporate / Citywide Implications:**

The proposed use and expansion of services provided by Chandlers will strengthen employment opportunities for local people.

