

<b><u>No:</u></b>	<b>BH2026/00046</b>	<b><u>Ward:</u></b>	<b>Hangleton &amp; Knoll Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>63 Hallyburton Road Hove BN3 7GP</b>		
<b><u>Proposal:</u></b>	<b>Application to vary condition 2 of planning permission BH2023/02277 to permit operating hours of 07.00 - 21.00 Monday to Friday and 08.00 - 17.00 on Saturday and Sunday.</b>		
<b><u>Officer:</u></b>	Helen Hobbs, tel: 290585	<b><u>Valid Date:</u></b>	13.02.2026
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	10.04.2026
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b>Agent:</b>			
<b>Applicant:</b>	Mr Mark Howell 63 Hallyburton Road Hove BN3 7GP		

## 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 / documents listed below.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Other	PLANNING STATEMENT - PAGE 1		12-Jan-26

2. The premises shall only be used between the hours of 07.00 to 21.00 Monday to Friday inclusive and 08.00 to 17.00 on Saturday and Sundays. The external movements of any commercial vehicles, plant or machinery associated with the use of the premises shall not take place outside the opening hours permitted.

**Reason:** To safeguard the amenities of local residents and in accordance with policies DM20 and DM40 of the Brighton and Hove City Plan Part Two.

3. The double doors on the eastern side elevation of the building shall be kept shut when the premises is being used.

**Reason:** To safeguard the amenities of local residents in accordance with policies DM20 and DM40 of the Brighton and Hove City Plan Part Two.

4. Within three months of the date of this permission, a management plan for the development hereby permitted shall be submitted to the Local Planning Authority for approval in writing. The management plan should set out how the Martial Arts

Academy will be operated so as to minimise the impact upon the amenity of neighbours and shall include, but not be limited, to:

- Measures to minimise noise and disruption during comings and goings such as signage to request to encourage people to leave and arrive quietly and avoid congregating outside, responsible parking for drop-offs and pick-ups, signage externally and details on website setting out a contact phone number for complaints.
- Encouraging guests to utilise sustainable modes of travel

**Reason:** In the interests of protecting the amenity of neighbouring residents and to comply with Policies DM20 and DM40 of the City Plan Part Two.

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. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a small commercial premises on the junction of Hallyburton Road and Dorothy Road. The surrounding area is predominantly residential.
- 2.2. The unit is a single storey brick and metal clad building with a tiled pitched roof. It has a small forecourt in front and parking bays along the side boundary of the plot. The site has historically been occupied by garage/maintenance workshop then following that a lawnmower and garden machinery sales and servicing company, falling within mixed retail and light industrial use (Class E).
- 2.3. The site has more recently been occupied by a Martial Arts Academy, which also falls within Class E (d) Indoor sport, recreation or fitness.

## 3. RELEVANT HISTORY

- 3.1. **BH2023/02277** - Application to vary condition 3 of planning permission BH2011/01084 to permit operating hours of 08.00 - 21.00 Monday to Friday with no change to Saturday and Sunday operating hours. Approved 15.12.2023.
- 3.2. **BH2011/01084** - Application for variation of condition 3 of application 3/93/0428/FP (Change of Use to lawnmower and garden machinery sales and service, including new roller shutter door on East elevation, new window on South elevation and extract flue through roof) to extend the opening hours allowing the premises to be opened on Saturdays between the hours of 09:00 and 15:00. Approved 27.05.2011.

- 3.3. **BH2007/00443** - Proposed installation of cycle storage and retrospective consent for existing storage container on forecourt. Refused 26.04.2007.
- 3.4. **BH1998/02138/FP** - Clad east elevation with maintenance free steel cladding. Remove timber on south elevation and replace with glazed shopfront and roller security shutters. Approved 06.01.1999.
- 3.5. **3/93/0428/FP** - Change of Use to lawnmower and garden machinery sales and service, including new roller shutter door on the east elevation, new window on south elevation and extract flue through roof. Approved 24.09.1993.

#### **4. REPRESENTATIONS**

- 4.1. Representations have been received from **16** people, objecting to the proposed development for the following reasons:
- Increased traffic and congestion issues
  - Noise and disturbance
  - Parking and safety
  - No public benefit
  - Out of character and non-residential
- 4.2. Representations have been received from **11** people, supporting the proposed development for the following reasons:
- Increase in the amenity provision within the local area
  - Great sporting facility
  - Well run
  - Well used facility

#### **5. CONSULTATIONS**

##### Internal:

- 5.1. **Environmental Health: Comment**  
No complaints have been received since the facility started operating two years ago.
- 5.2. No objection to the increase in hours. Conditions are recommended to ensure measures are put in place to protect neighbouring properties.
- 5.3. **Sustainable Transport: Comment**  
The proposed extended hours would be outside of peak hours for the highway network and therefore the proposal would be unlikely to have significant impact.
- 5.4. Full details of consultation responses received can be found online on the planning register.

#### **6. MATERIAL CONSIDERATIONS**

- 6.1. 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.
- 6.2. 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; revised October 2024; revised October 2024);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

## 7. RELEVANT POLICIES & GUIDANCE

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One:

SS1	Presumption in Favour of Sustainable Development
CP3	Employment land
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design

#### Brighton & Hove City Plan Part Two:

DM18	High quality design and places
DM20	Protection of Amenity
DM33	Safe, sustainable and active travel
DM36	Parking and servicing
DM40	Pollution

#### Supplementary Planning Documents:

SPD14	Parking Standards
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## 8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the impact on residential amenity as well as the impact on the highway network.

### **History of the site**

- 8.2. The unit has been occupied by the current applicant for approximately 2 years and is in use as a Martial Arts Academy. A recent planning application in 2023, varied the opening hours, extending until 21.00 on weekdays and opening 09.00 to 15.00 on Saturdays.

- 8.3. The current application seeks permission to vary these times to 07.00 to 21.00 Monday to Friday and 08.00 to 17.00 on Saturdays and Sundays.

**Impact on Amenity:**

- 8.4. Whilst the premises is located within a wholly residential area, given the size of the unit and that the use falls with the E Class use, it is not considered that the extended opening hours would cause significant harm in terms of noise and disturbance to neighbouring properties. As acknowledged in the previous 2023 application, there may be more activity outside the premises at drop off and pick up times, but as these would be minimal windows at the point that classes changeover and given it is still within sociable hours, any increase in disturbance is not considered significant. The introduction of opening hours on a Sunday is considered reasonable, and it is appropriate that the hours are kept shorter between 08.00 to 17.00.
- 8.5. The submitted statement indicates that the longer opening hours would also provide the opportunity to spread classes out throughout the day or have smaller groups, which could in some instances lessen the impact during the times that are currently busier.
- 8.6. The Environmental Health team have no objections to the additional opening hours. No complaints have been received within the last two years since the current applicant has been operating the unit. Regardless, Environmental Health team have separate legislation to deal with noise complaints should this be required. However, it is envisaged that as the business does not involve any machinery or amplified music, noise and disturbance should not be a significant issue.
- 8.7. A condition will be reimposed which ensures that the double doors on the eastern elevation are kept shut when the premises is in use, to further protect local residents from noise and sounds escaping.
- 8.8. In line with the advice from Environmental Health, an additional condition will be attached to secure a management plan prior to the commencement of the extended hours. The management plan should detail how the applicant intends to ensure that noise and disturbance is kept to a minimum, including measures such as displaying a mobile number for residents to contact if they have noise concerns, keeping doors and windows closed and displaying notices for customers to leave quietly. The applicant has indicated within their planning statement that some of these measures are in place, however a condition would ensure that they are formalised and maintained.
- 8.9. The variation to the opening hours is therefore not considered to cause significant harm to the amenity of neighbouring properties, in accordance with policy DM20 of the Brighton and Hove City Plan Part Two.

**Sustainable Transport:**

- 8.10. The site is located within the Controlled Parking Zone 11 (CPZ11). The transport data indicates enough capacity for any additional cars to park for the drop-off.

The site is adjacent to Hallyburton Road marked with double-yellow lines (parking restricted) and Dorothy Road with no parking time restrictions.

- 8.11. There is a dedicated Disabled parking bay opposite the site on Dorothy Road.
- 8.12. The Google Street view indicates car parking on the East side of the site, accessed from Dorothy Road, which can be used for drop-off/drop-on.
- 8.13. Overall, it is considered that the additional opening hours would not result in a significant impact on the highway network and the additional hours would be outside of peak hours for the highway network.

**Design and Appearance:**

- 8.14. There would be no external alterations to the site and therefore the design and appearance of the site would not be affected by the proposals.

**Biodiversity Net Gain**

- 8.15. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because:
- 8.16. It does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat;

**9. EQUALITIES**

- 9.1. Section 149(1) of the Equality Act 2010 provides:
  - 1) A public authority must, in the exercise of its functions, have due regard to the need to—
    - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
    - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
    - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.