

LIST OF MAJOR APPLICATIONS

<u>No:</u>	BH2011/02417	<u>Ward:</u>	ST. PETER'S & NORTH LAINE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	94 - 103 London Road, Brighton (The Former Co-op Department Store)		
<u>Proposal:</u>	Demolition of existing building and erection of a new building ranging from 3 to 6 storeys providing 407 units of student accommodation (sui generis) and 4no. retail units (A1) at ground floor level with new service area vehicular access from Baker Street and landscaping works.		
<u>Officer:</u>	Kate Brocklebank,	tel:	<u>Valid Date:</u> 26/09/2011
	292175		
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	26 December 2011
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Genesis Town Planning, 26 Chapel Street, Chichester		
<u>Applicant:</u>	Watkin Jones & Co-op Group, C/o Genesis Town 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:

1. The proposal, by reason of its design, bulk, height and massing, would be an overdevelopment of the site that would relate poorly to development in the surrounding area, causing harm to the character of the surrounding street scenes and failing to emphasise and enhance the positive qualities of the neighbourhood. The development is substantially larger in scale than the predominant development which surrounds the site and would appear out of scale and overly dominant in the street scene and constitutes town cramming. Harm will also be caused to the framed views from Preston Circus and the New England Quarter where the proposal's substantial height, bulk and scale will obscure views of the predominant ridgelines. The proposal is therefore contrary to policies QD1, QD2, QD3, QD4, QD5 and HO4 Brighton & Hove Local Plan.
2. The development would have an awkward relationship with the neighbouring property No.93 London Road. The service entrance on Baker Street is out of scale, resulting in a large area of inactive frontage, whilst failing to provide passive surveillance. The main student entrance appears too functional and is considered to fail to provide the desired visual interest or strong sense of arrival to the building. Cumulatively, these elements are considered to result in a poor standard of design which would cause harm to the character of the street scene contrary to

- QD1, QD2, QD3, QD5 and QD7 of the Brighton & Hove Local Plan.
3. Insufficient information has been submitted to make a full assessment of the impact of the proposed development on neighbouring amenity and in particular impact on sunlight and daylight levels to neighbouring dwellings. The increased scale and bulk is considered to result in an unneighbourly form of development which in the absence of evidence to the contrary is considered likely to have an adverse effect on neighbouring amenity by way of loss of light/overshadowing and resulting in an overbearing impact contrary to policy QD27 of the Brighton & Hove Local Plan.
 4. The proposed roof terraces will cause adverse overlooking to neighbouring dwellings and in the absence of information to the contrary could result in adverse noise disturbance to existing and proposed residents contrary to policy QD27 of the Brighton & Hove Local Plan.
 5. The applicant has failed to demonstrate that the proposed open service yard will not have an adverse impact on neighbouring amenity through noise disturbance and impact on outlook contrary to policy QD27 of the Brighton & Hove Local Plan.
 6. The applicant has failed to address the need for disabled parking and has made inadequate provision for convenient cycle parking contrary to policies TR14 and TR18 of the Brighton & Hove Local Plan and SPGBH4 – Parking Standards.
 7. The applicant has failed to present a scheme which in design and streetscape terms justifies the principle of the loss of the existing building, which is a non-designated heritage asset of special significance to the local community due to its architectural and historic interest. The proposed replacement building does not make a positive contribution to the character and local distinctiveness of the historic environment and the Urban Design Analysis and PPS5 Statement fails to adequately assess the significance of the existing building, contrary to policy HE7 of PPS5 and the London Road Central Master Plan SPD10.

Informatives:

1. This decision is based on drawing nos. PL_000 Revision A, PL_001 Revision A, PL_002 Revision A, PL_003 Revision A, PL_004 Revision A, PL_005 Revision A, PL_006 Revision A, PL_007 Revision A, ST_001 Revision A, EL_001 Revision A, EL_002 Revision A, EL_003 Revision A, EL_004 Revision A, EL_005 Revision A, EL_007 Revision A, EP_001, EP_002, EP_003, EP_004, EP_005, EP_006, EL_006 received on 19 September 2011, EL_008, EL_009, EL_010, EL_011, EL_012 received 26 September 2011, 04 Revision B, 05 and 06 received 16 August 2011, 'Daylight Assessment August 2011' and 'Noise Assessment June 2011' received 16 August 2011.
2. The applicant is advised that the 'Sustainability Statement' and 'Energy Statement' have been assessed against a 2008 pre assessment version which has been superseded. Schemes which could have achieved an 'Excellent' rating under previous BREEAM scheme

assessments may now only achieve 'Very Good' against a more recent version.

3. In relation to fire safety, the applicant is advised that the plans do not show satisfactory access for firefighting vehicles and firefighting personnel to the proposed development, in particular the requirement for firefighting vehicles to approach to within 45 meters of any point within each proposed flat dwelling.
4. The applicant is advised that there are a number of inaccuracies in the plans submitted – drawing no. PL_002 revision A shows the majority of rooms with no windows and drawing no. PL_001 revision B shows a number of the en-suite bathrooms in incorrect locations. Drawing no. PL_001 revision B does not form part of the application as it would require public consultation and fails to address outstanding issues in relation the application.

2 THE SITE

The application site is situated on the east side of London Road at the junction with Baker Street, the building occupies a significant sized corner plot extending to the east up to the corner of Kingsbury Road. The building is significantly larger in scale than the surrounding development with the tallest four storey 1930s element fronting onto London Road, the building then steps down to either side to three storeys which are later more modern additions. Where the building turns the corner into Baker Street it steps down to two storeys and has three distinctly different elements which step down in height towards Kingsbury Road. The most easterly corner is a period property which appears to have historically been occupied by a commercial use, this is denoted by the retained facia and set back corner where the entrance appears to have pre-existed – all the openings are now boarded up.

The surrounding area is characterised by a mixture of commercial and residential uses, the development fronting onto London Road are predominantly two and three storeys in height; the ground floors are predominantly occupied by commercial uses whilst the upper levels are a predominant mix of commercial storage and residential. Baker Street has a more intimate scale characterised by two storey terraced properties with commercial uses on the ground and a mix of commercial and residential above. Kingsbury Road, London Terrace and Rose Hill Terrace are or a similar scale to Baker Street but are predominantly characterised by two storey terraced residential properties.

3 RELEVANT HISTORY

None.

4 THE APPLICATION

Planning permission is sought for the total demolition of the existing buildings on the site and erection of a replacement building of between 3

and 6 storeys to provide retail floorspace on the ground floor and 407 units of student accommodation (sui generis) above.

The supporting documentation states that the accommodation will be set out as follows:

- 46 x 5 bedroom cluster flats (each cluster is centred around a communal kitchen/living/dining area);
- 27 x 4 bedroom cluster flats;
- 3 x 3 bedroom cluster flats;
- 1 x 2 bedroom cluster flat;
- 54 studio rooms (each studio includes a kitchen/living/dining area);
- 1 x 4 bedroom student house.

Three landscaped courtyards are proposed at first storey level in addition to a small courtyard area to the rear of the site on the ground floor adjacent to the service yard where the launderette, refuse store and 136 communal cycle parking are proposed for use in connection with the student accommodation. Nine (9) on-street cycle spaces are proposed for the retail units. A new vehicular access is proposed off Baker Street and will be secured by a pair of gates. Access would also be maintained via London Terrace which would also be gated. The plans submitted show the retail units configured as four separate units of varying size. Tree planting is proposed along London Terrace, adjacent to the cycle parking and service yard along the rear boundaries to neighbouring properties fronting onto Kingsbury Road.

5 CONSULTATIONS

External:

Neighbours: Forty six (46) letters of representation have been received from **1a Kingsbury Street, 8 Campbell Road, 48 Shaftesbury Road, 6 and 2 Shaftesbury Place, 51 St Luke's Terrace, 313 Kingsway, 18 Queens Gardens, 10 Clermont Road, 57 Stanley Road, 98 Ladysmith Road, 53 Viaduct Road, 29 St James' House High Street, 51a London Road, 76a Old Shoreham Road, Flat 2 7 Salisbury Road, 40 Islingword Road (2 x letters), Flat 79 Brighton Belle 2 Stroudley Road, 13 and 25 Pullman Haul, 49 Seville Street, 134 Springfield Road, 11 Edinburgh Road, 64 Franklin Road, Flat 2 31 East Drive, 11a, 13, 14, 18, 23, 24 (2 x letters), 11 London Terrace, 13, 16, 25 (2 x letters), 26, 27, 28, 30, 74 and 81 Rose Hill Terrace**, 3 x letters from unknown addresses, a petition with 134 signatures from residents living in **London Terrace, Rosehill Terrace and Kingsbury Road** objecting to the application for the following reasons:

- 52 properties will suffer loss of light – potential to suffer from SAD.
- Overbearing in height causing overshadowing
- Additional bulk would significantly close down the open area making the area feel claustrophobic
- The building could be used for accommodation for elderly people
- Overlooking/loss of privacy from the rooms and roof terraces
- Overly dense – 407 units is extremely high number for an already

PLANS LIST – 14 DECEMBER 2011

densely populated area

- Noise disturbance from the roof terraces contrary to policy QD287
- 30% of 350 people objected to the scheme which is high compared to only 22% supporting the application at the public exhibition
- Loss of landmark building to become soulless in appearance
- Management is only proposed between 08:00 and 19:00
- It is acknowledged that the site needs redeveloping – however the development is far too large – a reduction in the unit numbers would be better for existing residents
- Parking issues made worse
- Destroys the character of the area
- Overburdening local services
- There are already a high number of students in the area who already cause problems
- Most information given at the public exhibition appears to have been seriously inaccurate - the building was not support to exceed 4 storeys but is now 6 storeys, now not just overseas or matures students, number of students said to be between 250 - 300 but 407 are proposed, not 24/7 management as advised – the exhibition was flawed and the figures reported should therefore be disregarded.
- Increase in rubbish and anti-social behaviour resulting in increased disturbance for existing residents
- Environmental impact
- The Council's highway engineer need to look closely at whether adequate access for emergency vehicles can be provided
- This development would be a gigantic House in Multiple Occupation (HMO)
- There is a 13 month waiting list for parking permits which will be made worse by the influx of 400 students – you can not prevent them from bringing a car into the city
- The building will block out the view of St Bart's Church
- The small parking area adjacent to 78 – 81 Rose Hill Terrace is not included in the plans – this area suffers from a substantial amount of anti-social behaviour
- Loss of outlook
- The committee members and officers are invited to visit No.11 London Terrace and 18 Kingsbury Road in order to assess the potential impact of the development
- Noise disturbance – there are no details on how this will be limited
- The development should accord with SPD10 in relation to proposed uses and retention of the building
- Failed to demonstrate that the design, scale, height and quality of the architecture is acceptable – it is a bulky and unimaginative proposal
- The applicant contains insufficient information in a great number of areas including lighting plans, hours of use from the retail and launderette facilities
- An independent preliminary survey of the impact on daylighting as a

result of this development demonstrates that the development would result in a reduction in daylight levels to the lounge five times over the official guidelines

- Insufficient cycle parking spaces – only 1 space per 6 students
- The development would have a disastrous effect on the London Road regeneration and will discourage future investment in retail and business
- There are other sites available for student accommodation – Preston Barracks and Anston House
- The building should be used for mixed use development – affordable housing, small flats, workshops and start-ups
- Insufficient information on the plans – a model and full size plans should be provided to be able to compare existing to proposed
- The proposed design has no flare or sense of place and will not enhance the area
- Missed opportunity to widen and pedestrianise Baker Street
- The building should be re-used as an indoor market
- The student and Baker Street entrances are very poor and the latter will result in large lorries swinging across this narrow road which is heavily used by pedestrians
- The building should be reused for retail
- The development will not meet affordable housing needs in the city
- The scheme is not integrated and should occupy a mix of uses
- The rooms a small boxes
- The rooms shouldn't all be en-suite
- The proposed management plan is insufficient – nigh time issues are the worst and the on site office will be closed
- The application fails to demonstrate improvements to the community
- The proposed uses do not create as many jobs as a full retail development would
- Contrary to Student Housing Strategy – will not release existing HMO as it is intended for overseas student – the area already has an over concentration of HMOs
- It is too far from the Universities
- Negative impact from the construction on air quality
- Sustainability has not been adequately addressed
- Asbestos handling/disposal is of concern
- The design is outmoded and ugly.
- No thought has been given to the traditional lines or original architecture in the area i.e. Regency and Deco – more fluid lines and curvature.
- The proposal with sharp angles and hard planes will be a local eyesore.

One (1) letter of objection has been received from the **Ditchling Rise Residents Association**. Their comments are summarised as follows:

- The existing building is of considerable significance – if it cannot be saved then the replacement should be of a similar standard of design.
- The focus is on the uses rather than the quality of the replacement building.

- The impact of mixed student population rather than just mature/overseas students differs from the exhibition discussion.
- How can the University enforce that no students will bring cars into the city?
- 136 cycle spaces is insufficient.
- Transport plans focus on bus and rail travel to the University not cycling – which reflects a lack of local knowledge.
- Impacts on use of London Road station have not been considered.

A letter of objection has also been received from **Councillor Pete West and Councillor Lizzie Deane**, Ward Councillors for St Peter's & North Laine. A full copy of their letter is appended to this report.

One letter of comment has been received from the occupant of **25 Pullman Haul, New England Street**; their comments are summarised as follows:

- Initially very unsure of the proposed high density and potential traffic impact on an already busy area.
- However reassured by the potential appointment of that Fresh Student Living.
- The area could do with a boost.
- It's a shame that the site isn't being developed for housing but understand that it will release property elsewhere.
- The development provides good quality accommodation which is severely lacking in the city.

The Brighton Society: Object – The present application looks coarse and bland when compared to the existing building. It will do nothing to uplift London Road. A request is made for the present façade to be placed on the Local List. 407 student bedspaces is too high a concentration of a single use in the road. The small houses at the back will suffer from excess noise and overshadowing.

North Laine Community Association: Object – The retention of this landmark building of neo-classical design which is a fine contrast to other older buildings in the street is paramount. The building should be added to the Council's local list.

The new proposal is of poor design, particularly for the front elevations – the existing facade should be retained. The support for the general need to make improvements to the area is heavily outweighed by the percentage of people who wanted the building retained. It is also noted that CAG members objected to the demolition.

London Road Area Local Action Team: Object – Loss of daylight and privacy. Not clear what mix of students will occupy the building – originally told mature, overseas student, current proposals not clear. The management was said to be 24/7 however the proposals only mention 08:00 – 19:00 – clarification is needed. Concern over the design quality of the

replacement building which should be of the highest quality to justify the loss of the existing landmark building. The existing building is well loved and deserves a worthy replacement rather than a shoddy or merely indifferent successor. S106 contributions should be sought for public art on site which celebrates to former glory of the Co-op.

South East Regional Design Panel (SERDP) (*Comments made at pre-application stage*):

The arguments for retaining or demolishing the existing store will be examined elsewhere and the Panel has been asked to advise solely on the design of the proposed replacement. We believe the site is suitable for retail use with student housing above, but the amount of development required by the brief creates architectural and planning difficulties that have yet to be resolved. A wider urban design analysis is needed to show how the development will work with its surroundings, which in turn should lead to a clear rationale for the design. In the meantime we have identified five areas for further scrutiny:

- routes and movement within and around the site, for vehicles as well as those on foot;
- the bulk and height of the development, particularly in relation to the streets to the side and rear;
- the quality of some of the student flats, including their outlook;
- the nature and quality of the landscape
- the emerging architectural character, including the handling of entrances, fenestration and materials

Access and movement

We are also not convinced by the routes by which the students will get from the ground floor entrances to their rooms; for example, the circulation arrangements at deck level, which will entail students walking past or congregating outside bedroom windows.

Layout, bulk and massing

The biggest challenge is to meet the demands of the brief for a large number of student bedrooms without overwhelming the scale of the modest side streets behind London Road. This has not been achieved and the development will be uncomfortably bulky on Baker Street.

The present building does however satisfactorily contribute to the townscape by responding to the curve in the street as well as through the vertical emphasis of the façade and the variation in the roofline or parapet; these are qualities to be respected.

There are a large number of north facing rooms, which may be gloomy in winter, especially where they overlook the service yard. Parts of the garden courts look as if they will be permanently in shadow, reducing the likelihood of much growing there.

The presence of the development on Baker Street itself needs to be finer-grained and more respectful of the modest scale and informal character of the street.

Greater variation in the height of the development might help its integration with the Brighton skyline.

UK Power Networks: No objection.

CAG: Objection - After discussion, and a show of hands, the group welcomed the principle of student accommodation on this site and the reuse of the building but strongly felt that the scheme should retain the original façade.

East Sussex Fire & Rescue Service: Objection - The plans do not show satisfactory access for firefighting vehicles and firefighting personnel to the proposed development, in particular the requirement for firefighting vehicles to approach to within 45 meters of any point within each proposed flat dwelling. Although this matter is dealt with at the Building Regulations stage the Fire Authority recommend that this is taken into account and dealt with prior to planning approval. The installation of sprinkler systems are also recommended.

Environment Agency: No objection - to the proposal as there is a low risk to groundwater.

Southern Gas Networks: No objection - a low/medium/intermediate pressure gas main is in the proximity of the site. No mechanical excavations are to take place above or within 0.5m of the low pressure and medium pressure system and 3m of the intermediate pressure system. Confirmation should be provided of the position of the mains using hand dug trial holes.

Southern Water: No objection - the exact position of the water mains and combined sewer crossing the site must be determined on site by the applicant before the layout is finalised. No development or new tree planting should be located within 3m of either side of the central line of the water mains and combined sewer and all existing infrastructure should be protected during the course of construction.

From initial investigations the foul and surface water sewage disposal to service the proposed development can be provided by Southern Water. A formal application by the applicant for a connection to the public sewer is required. An informative requiring formal application for connection to the public sewerage system and mains water are recommended along with an informative to advise that the detailed design takes account of the possibility of surcharging within the public sewerage system in order to protect the development from flooding. If SUDS scheme is to be used then details need to be provided to the LPA. A condition is recommended to secure details of

the foul and surface water sewerage disposal is recommended.

Internal:

Environmental Health: Objection – There is insufficient information with which to recommend approval or refusal in relation to contaminated land, lighting and Construction Environmental Management Plan however these matters could be dealt with by condition.

Potentially Contaminated Land

In the spirit of PPS23, the applicant has submitted a desk top survey with the application and it is suggested that further works are needed to address site uncertainties. Further works can be enabled through condition but it is important that the condition is pre-commencement to ensure that the applicant has regard to the comments below and that what is proposed in terms of investigation, is appropriate and targeted so that a robust end product is produced.

Lighting

More information is required.

CEMP

More detail is required.

PPG24 Assessment

A number of queries are raised in relation to the applicant's noise assessment and concern is raised as to why the applicant appears to only be aiming for 'reasonable' internal conditions for the bedrooms rather than good which has implications on the acceptability of the use of the proposed glazing specifications.

Plant noise

An assessment of the potentially proposed plant locations to service the retail element has been made but no comment is to be made at this stage, once the locations and details have been confirmed this can be fully considered. The plant room and adjacent substation on the ground floor has not been indicated in this assessment and it is considered that there is insufficient information submitted in order to assess the potential impact on the closest receptor sites.

Noise from deliveries

It is recommended that deliveries and waste collections should be considered to be restricted to between 8am and 7pm Monday to Saturday and not at all on Sundays or Bank Holidays. Consideration must also be given to the use of PA systems. The rationale for positioning bedrooms over vehicular access points is not understood. The activities associated with the use of the service yard are not clear and the potential for disturbance is therefore difficult to assess. No details of any flues have been provided either.

Internal noise

Soundproofing between the residential and retail uses should exceed that of Part E of Building Regulations in order to protect the residents.

Air quality

The ventilation strategy is crucial for the development. The developer shall insure that indoor air intakes draw relatively fresh air from the top and rear of the building. The ventilation intakes must be distinct and separate from any discharge flues associated with the heating systems and the proposed gas fired CHP engines.

WYG have submitted a detailed air quality assessment (forty pages). It does not address the main concerns in our pre-application statement on air quality i.e. street canyon and energy provision.

City Clean: No objection – The storage area does not meet council requirements for weekly collections. However, the applicant has confirmed that the general refuse will be collected and disposed of privately and the frequency of collections will increase with demand/levels of waste being produced. The council will not therefore be collecting the refuse from this building. The applicant has also confirmed that a swept path analysis demonstrates that 16.5m articulated lorry and 10.98m refuse truck can enter and turn within the yard, which would meet the Council's vehicle specifications.

It is therefore requested that a Waste Management Plan is submitted for residential waste to confirm the details provided by the applicant. This would need to be signed and agreed by Fresh Student Living (who will manage the building).

With regards to recycling, the applicant provisionally said they would be interested in the council collecting the recycling from this build. We can offer this service but only on a weekly collection basis which will be free of charge. After speaking with Operations, they would require 10 of the bins to be allocated for recycling collections. However, with the limited space and number of bins in the recycling and refuse store it should also be confirmed and signed in a 'Waste Management Plan.'

Planning Policy: Objection

Proposed Use of Building

There appears to have not been any attempt by the applicant to address the information set out in The London Road Central Masterplan SPD10 adopted December 2009. The SPD identifies that in any application for the Co-Op building "*Retail should be sought at ground floor level with business use above. Residential may be allowed as enabling development.*"

The applicant has set out in their Viability Justification section of the Planning Statement that the reuse of the existing building would be unviable

in retail terms due to the Co-Op building being poorly configured. It is argued that this would make subdivision difficult and that the poor configuration of the unit is reflected in the lack of interest by retailers when the unit was marketed. The applicant has submitted evidence from one local agent who suggests that the inclusion of upper floor retail would be unviable.

Whilst it is agreed that this site is unlikely to be attractive to a typical department store operator such as John Lewis, it is disappointing that there has not been further exploration of the required formats for alternative comparison goods retail operators who may be willing to occupy more than one floor in the proposed new building.

SPD10 Public realm

Page 16 of SPD

- *An expectation that new development contributes towards achieving the objective of improved pavements and improved 'legibility' through improved signing and de-cluttering of unnecessary street furniture*
- *An improved pedestrian environment within Baker Street, giving consideration to reducing the impact of traffic at busy times, by utilising alternative routes such as Francis Street and Oxford Street.*

Page 32 of SPD

- *An assumption that a new area of public realm be provided along part of the London Road frontage of the planning application site*

It is noted that the applicant has not taken up the opportunity suggested on page 32 of the SPD to set part of the building line back from London Road in order to secure a net increase in public realm (as well as to secure air quality improvements as highlighted below) or provided a response to this element of the SPD in their planning statement.

Given the significant nature of the proposal within the SPD area (aside from the intensive nature of the proposed land use regarding the number of student dwellings) in the light of achieving the above objectives it is considered entirely appropriate and necessary that should there be a recommendation to approve the application, that this be subject to Section 106 funding being secured for public realm improvements in the vicinity of the Co-op. There remains considerable scope to improve the public realm and the pedestrian experience in Baker Street in line with best practice across Northern Europe. The type of public realm sought would provide greater pedestrian priority without preventing car use, in line with the SPD's objectives and the council's increased focus on securing such environments.

The former Co-op building is probably one of the most significant development opportunities within the SPD area and so would be expected to make a significant contribution in this respect, albeit one that is linked to and

commensurate with the nature and scale of the development proposal.

A list of potential areas for S106 funding of this nature is included in the Community and Funding section on page 38 of the SPD. The list includes public realm, environmental improvements and legibility. It also includes recreation, play space & sports provision. A significant proportion of students living on the site would be expected to place an additional burden on local recreation space. If the student housing proposal was to receive permission and be built, the Level would be expected to serve the new resident population due to its proximity to the application site. It is recommended that any public realm funding secured via Section 106 also assisted in making the Level more accessible to the development (e.g. improved pedestrian facility across Ditchling Road between bottom end of Baker Street and the Level).

SR5 Town and District Shopping Centres and SR1 New Retail Development
It is understood that the existing Co-Op building when in operation, offered approximately 13,100 sqm gross internal area (GIA). The majority of the building has been vacant since 2007 and it is now proposed that redevelopment of the site will provide some 3,584 sqm GIA on the basement and ground floor areas.

The former Co-Op site lies within the primary frontage of the London Road Town Shopping Centre as designated in policy SR5 of the Adopted Local Plan.

A break in retail frontage is proposed fronting both London Road and Baker Street to accommodate the main entrance to student accommodation and entrance to a service yard. Policy SR5 states in criteria b) that proposals should not result in a significant breaks of more than 15m of the shopping frontage. The entrance to the student accommodation fronting London Road would result in a break of frontage of around 11 metres. On Baker Street the service yard entrance would result in a break in shopping frontage of 17 metres. Whilst 17m is considered to break the 15m specified in criteria b) of the policy, it is noted that this break is to provide a service entrance for the retail units and student accommodation and is considered to be acceptable in this instance considering that the rest of the frontage proposed for this site is for A1 retail use.

As a town centre site the new retail development is considered to comply with policy SR1. Any new floorspace should be conditioned in respect of delivery day/times and provision of facilities for parent and child and the elderly and people with disabilities.

Provision of student housing

Whilst the Co-Op site is not yet formally allocated for C3 use, it is identified for such use on the upper floors in the council's various revisions of its Strategic Housing Land Availability Assessment. The most recent 2010

study identifies the Co-Op site as having capacity of accommodating some 76 residential units within the Category 2 timeline of the next 6-10 year period. This identified housing supply has been used to inform an emerging housing delivery policy and the London Road Development Area (DA4) policy in the council's emerging City Plan.

The provision of student accommodation (Sui Generis) on the Co-Op site cannot be considered as part of the council's housing land supply and as such if permitted would remove some 76 units from the council's identified supply. The city council is currently consulting on four options papers to inform preparation of its City Plan. The Student Housing Options Paper attempts to address the issue of New Build Student Accommodation by setting out three possible policy formation options. The council's preferred option is to identify specific 'university supported' sites within a Student Housing Policy along with a criteria based policy against which proposals for new student housing would be considered. It should be noted that the Co-Op site is not listed in the Options Paper as a preferred site as it is identified in the SHLAA for C3 use.

Some four hundred and seven units of student housing are proposed by the applicant. There is currently no adopted policy to address the provision of student housing within the Adopted Local Plan 2005.

The applicant has submitted an updated letter of support for student accommodation on the Co-Op site from Charles Dudley, Director of Residential, Sport and Trading Services at the University of Sussex. The letter confirms that the university supports the application and that the proposal meets the universities accommodation standards. He states that the university will have an exclusive occupancy agreement with the developer and it is likely that the accommodation will primarily be for postgraduate students.

The applicant states that the accommodation would be run by a company called 'Fresh Student Living' and this approach appears to be supported by the University of Sussex as they state that they are comfortable with the arrangements. They state that they will allocate and secure students on standard tenancy agreements and engage with any student welfare on neighbourhood issues. They go on to outline that the contract terms between the University and the developer will be set out formally in legal documentation, however this will not occur until planning consent has been gained.

As this site is close to areas having high concentrations of student residencies where anti social behaviour is a recognised problem the direct involvement of the Universities in managing larger student housing schemes is preferred on this site since this introduces a wider range of control measures that can be applied to students who act irresponsibly. The Local Authority's preference is that the accommodation would be managed by, or

management standards set by, the University. The University of Sussex has recognised management protocols for purpose built student accommodation, a key factor in ensuring residential amenity as outlined in policy QD27 of the Local Plan. Details of how the university will liaise with Fresh Student Living are welcomed via submission of further information.

Policy HO6 Provision of outdoor recreation space in housing schemes

The arguments raised are standard ones and have already been taken into account when devising the standards. On the basis of the information submitted it is not considered appropriate to waive the open space contribution except to adjust the figures to ensure the contribution is commensurate to the number of units provided. On the understanding that there will be a tenancy agreement to ensure that none of the units will be occupied by student families/students and families living within any of the clusters and the total number of bedspaces being 407 then the total open space contribution has been recalculated to be £489,839.23

Sustainable Transport: Objection

Demand for travel and contributions:

When considering the demand for travel likely to be caused by developments, it is standard practice to discount the estimated number of trips expected with the new development by those arising from any existing development on the application site. The applicant's case is that the existing site could operate as a food superstore. The applicants have acceptably demonstrated that on this basis the number of estimated vehicular trips would be reduced and in this case given the volume of reduction and site circumstances it follows that the number of overall trips would similarly reduce. As such no S106 transport contributions would be required. In support of this conclusion, the applicants point out that the site is in a central and sustainable location, no parking will be available, student tenancies will be car free and a travel plan will be provided. In view of these facts, provided the applicant's basic approach is accepted, it is considered that policy TR1 is met.

Car parking

No general parking is proposed. This is acceptable provided that policies TR1 and TR2 are met. Tenancy agreements for students will require them not to bring cars into Brighton – it is recommended that any consent should be accompanied by a condition requiring the applicants to promote a TRO amendment removing the eligibility of residents for residents parking permits.

Disabled parking

No disabled parking is proposed. The SPG4 requirement is at least 4 spaces for the retail use. The student accommodation requirement is not defined and comparator uses suggest a wide range. The complete lack of provision or alternative measures is not consistent with policy TR18 and therefore a reason for refusal.

Cycle parking

The SPG4 minimum requirement is 136 for the student accommodation and 7 for the retail use, making a total of 143. It is proposed to provide 146 spaces within the site for students and at least 6 on street for the retail element. The on-street provision should be required by condition. The on-site provision largely consists of double stacking units which are not suitable for less fit or strong people and are therefore not 'convenient' as required by policy TR14. The applicants state that they cannot provide Sheffield stands throughout while maintaining viability and therefore improvements to this provision cannot be conditioned and this constitutes a reason for refusal.

Traffic impact

The applicants have successfully demonstrated that the amount of vehicular traffic likely to be generated by the application will not cause congestion in the vicinity, and also that there is no existing pattern of accidents which may be worsened by this traffic. Swept path diagrams have been submitted which demonstrate that the largest Refuse Collection Vehicles generally used by contractors will be able to enter and leave the service yard. The crossover to the service yard on the north side of Baker Street will need to be constructed under license to Highway Authority standards and an informative to this effect should be added to any consent.

Start and end of term arrangements

The TA and some further information set out an acceptable method by which the students will move in and out of the accommodation.

Travel plan

Any consent should be accompanied by a condition requiring that the applicants produce a travel plan approved by the Director 3 months prior to occupation of the premises.

Sustainability: Objection - Overall, this application indicates that the key SPD08 standards of BREEAM 'excellent' with 60% in energy and water sections can be met though some other aspects of SPD08 have not been particularly well addressed especially urban heat island mitigation and the production of rainwater harvesting and greywater recycling feasibility studies.

There is concern over the way that important issues in SPD10 the London Road Masterplan have not been properly addressed. For instance an option for retaining the Co-op building's façade (which was established as a priority through Masterplan consultation as preferable to a 'demolish and rebuild' approach); the design approach using 'ecological foot-printing'; commitment to include a 'sustainability advisor; green infrastructure improvements; a health impact assessment; and capacity to connect to or contribute to a district energy network.

Other areas of concern include aspects of Local Plan Policy SU2. The

scheme has not demonstrated that green house gas emission will be substantially reduced particularly as obsolete standards are used in the energy statement (consequently accurate assessments are not possible); some renewable technology is proposed (air source heat pumps) but for a scheme of this scale the contribution is disappointing; the sustainability of materials and provision of composting facilities are also not addressed.

BREEAM

BREEAM assessments will be required for the 10,628m² student accommodation (BREEAM Multi Residential) and for the 2653m² retail (BREEAM Retail). The submitted 'Sustainability Statement' and 'energy Statement' commit to achieving the standard set out in SPD08 for new build major development which is BREEAM 'excellent' with 60% in energy and water sections. However, this is assessed against a 2008 pre assessment version, a version which has been superseded. Schemes which could have achieved an 'excellent' rating under previous BREEAM scheme assessments may now only achieve 'very good' against a more recent iteration.

Energy

Since the energy and carbon baseline have been calculated using obsolete carbon factors and standards (2006 Part L) this puts a question whether current Part L standards will be achieved by this scheme. Whilst commitment to achieve BREEAM 'excellent' is stated, the energy statements failure to use current Building Regulations standards undermines its presumption that BREEAM 'excellent' is achievable.

If approval is granted conditions should be used to secure a development that more fully complies with local policy standards for sustainability.

Economic Development: Partial objection - The senior economic development officer does not fully support the application. If approved a contribution through a S106 agreement for the payment of £35,840 towards the Local Employment Scheme in accordance with the Developer Contributions Interim Guidance and the provision of an Employment and Training Strategy with the developer committing to using 15% local employment during the construction phase.

In relation to the viability information submitted, the senior economic development officer is still concerned that the viability testing has not taken into account other alternative uses for the upper floor i.e. business use to accord with the approved SPD for London Road Central. This should have been provided to support the proposal in its current form to demonstrate that business use was not viable for the site.

Ecology: Objection – The applicant has failed to address Annex 6 of SPD 11 – further information is required. However it should be possible to address nature conservation requirements without any material change to

the submitted plans. If the applicant is amenable, the requirements could be met by condition, for example to secure the necessary area of chalk grassland green roof.

The application comprises the demolition of an existing building at an urban location and the construction of student accommodation. The applicant's view that the existing site is of minimal ecological value is supported (see the Ecology Report and BREEAM Bespoke LE3-LE6 Assessment by Halcrow Yolles). However national and local planning policy requires development to maximise opportunities to build in beneficial biodiversity as part of good design. SPD 11 Annex 6 provides a consistent method for calculating the amount of 'new biodiversity' developments should provide. Local Plan policy QD 17 requires development to provide new nature conservation features, irrespective of the previous value of the site. And this is supported by paragraph 14 of PPS 9 which states that opportunities to integrate biodiversity into developments should be maximised.

In this case the design incorporates a landscaped courtyard on the ground floor and three further courtyards on the first floor. The total area of courtyard amounts to 731 m², including a substantial (but undisclosed) proportion of hard surfacing of negligible biodiversity value. In my view none of the landscaping offered contributes to biodiversity requirements under Annex 6.

Annex 6 provides a menu of alternative ways of delivering biodiversity benefits. For example, for a development site of this size (4,500m²), a chalk grassland green roof or a brown roof totalling 900m² is required. However paragraph 5.4 of the Sustainability Statement is clear that the current design does not incorporate green roofs or green walls. There are ample flat roofs available where such features could be incorporated, as well as opportunities to incorporate nest boxes and other features listed in the annex.

Public Art: No objection - It is encouraging that the applicant acknowledges Local Plan policy QD6 (Public art) as relevant for this application in the Planning and Access Statement (paragraphs 4.26 and 4.27). However, it is disappointing that no further details are provided within the application itself. Particularly considering that the proposals contained in the Landscape Design Statement suggest there would be various opportunities to incorporate the requirements of Policy QD6 into development proposals.

It is suggested that the public art element for this application is to the value of 115k.

The final contribution will be a matter for the case officer to test against requirements for S106 contributions for the whole development in relation to other identified contributions which may be necessary. Whilst we are open to negotiation it is important, however, to stress that we are unlikely to waiver it

completely. Our approach would be to look for the best and most cost-effective way of incorporating public art into the scheme. The scheme offers a range of opportunities from celebrating the history of the former Co-op itself to enhancement of public realm areas.

Design & Conservation: Objection - This proposal departs from the London Road Master Plan to a significant degree, such that it is doubtful whether it will assist the regeneration of the area, or contribute in a meaningful and positive way to the improvement of the London Road urban realm.

Further consideration is required as to the type and mix of uses that might secure the retention of the Coop building, which has significant communal value, and contributes positively to the character of London Road.

The development will not harm designated heritage assets in the area.

It will however appear out of scale with its immediate surroundings, and requires a significant reduction in height and mass, if it is to be judged a positive improvement upon the existing urban form. For the reasons detailed below, the application is considered to fail the tests in local plan policies QD1, QD2, QD3, QD4, QD5 and QD15.

Significance of place

The former Coop building, now vacant, is the largest retail building in the London Road shopping street, dating from 1931. It is neither listed nor on the council's list of buildings of local interest. However, the original building is considered of sufficient interest to merit inclusion on the local list, when next reviewed. It has communal value, and in the local urban context, provides, through its imposing and unified frontage, a landmark focus and evidence of the street's former prosperity. It addresses the street in a very positive manner; the horizontal projecting cornice line contains the street in near views and reinforces the sweeping nature of the street. The later additions to the building have no townscape interest, but do at least reflect the scale of their surroundings.

The site is centrally located in London Road, prominent in long oblique views along this gently curving street, at the junction with Baker Street. The principal frontage building is of a larger scale than the neighbouring buildings and has strong visual presence. This reflects its former prestige status as a department store. This status is also reflected in the use of stone ashlar facings, and the imposing neo classical architectural style and composition, typical of its period. There is a clear distinction between the mixed styles and scale of London Road, which now has many layers of historic development and the more uniform narrow 19thC streets to the east, which are of smaller domestic scale.

The former Coop contributes neither positively nor negatively to the setting of other heritage assets in the vicinity, including the Valley Gardens

Conservation Area and the churches of St Bartholomew and St Peter.

The Master Plan for London Road seeks to regenerate the London Road shopping area, inter alia by the retention and/or conversion of existing quality buildings to alternative uses compatible with the area's retail town centre functions and commercial quarter aspirations. In this policy context the Coop is considered a building of quality that merits retention, in part at least, and conversion.

Within the wider street scene there are many buildings of some interest, notably the early 19th C regency paired stucco villas. These 3 storey buildings match the Coop in architectural importance, despite their later alterations, set the general height and scale for the street, and evoke a previous strong elegant urban formality to this part of London Road. During the 20th Century various infill developments of mixed quality were built that now contribute to the varied architectural and townscape character.

The applicant's urban design analysis acknowledges the contribution the pale stone colour lends to the homogeneity of the streetscape and the broad consistency in rooflines, with only minor variations.

The Proposal and Potential Impacts

Proposal

Whereas the original 1930s Coop building fills only part of the frontage with later more restrained additions at either end, the building now proposed runs the full length of the frontage in a common style and form with variations in height in response to the changing scale of adjacent frontages. The proposed development has a very substantial mass, by virtue of the number of student rooms, and the overall height, form and layout.

Distinctive features of the development comprise reconstituted stone or rendered bays along both London Road and Baker Street, which are faceted along London Road, so as to accentuate the gently curving street lines. These bays are separated by contrasting metal bays identifying the positioning of shared common rooms, and which together provide a strong rhythm and vertical emphasis.

In terms of quantity of space to be delivered, the client's brief to the design team is demanding and the adjustments to height and massing have been made to address concerns regarding its likely overbearing or monolithic appearance.

The Shop front design is as yet undeveloped.

The South East Regional Design Panel (SERDP) identified five areas of concern at a pre application presentation, regarding routes and movement, bulk and height, quality of student flats and outlook, nature and quality of landscape, and architectural character.

Heritage Assessment

Loss of original Coop building.

This is a landmark building. It sits well in the wider streetscape and contributes strongly to the street's urban commercial character. It provides evidence of this shopping street's past town centre status and through its reuse could help reinvigorate this commercial quarter. Without doubt however it would adapt better to commercial use than to residential use.

Before accepting its loss other alternative mixed use options should be thoroughly tested, that utilise the positive role that this building could play in providing an appropriate anchor for the street's on going visual and commercial regeneration. It has been identified as key to future 'place shaping' in the area.

Heritage setting

The development will not have any significant visual impact on the wider urban setting of designated heritage assets; more particularly the setting of the Valley Gardens Conservation Area and the setting of the listed churches of St Bartholomew's and St Peter's. The churches will retain their landmark pre- eminence. The Valley Gardens when viewed from the Level will remain visually contained.

Urban Design Assessment

Wider visual impact

By virtue of its position on the valley floor the development will not impact significantly on longer views, but will nevertheless cause some harm to framed views from elevated positions in the New England Quarter and from Preston Circus, because of its impression of bulk, and the obscuring of views that include the distant ridgelines.

Urban context

The height, scale, and bulk of this development remains a concern despite the adjustments made.

The SPD for London Road advises that new buildings should not exceed the existing height of the Coop; by this it is considered that the general parapet line should guide the maximum height along the London road frontage. In this respect the proposed London Road frontage is significantly taller than the existing Coop façade and exceeds even the height of the roof top plant / lift motor room to a significant depth. It is considered oversized relative to the streetscape generally, which comprises 3 and 4 storey frontages.

The metal clad multi-attic storeys create a substantial roofscape that does not satisfactorily address concerns regarding its relation to the terraces in Baker Street, Kingsbury Road and London Terrace. The overall effect, despite the efforts made, still appears at odds with the scale and appearance of the adjacent frontages.

Significant adjustments which respect the tight-knit urban grain of these streets are considered necessary. A more sympathetic transition in height and scale to the secondary streets is also recommended. It is considered that the SERDP's view that the development will be uncomfortably bulky on Baker Street has not been adequately addressed.

In Baker St, a narrow street of 2 storey terraces, the new development will substantially change the character of this small scale street. The use of metal cladding at 4th and 5th storey level does not help mitigate this bulk. The covered service access is out of scale and an alien feature within the street.

It is disappointing that the opportunity to work more closely with the traditional urban grain of the streets to the rear has not been taken.

Architectural character

The design is driven by a need to mitigate the visual impact of the optimal size of this development. The design typology is that of the traditional street, the size that of a landmark building. The two seem at odds.

The elevational design to London Road is a positive and logical response to the floor plans and provides interest through the rhythm and articulation. In terms of detail it is rather plain. Along Baker Street the building merits greater articulation. It is unclear how the rhythm and depth suggested on the elevation drawings may be delivered, particularly with regard the junctions between facade and attic. The attic storeys need greater definition and set back. The submission of sample 1:50 scale bay drawings is recommended.

The main entrance to the student halls is uninspiring, and appears too functional. It is judged an inadequate replacement focus, and will not provide the desired visual interest or strong sense of arrival.

There is clearly some further thought to be given to the choice of materials. Thin render would not provide the desired smooth robust quality finish; nor is it appropriate to mix stone and render. The textural contrast will not provide the desired homogeneity.

Landscape quality

The external spaces have not been located with due regard to providing light and generous spaces. They are high sided small enclosed spaces that will most likely be used only for short stays, because of the lack of sunlight, poor outlook and potential disturbance to occupiers of adjacent flats. The public realm to the rear still seems disjointed.

6 MATERIAL CONSIDERATIONS

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that "if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must

be made in accordance with the plan unless material considerations indicate otherwise.”

The development plan is the Regional Spatial Strategy, The South East Plan (6 May 2009); East Sussex and Brighton & Hove Minerals Local Plan (1999); East Sussex and Brighton & Hove Waste Local Plan (February 2006); Brighton & Hove Local Plan (21 July 2005).

7 RELEVANT POLICIES & GUIDANCE

Planning Policy Statements (PPS):

PPS 1:	Delivering Sustainable Development
PPS 3:	Housing
PPS 4:	Planning for Sustainable Economic Growth
PPS 5:	Planning for the Historic Environment
PPS 9:	Biodiversity and Geological Conservation
PPS 10:	Planning for Sustainable Waste Management
PPS 22:	Renewable Energy
PPS 23:	Planning and Pollution Control

Planning Policy Guidance Notes (PPGs):

PPG 13:	Transport
PPG 17:	Planning for Open Space, Sport, Recreation
PPG 24:	Planning and Noise

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
TR4	Travel plans
TR7	Safe development
TR8	Pedestrian routes
TR13	Pedestrian network
TR14	Cycle access and parking
TR18	Parking for people with 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 sewerage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise nuisance
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
QD10	Shopfronts
QD27	Protection of amenity
QD28	Planning obligations (likely contributions towards transport, education, open space, public art)
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
SR1	New retail development within or on the edge of existing defined shopping centres
SR5	Town and district shopping centres
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE10	Buildings of local interest

Supplementary Planning Guidance:

SPGBH4	Parking standards
SPGBH9	A guide for residential developers on the provision of recreational space
SPGBH15	Tall buildings

Supplementary Planning Documents

SPD02	Shopfront design
SPD03	Construction and demolition waste
SPD08	Sustainable building design
SPD10	London Road Central Masterplan
SPD11	Nature Conservation & Development

8 CONSIDERATIONS

The main considerations relating to the determination of this application are the principle of the development in relation to the proposed uses and the proposed loss of the existing building, the impact of the design on the character of the area and the setting of the nearby listed buildings and Valley Gardens Conservation Area, the impact on amenity, transport implications and sustainability.

Principle of development

Acceptability of the proposed mix of uses

There appears to have been little attempt by the applicant to address the information set out in The London Road Central Masterplan SPD10 adopted December 2009. The SPD identifies that in any application for the Co-op

building *“Retail should be sought at ground floor level with business use above. Residential may be allowed as enabling development.”*

It is disappointing that little evidence has been submitted to demonstrate that no alternative comparison goods retail operators or other business units would have no interest in occupying the upper floors. The Economic Development team have expressed disappointment that the proposal has not considered any business use in the scheme and in particular employment space on the upper floors with residential acting as enabling development in accordance with SPD10. No justification provided to demonstrate the impact on viability of this as an option which is considered to have potential for significant improvements to the regeneration of London Road.

The application site falls within the defined prime frontage of the Town Centre of London Road. Policy SR5 sets out four criteria which must be met where a change of use from A1 may be acceptable. The proposal seeks to retain only the ground floor as A1 retail and the upper floors are proposed to be student accommodation (sui generis). The replacement building does however propose to provide the main entrance to the student accommodation along the London Road frontage and a secondary pedestrian access to the accommodation and a new access to the proposed service/delivery yard.

Criterion (b) of policy SR5 seeks to resist development which would result in a break of the shopping frontage of more than 15m. The break on the London Road frontage is approximately 11m and the break on Baker Street is approximately 17m. Whilst 17m is considered to break the 15m specified in criteria b) of the policy, it is noted that this break is to provide a service entrance for the retail units and student accommodation and is considered to be acceptable in this instance considering that the rest of the frontage proposed for this site is for A1 retail use.

The proposal represents a significant reduction in the retail offer on London Road, it is understood that the existing Co-op building when in operation, offered approximately 13,100 sqm floorspace set out over three floors. The proposal seeks to re-provide retail on the ground floor to provide 3,584 sqm floorspace on the basement and ground floor areas. The proposal sets out this provision as four units however the applicant would seek to retain flexibility of the space. The provision of new retail space is welcomed and supported as this will enhance the quality of the retail offer for the area. The applicant states that the proposal will provide employment for over 70 people approximately which is welcomed. The plans submitted do not detail where refuse and recycling would be provided on site however it is considered that there is sufficient space for its provision and could therefore be conditioned if the application were considered acceptable.

Student accommodation

The application proposes 407 student bedspaces within the 5 storeys of accommodation above the proposed retail on the ground floor. There is currently no adopted policy to address the provision of student housing within the Adopted Local Plan 2005. The City Council is currently consulting on four options papers to inform preparation of its City Plan. The Student Housing Options Paper attempts to address the issue of New Build Student Accommodation by setting out three possible policy formation options.

The council's preferred option is to identify specific 'university supported' sites within a Student Housing Policy along with a criteria based policy against which proposals for new student housing would be considered. At present there are no Council adopted standards for student accommodation however the universities have their own adopted standards.

It should be noted that the Co-op site is not listed in the Options Paper as a preferred site as it is identified in the Strategic Housing Land Availability Assessment (SHLAA) for C3 residential use with the estimated capacity for accommodating 76 units. The provision of student accommodation (Sui Generis) on the Co-op site cannot be considered as part of the council's housing land supply and although it is disappointing that if permitted it would remove some 76 units from the council's identified supply, the principle of the use cannot currently be objected to. It is envisaged that the provision of purpose built student accommodation could however free up existing housing in the city.

The proposed figure of 407 is considerable and matters relating to neighbouring amenity are of significant concern. As such the LPA consider that the confirmed support from the University of Sussex who state that the proposal will meet the universities accommodation standards. The university also states that they will have an exclusive occupancy agreement with the developer and that the accommodation will primarily be for postgraduate students. It is noted however within the TA that the accommodation is likely to be made available for overseas students in the summer months also.

The university have also confirmed that they are comfortable with the proposed management of the accommodation via a private company known as 'Fresh Student Living'. They state that they will allocate and secure students on standard tenancy agreements and engage with any student welfare on neighbourhood issues. They go on to outline that the contract terms between the University and the developer will be set out formally in legal documentation, however this will not occur until planning consent has been gained.

As stated by the Planning Policy team, this site is close to areas having high concentrations of student residencies where anti social behaviour is a recognised problem the direct involvement of the Universities in managing larger student housing schemes is preferred on this site since this introduces

a wider range of control measures that can be applied to students who act irresponsibly. The Local Authority's preference is that the accommodation would be managed by, or management standards set by, the University. The University of Sussex has recognised management protocols for purpose built student accommodation, a key factor in ensuring residential amenity as outlined in policy QD27 of the Local Plan. If the application were considered acceptable in other respects this matter would need to be resolved by way of a legal agreement.

The accommodation mix proposed includes 54 studio rooms and one 4 bedroom student house; each of these units is self contained with WC and kitchen/dining/living areas. Student accommodation does not fall within the definition of affordable house as set out in Annex B of PPS3 a form of residential accommodation that meets a specialist housing need. As stated above it is anticipated that the provision of dedicated student housing would also reduce the number of students looking for housing on the open market, releasing existing market housing and thus relieves pressure on the housing market. Given that the application has been submitted with the intention of leasing the entire building to University of Sussex as student accommodation only and therefore not provide for the general housing market, the LPA would not be seeking an affordable housing provision on site or an off-site contribution. However, if the application were acceptable the LPA would seek that the housing is secured via a legal agreement to be occupied as student accommodation only to ensure policy HO2 would be addressed.

Design

Loss of the original Co-op Building

As noted by the Council's Design and Conservation Officer, the original Co-op building is a landmark building which is considered to be of sufficient interest to merit inclusion on the local list, when next reviewed. The building sits well in the wider streetscape and contributes strongly to the street's urban commercial character. It provides evidence of this shopping street's past town centre status. The building is considered to be a 'non-designated' heritage asset and regard should therefore be given to advice in policy HE7 of PPS5. London Road Central Master Plan (SPD10) defines the building as one of the '*buildings that defines the diverse character of the master plan area*'. The SPD also states:

'Wherever feasible these unprotected buildings should be retained, enhanced and/or integrated into new development. Where retention is shown not to be viable, the council will seek net gains in respect of master plan objectives, e.g. improved townscape in terms of height and scale, with high-quality architecture for replacement buildings, appropriate land use and sustainable building design.'

Two alternative development scenarios are detailed in SPD10. These

require either:

- *Retain building or retain 1930s core and facade with new development as 'book ends'.*
- *Make case for demolition of original building (based on financial viability issues and quality of replacement building); and*
- *New building not to exceed existing height on London Road.*

The SPD also encourages reconnecting London Terrace to Baker Street. With regard height and massing the SPD advises that:

The existing Co-op building should be considered the maximum appropriate height for development. Development in the streets between London Road and Ditchling Road should respect the tight-knit urban grain of those streets and the historic roofline of Ditchling Road, by ensuring that development steps down appropriately in height and scale from London Road frontage.

The exiting Co-op building represents the largest building by some way within the local context of London Road with the majority of the bulk and scale centred along the London Road frontage with the original 1930s element maintaining overall dominance. The building then steps down in scale where later additions have been added to either side of the original core and steps down again along the Baker Street frontage to reflect the much more tight knit form of development which neighbours the site.

The Council's Design and Conservation Officer details the buildings significance as having communal value, and in the local urban context, providing, through its imposing and unified frontage, a landmark focus and evidence of the street's former prosperity. It addresses the street in a very positive manner; the horizontal projecting cornice line contains the street in near views and reinforces the sweeping nature of the street. It is acknowledged that the later additions to the building have no townscape interest, but do at least reflect the scale of their surroundings. The site is centrally located in London Road, prominent in long oblique views along this gently curving street, at the junction with Baker Street. The principal frontage building is of a larger scale than the neighbouring buildings and has strong visual presence. This reflects its former prestige status as a department store. This status is also reflected in the use of stone ashlar facings, and the imposing neo classical architectural style and composition, typical of its period.

The proposal seeks total demolition and redevelopment of the Co-op site which is currently occupied by a building which is 17m in height to the buildings frontage onto the London Road frontage, and replacement with a 6 storey (maximum height 20.5m) building. The Baker Street frontage of the existing building is a maximum of 12m in height and the proposed replacement some 20m in height.

Some financial justification has been submitted by the applicant which has assessed three scenarios; new build, retained façade and refurbishment/conversion. The viability assessment concludes that the only viable option is complete redevelopment as proposed of the site and loss of the building. The details are not explicit in all areas of the assessment, for instance it would appear that the refurbishment/conversion option includes the whole of the existing building rather than retention of just the 1930s core which is another option supported in SPD10 with ‘book ends’ of new development. This information has not been independently assessed by the District Valuer.

The financial viability assessment forms part of the argument however it is key that any viability assessment supports a suitable replacement scheme which among other factors should be of a quality design and acceptable scale. The LPA have also been explicit in their advice at the pre-application stage that should a case be made for the loss of the building, any replacement building should not exceed the height of the existing building. Indeed the LPA may take the opportunity to secure a development of decreased height and scale, more in keeping with existing development in this locality. The financial viability assessment is however based on the submitted scheme which for the reasons set out in this report is considered an unacceptable replacement. Matters relating to the suitability of the replacement building are considered later in this report.

The applicant has failed to demonstrate that other alternative mixed use options have been thoroughly tested, that utilise the positive role that this building could play in providing an appropriate anchor for the street’s on going visual and commercial regeneration. It has been identified as key to future ‘place shaping’ in the area.

The applicant has submitted an Urban Design Analysis and PPS5 Statement which concludes in relation to HE7 that the architectural integrity of the building has been considerably weakened by the unsympathetic later additions. They consider that the facade is the only element which has ‘key landscape’ qualities however believe that the loss of the building would cause *‘less than substantial harm’* to the streetscape and settings of heritage assets and consider *‘on the contrary, it would be of benefit to the public realm’*. The applicants also claim that the loss of the 1930’s core is outweighed by the *‘substantial public benefits’* of the scheme by the loss of the later additions arguing that the retention of the façade was not viable and retention would not provide the innovative and imaginative design solutions detailed as key objectives of the masterplan – SPD10.

The applicant’s analysis of the significance of the building is considered to be limited and appears to play down its importance and has failed to justify the complete loss of the building.

On assessment of the loss of the building in relation to PPS5 policy HE7,

Design and Conservation have identified the nature of the significant of the heritage asset and the value it holds for this a future generations. Through public consultation of SPD10 and this planning application it is clearly understood that the building has special significance to the community. As detailed later in this report, the proposed replacement development does not make a positive contribution to the character and local distinctiveness of the environment and the overall design is considered unsatisfactory specifically in relation to scale, height, massing, materials and use. The applicant has therefore failed to demonstrate the acceptability of the principle of the loss of the non-designated heritage asset contrary to policy HE7 of PPS5 and the London Road Central Master Plan SPD10.

Impact on character of the area

Although PPS1 and PPS3 seeks 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. QD4 seeks to preserve or enhance strategic views, the setting of landmark buildings and views in and out of conservation areas. Whilst QD5 seeks to ensure new developments present an interesting and attractive street frontage particularly at ground floor.

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. Policy HO4 relates to the acceptability of higher dwelling densities in areas where it can be demonstrated that the proposal exhibits high standards of design and architecture.

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.

The applicant engaged in pre-application discussions with the LPA as well as having engaged with the South East Regional Design Panel (SERDP) and have made amendments to the proposed scheme to aim to address concerns raised regarding the height, bulk, scale and massing, quality of the student flats and outlook, nature and quality of the landscape, and architectural character – their written response did not comment on the loss of the existing building.

The number of student units proposed as reduced from 430 to 407 bedspaces this still represents an extremely high density of development and a substantial bulk, mass and height is proposed in order to try and accommodate such a large number of units. The design approach is described as one that reflects the overall mass of the existing Co-op and the character of the older narrower plot widths in the townscape which is reflected in the bay style detail to the elevations; the two styles do however appear to conflict.

On assessment of the comparison sections shown on drawing no. EL_007 revision A, although the plan does not detail where the section lines have been taken from it is apparent that they have been drawn between the substantial bulk of the rear projecting wings of the proposed development. These sections in effect only show the 'best case scenario' when comparing the existing and proposed mass with the basement and ground floor shown behind the frontage block and are very misleading. There are similar sections shown in the Design and Access Statement which only show the ground floor in colour which given the size of the drawings is also misleading particularly as the development would not be perceived as shown from any external location as it omits the vast bulk of the proposed rear wings.

Despite the reduction in the number of bedspaces proposed from the previously proposed 430 bedspaces at pre-app to 407 bedspaces, the development remains a concern in relation to the height, scale, bulk and massing particularly to the rear of the London Road frontage along Baker Street, Kingsbury Road and London and Rose Hill Terrace where the proposed development appears vastly out of scale and dominant when compared to the tight knit residential scale of this enclave which is characterised predominantly by small scale two storey terraced properties. The development is considered to be overly dense and constitutes town cramming.

Efforts have been made to reduce the appearance of scale of this rear element of the scheme, with the aim of the building relating better to Baker Street in particular. The frontage steps back at the upper storeys and multi-attic storeys are proposed to be clad in metal. This has however created a substantial roofscape and the effect is the development remains to appear

out of scale and character with the street scene and the SERDP's view that the development will appear uncomfortably bulky has not been addressed. The development will also appear overly dominant along Kingsbury Road, rising above the roof lines of the properties appearing bulky, out of scale and dominant in the street scene.

The tight knit urban grain of the shopping street, Baker Street is a well populated street with the vast majority of ground floor units being occupied offering an almost unbroken active frontage, which greatly contributes to the viability of the street scene. In contrast to this, the application proposes to insert a substantial opening within the Baker Street frontage which will be a gated vehicular entrance to the service yard. This entrance will have a set back from the pavement edge and will provide an 8.5m blank frontage. At pre-application stage the design rationale in support of the access is that of opening up the historic street of London Terrace which pre-existed in this location, the principle of which was supported. However, as the design progressed the access was made 'secure' and built over at first floor and above to create a somewhat outdated and utilitarian method of servicing the building and the meaningful reinstatement of the historic street has been lost as a result, which is disappointing. The service entrance is out of scale and an alien feature within the street. The access is a poor standard of design and will result in a large area of blank frontage which will fail to provide passive surveillance, the proposed set back from the pavement could contribute to feeling unsafe by providing a potential place for a person to conceal themselves.

The main proposed student entrance on London Road is not considered to be of sufficient quality and is uninspiring, and appears too functional. It is considered to be an inadequate replacement focus, and will not provide the desired visual interest and strong sense of arrival.

The advice within SPD10 that any replacement building should not exceed the already dominant scale of the existing Co-op building relates to the general parapet line which should guide as a maximum along the London Road frontage. The proposal is however significantly higher and significantly deeper than the existing building and is considered to be oversized. The development also has a poor relationship with 93 London Road where the building rises up significantly above the pitched roof of this neighbouring building revealing a large area of bulky blank side elevation.

Key views have been assessed in the Tall Buildings Statement and the additional bulk and scale of the building is particularly apparent from within Kingsbury Road where the building will rise up significantly above the existing two storey dwellings with substantially increased bulk above the roofscape of this enclave. In slightly longer views from Preston Circus and from the New England Quarter the proposals substantial height, bulk and scale above the predominant ridgelines when compared to the existing situation is very apparent and the proposed development appears to

dominate and overbearing in these views.

As noted by Design and Conservation, the principle frontage building, the original 1930s core of the existing Co-op is of a larger scale than the surrounding buildings and has a strong visual presence which reflects its status as a department store. The location's function within London Road is that of a retail town centre and commercial quarter. It is not considered that the proposed scheme and predominant residential use justifies an even greater presence within this commercial area and it is not considered that the development as proposed would assist in regenerating the area, or contribute in a meaningful and positive way to the improvement of the London Road urban realm.

Sufficient information has been submitted to make a judgement on the suitability of the design as a whole. However, it is considered that the plans lack adequate detail to fully reflect the architectural detail of the proposal. No larger scale drawings of the bays and attic storeys have been submitted and all the floor plans and elevations are at scale 1:200 which offers very limited detail.

Setting of designated heritage assets – the churches of St Bartholomew's and St Peter's and the Valley Gardens Conservation Area.

The views held by Design and Conservation are supported; the development will not have any significant visual impact on the wider urban setting of designated heritage assets.

Impact on amenity

Existing amenity

Local Plan policy QD27 will not permit development which would cause a material nuisance or loss of amenity to the proposed, existing and/or adjacent users, residents or occupiers where it would be liable to be detrimental to human health. The Building Research Establishment Report, 'Site layout planning for daylight and sunlight: A guide to good practice' states "*privacy of houses and gardens is a major issue in domestic site layout. Overlooking from public roads and paths and from other dwellings needs to be considered. The way in which privacy is received will have a major impact on the natural lighting of a layout. One way is by remoteness; by arranging for enough distance between buildings, especially where two sets of windows face each other. Recommended privacy distances in this situation vary widely, typically from 18m to 35m*".

Making a full judgement on the impact of the proposed development based on the information submitted is not possible as a result of insufficient information on the plans submitted and misleading information on the comparison sections. The existing floor plans do not show the buildings relationship with surrounding development along London Terrace and Kingsbury Road and are instead 'floating' floor plans making it difficult to assess the impact from the existing situation to that proposed. Whilst the

sections plans EL_007 revision A do not show where they have been taken in comparison to neighbouring dwellings and fail to show the main bulk of the proposed development. What is apparent is that the sections have been taken between the bulky rear wings aiming to give the illusion of a reduction in the bulk of the building when compared to the existing Co-op development.

No shadow diagrams have been undertaken and given the close proximity of a number of properties, a number of which are located within 90° north of the site and the considerable increase in scale and bulk of the development, it is considered likely that the development will have a detrimental impact on sunlight however it is not possible to make a full assessment.

The proposal appears to involve a reduction in bulk adjacent to the rear boundaries of the most southerly properties on the west side of Kingsbury Road. However, the proposed building will rise up some 11.8m right on the southern boundary of number 24 Kingsbury Road which is 4.3m higher than the existing buildings height which is approximately 7.5m. The proposed development then continues at this height for a considerable length before increasing in height again further west towards the London Road frontage. This is a harmful and unneighbourly form of development which will cause harm through overshadowing and will have an overbearing impact on those neighbouring dwellings to the north of the site in particular.

A daylight assessment has been submitted with the application which contains very limited information. It details that 52No. points were distributed along the neighbouring façades have been surveyed. However, it does not show that all windows were tested, particularly those which are likely to be most affected along Kingsbury Road and London Terrace. The level of detail contained in the assessment is not sufficient to be able to fully assess the impact of the proposal on neighbouring windows; those to the north of the site within Kingsbury Road and London Terrace are of particular concern.

Page 32 of the Design and Access Statement states that in order to prevent loss of amenity, some of the roof terraces will have restricted access for maintenance only. However, all the floor plans are at scale 1:200 with very limited detail, it is not clear which areas of terrace/balcony are intended to be restricted.

The applicant has sought to address neighbouring concerns regarding overlooking from some of the bedrooms and roof terraces by introducing angled projecting windows with obscure glazing to one half and additional tree planting along the eastern edges of the roof terraces. These proposed alterations do not relieve concerns in relation to the impact on neighbouring amenity. The proposed terrace at the northern end of the development is a minimum distance of 12m from the adjacent properties in London Terrace which currently afford a high level of sustainability. Additional tree planting will not provide an adequate screen to preclude any adverse overlooking

and cannot be secured in perpetuity. The alterations to the proposed windows would require re-consultation and as they do not address overall concerns, the plan has not been endorsed. It should also be noted that this plan also show a number of errors in the floorplan layouts.

The existing service yard to the rear of the site accessed via London Terrace is in part concealed by the existing rear portion of the building and behind a 2.5m high wall. The proposed scheme shows the service yard completely open with a 2m high boundary to the rear of the Kingsbury Road properties with four trees planted adjacent to the walling to provide screening. It does not appear that loading can/will occur within the building and the open service yard is likely cause adverse disturbance to those neighbouring dwellings.

It is not clear what level of activity from deliveries and refuse vehicles is expected and concern is raised regarding this impact on existing residential properties as well as those proposed. The proposed opening hours for the retail units are indicated as being 07:30 – 23:00 Monday to Friday and 10:00 – 16:00 on Sundays; deliveries are not known at this stage. It is also likely that the future retail uses may want to receive some deliveries outside of opening hours in order to re-stock prior to opening and after closing, as such there is the potential for future pressure for extended hours for delivery. The proposed open service yard is considered likely to cause unacceptable noise disturbance and loss of outlook resulting in an adverse impact on neighbouring amenity.

Adjacent to the service yard within a single storey element, the plant room is proposed which is proposed to contain a CHP unit. Very limited detail has been given of the proposed flue. It would appear from section 3 on drawing no. EL)004 revision A that a 13m high flue may be shown. However, it is not annotated and very limited detail has been provided, further it does not appear on all of the elevations. Further detail would be sought by condition to ensure it had a suitable appearance.

Proposed amenity

Local Plan policy QD27 requires that new residential development provides suitable living conditions for future occupiers. Local Plan policy HO5 requires that new residential development provides adequate private and usable amenity space for future occupiers, appropriate to the scale and character of the development. HO6 relates to provision of outdoor recreation space in housing schemes.

Brighton & Hove Local Plan policy HO6 requires that new residential development provides outdoor recreational space, specifying that 2.4 hectares per 1000 population accommodated within the development should be provided. This is not provided within the site. In recognition that development schemes will seldom be capable of addressing the whole requirement on a development site, the policy allows for contributions

towards the provision of the required space on a suitable alternative site.

Concern relating to the service yard as detailed above in relation to exiting neighbouring amenity also raise concern regarding amenity for future occupiers in relation to noise disturbance from vehicles and loading and unloading.

The applicant proposes three landscape courtyards at first storey level for shared use to address HO5. In addition it appears that some of the rooms have access to private balconies however it is not possible to ascertain from the plans which can be accessed as the plans do not indicate which doors are openable. Based on the type of development as purpose built student accommodation, shared amenity space is considered acceptable rather than seeking private space for each unit which maybe preferable, is not always practical with this form of development.

The quality of these spaces is however very important and considering the height of the building surrounding each of these spaces they are likely to be overshadowing for a considerable part of the day. The applicant has advised that the design of these spaces was guided by a sunlight/daylight assessment however this has not been submitted. It is noted however that the majority of the ground cover is hard surfaced and planting appears rather sparse. Another potential issue with the use of these spaces is the impact from noise disturbance and overlooking on future residents of the scheme, particularly those occupying bedrooms adjacent to these spaces. It appears from the floor plans that the only access from the London Road entrance to some of the bedrooms which are on the east side of the building would be via the open courtyards. This is also a matter which requires further consideration in relation to management and design, as proposed these spaces are considered likely to be of poor quality.

The Noise Assessment submitted with the application has been considered by the Environmental Health and a number of issues in the assessment have been raised. In addition to a number of queries concern is raised over the development aiming for a 'reasonable' standard for internal conditions for the rooms. At the time of writing this report additional information to address these issues is awaited.

Transport

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.

The Council's Sustainable Transport team have assessed the scheme and note that the applicant's have submitted a reasonable case to demonstrate that the proposed development when compared with the maximum re-use of

the existing building as a food superstore (for which planning permission would not be required) would result in a reduction in travel demand. It is considered in this case given the volume of reduction and site circumstances it follows that the number of overall trips would similarly reduce. As such no S106 transport contributions would be required. In support of this conclusion, the applicants point out that the site is in a central and sustainable location, no parking will be available, student tenancies will be car free and a travel plan will be provided. In view of these facts, provided the applicant's basic approach is accepted, it is considered that policy TR1 is met.

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.

No general parking is proposed and in order to ensure the development remains car free it is recommended that any consent should be accompanied by a legal agreement requiring the applicants to promote a TRO amendment removing the eligibility of residents for residents parking permits. The applicant's have also advised that the tenancy agreements for students will require them not to bring cars into Brighton.

Cycle Parking

Policy TR19 requires development to meet the maximum parking levels set out within Supplementary Planning Guidance Note 4 'Parking Standards'. SPG4 – Parking Standards sets out a minimum requirement is 136 for the student accommodation and 7 for the retail use; making a total of 143 spaces.

It is proposed plans show provision of 136 spaces (10 Sheffield stands and 126 staking cycle spaces) within the site for students and 9 on street for the retail element. The TA differs slightly as that states that 146 for the student accommodation and at least 6 for the retail element provided on-street. However, the on-site provision largely consists of double stacking units (126 spaces) which are not suitable for less fit or strong people and are therefore not 'convenient' as required by policy TR14. The applicants state that they cannot provide Sheffield stands throughout while maintaining viability. On assessment of the plans, the Sheffield stands are shown as being too close together to be usable and it does not appear that the full 136 spaces could be provided in the area shown whilst still providing access for the refuse and launderette. Therefore improvements to this provision cannot be conditioned and this constitutes a reason for refusal.

Disabled parking

No disabled parking is proposed. The SPG4 requirement is at least 4 spaces for the retail use. The student accommodation requirement is not defined

and comparator uses suggest a wide range. The complete lack of provision or alternative measures is not consistent with policy TR18 and therefore a reason for refusal.

Traffic impact

The applicants have successfully demonstrated that the amount of vehicular traffic likely to be generated by the application will not cause congestion in the vicinity, and also that there is no existing pattern of accidents which may be worsened by this traffic. Swept path diagrams have been submitted which demonstrate that the largest Refuse Collection Vehicles generally used by contractors will be able to enter and leave the service yard.

With reference to peak times at the start and end of terms, the Transport Assessment and additional information submitted by the applicant sets out an acceptable method by which the students will move in and out of the accommodation. If the application were considered acceptable it would be recommended that a Travel Plan is secured.

Sustainability

Policy SU2 seeks to ensure that development proposals are efficient in the use of energy, water and materials. Proposals are required to demonstrate that issues such as the use of materials and methods to minimise overall energy use have been incorporated into siting, layout and design.

SPD08 – Sustainable building design supports SU2 and sets out the following standards for the proposed scheme:

- BREEAM excellent
- 60% in energy and water sections of BREEAM
- Feasibility study of rainwater harvesting and greywater recycling
- Minimise Heat island effect
- Considerate Constructors scheme

In addition to the above requirements, SPD10 sets out the following requirements:

- Ecological foot printing approach within development delivery
- Sustainable Living advisor
- Retrofit rather than demolish and rebuild approach
- ESCo and district heating network
- Green infrastructure
- Health Impact Assessment

The Council Sustainability Officer has assessed the information submitted and notes that whilst some aspects of local sustainability policy are met by the proposals, others are not.

The application states it will meet SPD08 requirements for BREEAM 'Excellent' with a score of 60% in the energy and water sections but the Energy Statement undermines this commitment as it is based on obsolete

standards. However, this is assessed against a 2008 pre assessment version, a version which has been superseded. Schemes which could have achieved an 'excellent' rating under previous BREEAM scheme assessments may now only achieve 'very good' against a more recent iteration. In addition urban heat island mitigation and the production of rainwater harvesting and greywater recycling feasibility studies have not been well addressed by the application.

The recommendations within SPD10 have not been met. These request a full exploration of a retrofit approach rather than demolish and rebuild approach has not been satisfied by proposals within this application. Other key sustainability aspects of SPD10 which have not been met are: employing an ecological foot-printing approach to scheme design, an onsite sustainability advisor; green infrastructure and capacity to connect to or contribute to a district energy network.

Local Plan Policy SU2 has not been well met. The scheme has not demonstrated that green house gas emission will be substantially reduced particularly as obsolete standards are used in the energy statement. Consequently accurate assessments are not possible. Some renewable technology is proposed (air source heat pumps) but for a scheme of this scale the contribution is disappointing. Elements of policy not met are: mitigation of urban heat island effect and greening of development; sustainability of materials; provision of composting facilities.

The Sustainability Officer has recommended that additional information is secured in order to demonstrate that the development can achieve the appropriate level of sustainability. These include to include an energy statement with current information and details about carbon reduction, contribution of renewables, sizing and contribution of CHP, exploration of energy network approach, exploration of retrofit approach and rainwater/greywater feasibility study. The applicant has failed to demonstrate that the development can achieve a high standard of sustainability that is efficient in the use of energy, water and materials contrary to SU2 and SPD08. However, it is considered from the information provided that the scheme could achieve the recommended level of sustainability.

Ecology

The applicant has failed to address Annex 6 of SPD 11. Additional information was submitted in the form of a short email from their Ecologist however this only made vague recommendations and the application remains unchanged. It should however be possible to address nature conservation requirements without any material change to the submitted plans. If the applicant is amenable, the requirements could be met by condition, for example to secure the necessary area of chalk grassland green roof.

Planning obligations

Policy QD28 seeks to secure planning obligations in relation to planning applications where they meet the tests set out Circular 05/05 and are necessary, relevant to planning, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects.

The applicant was advised at the pre-application stage of the likely level of contributions sought to mitigate the impact of the development; those referred to were open space, highways and public art. The applicant has submitted a letter in response to the contributions sought and are potentially open to discussions relating to the level of contribution and how it may be integrated into the scheme. In relation to highways they have presented an argument which as stated above is accepted as it demonstrates that there would be a reduction in the number of trips when compared to the maximum of the existing approved use.

The argument in relation to open space has been considered however as noted by the Policy the arguments raised are standard ones and have already been taken into account when devising the standards. On the basis of the information submitted it is not considered appropriate to waive the open space contribution except to adjust the figures to ensure the contribution is commensurate to the number of units provided. On the understanding that there will be a tenancy agreement to ensure that none of the units will be occupied by student families/students and families living within any of the clusters and the total number of bedspaces being 407 then the total open space contribution has been recalculated to be £489,839.23.

If the application were considered acceptable in all other respects then negotiation on seeking appropriate contributions would be entered into. In addition to public art and open space contributions, a contribution of £35,840 towards the Local Employment Scheme in accordance with the Developer Contributions Interim Guidance and the provision of an Employment and Training Strategy with the developer committing to using 15% local employment during the construction phase would be sought. It would also be recommended that the accommodation be secured as student accommodation to ensure the accommodation does not change to market housing and as such avoid providing affordable housing.

9 CONCLUSION

The proposed development is considered to be of a poor standard of design which relates poorly to the surrounding development and fails to emphasize and enhance the positive qualities of the neighbourhood contrary to policies QD1, QD2, QD3, QD4, QD5 and HO4.

The applicant has failed to demonstrate that the development will adequately protect neighbouring amenity or provide a suitable standard of accommodation for future occupiers contrary to policies QD27, SU9 and

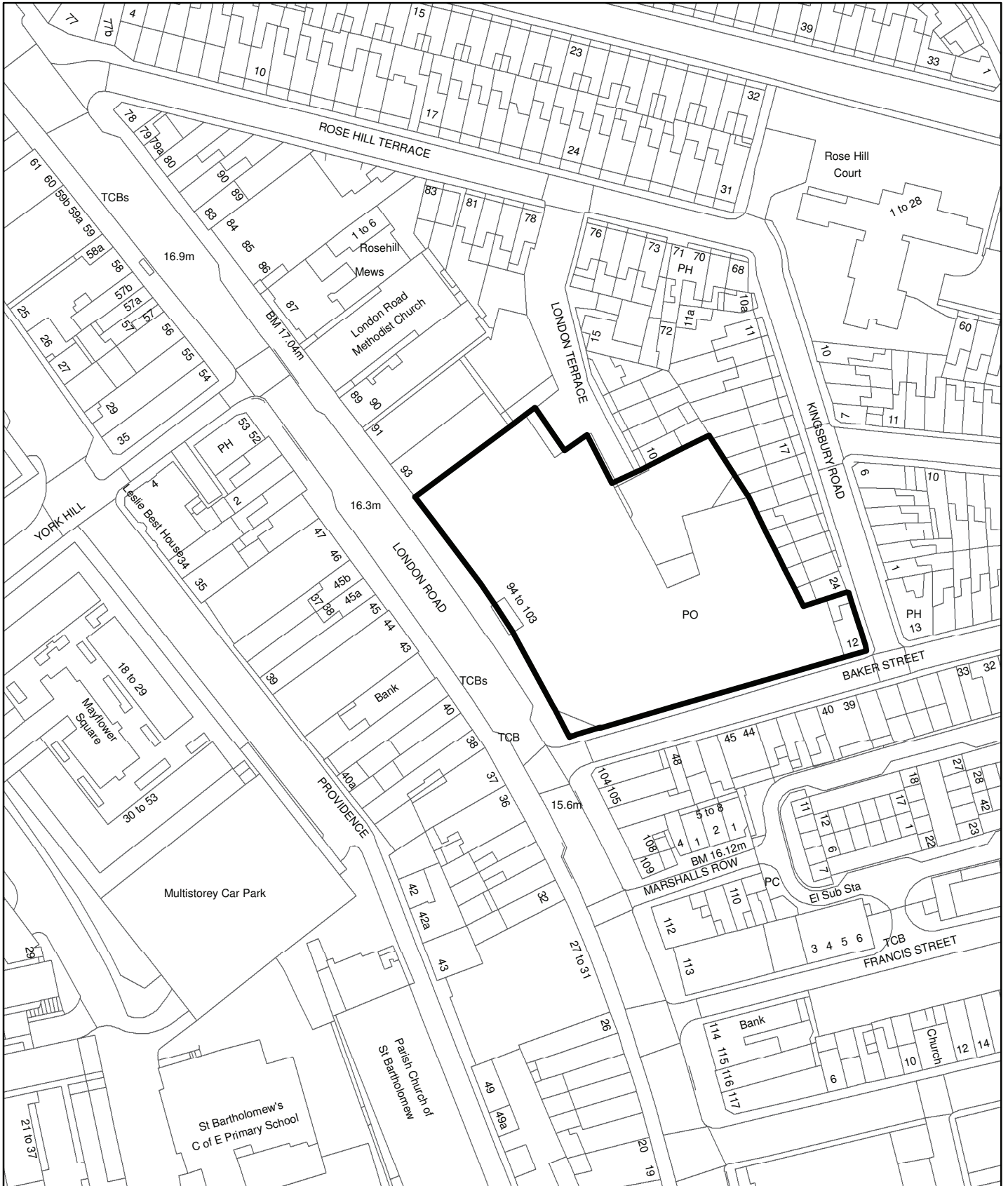
SU10 and PPG24. The applicant has failed to address the need for disabled parking and has made inadequate provision for cycle parking contrary to policies TR14 and TR18 of the Brighton & Hove Local Plan and SPGBH4 – Parking Standards.

The applicant has also failed to justify the principle of the loss of the existing building and the proposed replacement building fails to make a positive contribution to the character and local distinctiveness of the historic environment contrary to policy HE7 of PPS5 and the London Road Central Master Plan SPD10.

10 EQUALITIES IMPLICATIONS

The development should be DDA compliant.

BH2011/02417 94 - 103 London Road, Brighton (The Former Co-op Department Store).



Scale: 1:1,250

Dear Ms Brocklebank,

**Planning Application BH2011/ 02417
94 - 103 London Road Brighton (The Former Co-op Department Store)**

Would you please add this letter and the points within to your report on this application for the consideration of the planning committee.

As ward councillors for the London Road area, through direct approaches from constituents, from soundings taken at community meetings, and the petition being raised, we have gained an appreciation of the considerable concern local residents have with a number of aspects of this planning application.

It is first of all important to state that along with many residents we are keen to see this key site reused, and welcome the potential for investment in the area and for ending a period of uncertainty and dereliction of the site.

We also recognize that generally provision of more purpose built student accommodation is being sought in order to help alleviate housing pressures and the problems associated with "studentification" of areas like the Lewes Road triangle. However, it is not clear how the accommodation proposed by this application will directly address that requirement as it is not aimed at providing for students seeking to live in shared households.

Despite some positive benefits, there are a number of areas of considerable concern which suggest that this is not the right development for this site:

1. The single most unifying concern expressed by local residents is to see retention of the elegant and iconic façade facing London Road. This position is supported by the London Road Masterplan SPD10 which states a preference for retaining the central original portion of the building. The developers have suggested it is not feasible for them to retain the façade given the configuration of the proposed development and the need to attain high levels of energy efficiency. While we appreciate that may be the case with this proposal, we would prefer to see a scheme that retains the façade and reuses much of the existing building. If full demolition is sought, then absolutely every effort must be made to ensure the replacement façade offers a truly exciting and strong new statement that will more than replace the important attractive visual presence of the existing landmark building, and really bolster the appearance of the area. The current offering falls far short of reasonable expectations in this regard - one resident has said we don't want another Brighton Centre – and we entirely agree. The design might well sit nicely in a campus environment, but is entirely unsuitable in the context of the London Road district shopping environment.
2. The proposal constitutes a considerable increase in height, bulk and mass of the existing development – which strongly suggests an over development. It is very



unhelpful that it is not possible to gauge a comparison between the existing and proposed development from the comparison drawings offered, which are very poor. There are also errors in the elevational drawings – like the transposing of London Road and London Terrace - that does not instill confidence. The bulk at the London Road frontage and the scale of the buildings overall sit uncomfortably especially in relation to the many neighbouring two storey buildings. For example the addition of 5 storeys adjacent to Kingsbury Road will have a very overbearing impact on the neighbouring residential properties.

3. There is no shadow diagram offered by the developers, yet the developers admit there will be an excessive loss of light from overshadowing of all neighbouring residential properties. For residents in Kingsbury Road the prospect of having their rear elevation and gardens completely deprived of direct sun light, raises the fear of health impacts like bringing on SAD. For residents on London Terrace it is estimated loss of light could be 5 times over limit!
4. While the incorporation of out door space, with landscaping and plantings is welcome in principle, there is considerable concern about the likelihood that neighbouring residents will experience noise nuisance. How it will be possible to ensure noise levels, especially from elevated open spaces, are managed and contained is very hard to understand. Very close attention needs to be paid to this as, for example, it is proposed to site student bedrooms and roof terraces as close as 3 metres from neighbouring residents bedrooms in London Terrace. There is uncertainty if the noise evaluation has even been conducted correctly - one neighbour notes that a noise measurement device is shown as having been placed on their property though in fact they have no knowledge of this. There is also concern that the overall cumulative impact of noise sources from people, deliveries, ventilation, etc, has not been fully taken into account. Altogether there will certainly be an unacceptable increase in noise levels.
5. Neighbouring residents in Kingsbury Road and London Terrace are not currently overlooked from the site. However, the increased height adjacent to their properties and addition of elevated open spaces will introduce overlooking of gardens, living and bedrooms with unacceptable loss of privacy.
6. The development constitutes a considerable loss of retail area, and it is regrettable that the owners are not seeking to reuse the existing building for retail or business use. Were the building retained there may for example be a case, with some subdivision and diversity of use, to retain an opportunity for a medium to large retail anchor store to make up for the loss of the co-op department store. The adopted London Road Masterplan calls for "Retail at ground floor level. Business use above. Residential may be allowed as enabling development." This is not a retail development enabled by residential, this is a residential development with some retail, and in no way respects the widely consulted upon and recently adopted policy.
7. Some residents have questioned if student accommodation right at the heart of London Road is the most suitable residential use. A sensible observation offered is that with lower mobility, this site would work well for older members of the population.

8. There is also concern expressed about the impact so many students living in this position will have upon the retail offer of London Road; whether we will see an increased demand for take-away and off-licenses, to the further detriment of a broader range of retail. The question is how well does the proposal fit with the ambitions for the revival of the area explored through the London Road Master Plan.
9. While we are in favour of car free development, there is concern that the no car policy will be hard to police and what impact this may have for rising numbers of cars parked in areas just outside the current controlled parking zones.
10. Introducing such a large new population to an area with an existing high population density will add further strain to the local environment, support services and overall quality of life. It is hard to see how that impact has been considered or how it could be mitigated.
11. We note that the developers are offering good standards of sustainable building design, including sustainable energy and water efficiency measures. We are disappointed however that rain water harvesting/ grey water recycling and green roofing/walling have not been incorporated. We are also disappointed that the developers have decided not to include on-site food growing opportunities and that their stated reason for this is their belief food growing wouldn't work well given the time periods individual students will live at the site. However no evidence is offered to support this assertion.
12. The good sustainability of the new building and its usage do of course need to be seen in the context of the considerable amount of embodied energy that will be lost through the demolition and disposal of an existing re-useable building, and the energy cost of building a whole new development.
13. There is considerable concern at the adequacy and accuracy of the documentation submitted by the developers in addressing a range of issues detailed in this objection but also including matters such as: developers contributions, crime and disorder, traffic impact, handling of asbestos, operating times of onsite services, etc.

In summary: the opportunity to see the site back in use is welcomed. However the poor appearance, over development, loss of retail, and unacceptable impact on neighbours, lead us to conclude that this offering is neither appropriate, acceptable nor good enough, and we therefore strongly request refusal of the application.

Best regards

Cllrs Pete West & Lizzie Deane
St Peter's & North Laine Ward

LIST OF MINOR APPLICATIONS

<u>No:</u>	BH2011/00635	<u>Ward:</u>	REGENCY
<u>App Type:</u>	Extension to Time Limit Full Planning		
<u>Address:</u>	12 Meeting House Lane, Brighton		
<u>Proposal:</u>	Application to extend time limit of previous approval BH2007/02518 for the conversion and extension of existing 1st, 2nd and 3rd floor residential unit to form 5 no flats and 1 no retail unit at ground floor level.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Valid Date:</u>	04/03/2011
<u>Con Area:</u>	Old Town	<u>Expiry Date:</u>	29 April 2011
<u>Listed Building Grade:</u>	Grade II		
<u>Agent:</u>	Quilichan Consultancy, The Old Manse, High Street, Stockbridge		
<u>Applicant:</u>	Robert Edward Stokely Richard A Moore Haines & Stephen Skinner AS Joint LPA Receivers, C/O Edward Simmons LLP, 2 Sussex Street, London Bridge, London		

This application was deferred at Committee on the 23rd November to allow a site visit to take place.

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 the applicant entering into a s106 Planning Agreement and to the following Conditions and Informatives:

S106

- A contribution of £2,500 towards off-site works to improve sustainable transport infrastructure in the vicinity of the site.

Regulatory Conditions:

1. BH01.01 Full Planning.
2. The development hereby permitted shall be carried out in accordance with the approved drawings no. 1768 A.03, 1768 A.04 & 1768 D.01 received on 6th July 2007; drawings no. 1768 A.01 A & 1768 D.19 X received on 23rd July 2007; drawing no. 1768 D.16 B received on 17th September 2007; and drawings no. 1768 D.15 D, 1768 D.17 C & 1768 D.18 B received on 28th January 2008.
Reason: For the avoidance of doubt and in the interests of proper planning.
3. The external finishes of the external alterations to 12 Meeting House Lane shall match in material, colour, style, bonding and texture those of the existing building.

- Reason:** To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD14, HE1 and HE6 of the Brighton & Hove Local Plan.
4. All new windows to the existing building at 12 Meeting House Lane shall be painted softwood, double hung vertical sliding sashes with joinery details to match originals, where existing, and shall be retained as such.
Reason: To ensure the satisfactory preservation of this listed building and to comply with policy QD14, HE1 and HE6 of the Brighton & Hove Local Plan.
5. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation fronting a highway.
Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD14, HE1 and HE6 of the Brighton & Hove Local Plan.
6. This approval is limited to the works shown on the approved drawings and does not indicate approval for associated or enabling works that may be necessary to carry out the scheme. Any further works must be submitted to and approved in writing by the Local Planning Authority prior to any works commencing.
Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.
7. All existing architectural features including staircases, balustrades, windows, doors, architraves, skirtings, dados, picture rails, panel work, fireplaces, tiling, corbelled arches, cornices, decorative ceilings and other decorative features shall be retained except where otherwise agreed in writing with the Local Planning Authority.
Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.
8. The development shall take place in accordance with 1:20 sample elevations and 1:1 profiles of the lead canopy and external doors approved under application BH2007/02518 on 5th December 2008 and shall be maintained 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 QD14, HE1 and HE6 of the Brighton & Hove Local Plan.

Pre-Commencement Conditions:

9. Notwithstanding the submitted plans no development shall commence until details of 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.

10. The development hereby permitted shall not begin until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.
Reason: To ensure that the development is car-free and to comply with policy HO7 of the Brighton & Hove Local Plan.
11. No development shall take place until samples of the materials (including colour of render, paintwork or colourwash) to be used in the construction of the rear extension and glazed link have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and be maintained as such thereafter.
Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14, HE3 and HE6 of the Brighton & Hove Local Plan.
12. No development shall take place within the application site until the applicant has secured the maintenance of an on-site watching brief by a suitably qualified and experienced archaeologist during construction work in accordance with written details which have been submitted to and approved in writing by the Local Planning Authority. In the event of important archaeological features or remains being discovered which are beyond the scope of the watching brief to excavate and record and which require a fuller rescue excavation, then construction work shall cease until the applicant has secured the implementation of a further programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.
Reason: In order to provide a reasonable opportunity to record the history of the site and to comply with policy HE12 of the Brighton & Hove Local Plan.
13. Notwithstanding the approved plans no development shall commence until further details demonstrating the incorporation of lifetime home standards within the rear extension (flats 3 & 4) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
14. Unless otherwise agreed in writing by the Local Planning Authority, the new build residential development hereby permitted shall not commence until:
 - (a) evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage/Interim Report showing that the development will achieve Code level 3 for all residential units have been submitted to the Local

Planning Authority; and

- (b) a Design Stage / Interim Code for Sustainable Homes Certificate demonstrating that the development will achieve Code level 3 for all residential units has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment 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.

- 15. Unless otherwise agreed in writing by the Local Planning Authority, the residential conversion shall not commence until:

- (a) evidence that the development is registered with the Building Research Establishment (BRE) under Ecohomes (or an equivalent or successor assessment tool) and a Design Stage Assessment Report showing that the development will achieve an Ecohomes Refurbishment rating for all residential units have been submitted to the Local Planning Authority; and

- (b) a BRE issued Design Stage Certificate demonstrating that the development has achieved an Ecohomes Refurbishment rating for all residential units has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

Reason: To ensure that the proposed conversion 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.

Pre-occupation Conditions:

- 16. Unless otherwise agreed in writing by the Local Planning Authority, the new-build residential units hereby approved shall not be occupied until a Final / Post Construction Code Certificate issued by an accreditation body confirming that each residential unit built has achieved a Code for Sustainable Homes rating of Code 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.

- 17. Unless otherwise agreed in writing by the Local Planning Authority, the flats at first, second and third floor levels within 12 Meeting House Lane shall not be occupied until an Ecohomes Design Stage Certificate (or certificate from equivalent or successor assessment tool) and a Building Research Establishment issued Post Construction Review Certificate confirming that each residential unit built has achieved an Ecohomes Refurbishment rating 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.

Informatives:

1. 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:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-

There have been no changes to the adopted development plan or other relevant material considerations to indicate that the proposal is no longer acceptable. The development would make a more efficient and effective use of land within the built up area without causing detriment to the Listed Building or the wider character and appearance of the Old Town Conservation Area. The development would not have a significant impact on neighbouring amenity and would not create a harmful demand for travel.
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. The applicant is advised that the scheme required to be submitted by Condition 10 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.
4. IN04.01 Informative Lifetime Homes
The applicant is advised that details of Lifetime Homes standards can be found in Planning Advice Note PAN 03 Accessible Housing & Lifetime Homes, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk).
5. IN.05.02A Informative: Code for Sustainable Homes
The applicant is advised that details of the Code for Sustainable Homes can be found on the Planning Portal (www.planningportal.gov.uk), on the

Department for Communities and Local Government website (www.communities.gov.uk) and in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk). Accreditation bodies at March 2010 include BRE and STROMA; other bodies may become licensed in future.

6. IN05.04B Informative: Ecohomes Refurbishment

The applicant is advised that details of the Ecohomes Refurbishment assessment and a list of approved assessors can be obtained from the Ecohomes websites (www.breeam.org and www.breeam.org/ecohomes). Details about Ecohomes can also be found in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk). A new assessment tool called BREEAM Domestic Refurbishment will be published by the Building Research Establishment from late 2010. The use of BREEAM Domestic Refurbishment would satisfy the requirements of the Ecohomes refurbishment conditions. Further information about this assessment tool can be found on the BRE website (www.breeam.org/page.jsp?id=228).

2 THE SITE

The application site relates to a 3-storey Grade II Listed Building with a prominent corner frontage onto Meeting House Lane. The side and rear elevations of the building are less prominent but visible from Clarence Yard, a service road for the rear of properties on North Street and the former Post Office building.

The building currently comprises a retail unit at ground floor level with a residential unit at first, second and third floor levels. The rear of the site incorporates a hardstanding area currently used for parking.

The site is within the Old Town Conservation Area.

3 RELEVANT HISTORY

BH2007/02518: Conversion and extension of existing 1st, 2nd and 3rd floor residential unit to form 5 flats and 1 retail unit at ground floor levels. Approved (under delegated powers) 07/05/2008.

BH2000/02463/FP: Extension to rear first and second floors. Formation of two maisonettes on first, second and third floors. Associated internal and external alterations. Approved.

4 THE APPLICATION

Planning permission is sought for an extension of time, and therefore a new planning permission, to replace the previously approved scheme which expired on 7th May 2011.

The approved scheme has planning permission for a three-storey building to

the rear of 12 Meeting House Lane with frontage to Clarence Yard, a service lane running parallel with North Street. The building comprises a ground floor retail unit with 2 self-contained flats at first and second floor level. The building would incorporate rendered elevations, projecting bays and wall hung planters.

The building would connect to 12 Meeting House Lane through a subservient / recessed glazed link extension at first and second floor levels.

The existing building, 12 Meeting House Lane, would be retained as a retail use and frontage at ground floor level. The upper floors, which were last in use as a HMO, would be converted to form two one-bedroom units and one two-bedroom unit. The external changes relate to a new rear dormer, to match the front elevation of the building, and new lead canopy and side window opening. The conversion utilises the existing plan form of the building and this constraint has dictated the resulting size and mix of accommodation.

An accompanying application for an extension of the time to the related listed building consent has been submitted and is included elsewhere on this agenda (ref: **BH2011/00652**).

5 CONSULTATIONS

External

Neighbours: 19 representations have been received from **41 Charmandean Road (Worthing); 28, 46 Church Street; 85 Goldstone Road; 6, 7-8, 10, 11, 12 (x2), 12C, 16, 17, 18, 26A & 44 Meeting House Lane; 26B North Street; 103 Phyllis Avenue (Peacehaven) and 18 (flat 37), The Drive** objecting to the proposal for the following reasons:-

- The proposal is out of character with the Conservation Area and represents an overdevelopment;
- Loss of light;
- Multiple residential properties would cause access difficulties down the side lane;
- Potential for future problems relating to cycle and refuse storage;
- Previous occupants of the upper floors have caused noise and disturbance;
- Disruption during building works;
- Disruption to delivery arrangements along the side lane;
- Will make access to an adjoining flat roof difficult;
- Existing air conditioning units will need to be removed;
- The proposal does not address disabled access and egress;
- Question the impact of building works on the integrity of adjoining structures.

Brighton Archaeology Society: Are unaware of any archaeological implications relating to the application.

County Archaeologist: (previous comments).

The site is within an archaeologically sensitive area within the historic core of the medieval village and post-medieval town of Brighton. In light of the potential archaeological significance of the site the area affected by the proposals should be subject of a programme of archaeological works to enable any deposits and features, disturbed during the works, to be adequately recorded.

Internal:

Conservation & Design: *(previous comments)*

The new extension at the rear of the site, linked by a glass extension, is acceptable in principle subject to conditions (*which are recommended*).

Environmental Health: No comments.

Private Sector Housing: No comments.

Sustainable Transport: No objections subject to the inclusion of transport conditions / obligations as originally recommended (*securing the development as car free and a contribution towards sustainable transport improvements are recommended*).

6 MATERIAL CONSIDERATIONS

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

The development plan is the Regional Spatial Strategy, The South East Plan (6 May 2009); East Sussex and Brighton & Hove Minerals Local Plan (1999); East Sussex and Brighton & Hove Waste Local Plan (February 2006); Brighton & Hove Local Plan (21 July 2005).

7 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
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
QD27	Protection of Amenity
HO3	Dwelling type and size

HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO9	Residential conversions and the retention of smaller dwellings
HO13	Accessible housing and lifetime homes
SR4	Regional shopping centre
HE1	Listed buildings
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE12	Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Guidance:

SPGBH4	Parking Standards
SPGBH11	Listed Building Interiors
SPGBH13	Listed Buildings – General Advice

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD08	Sustainable Building Design

Planning Policy Statement

PPS 5	Planning for the Historic Environment
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8 **CONSIDERATIONS**

The development proposed in this application for an extension to the time limit for implementation has already been judged to be acceptable in principle at an earlier date. The previous consent, granted on 7th May 2008, expired on 7th May 2011. The determining issues to consider relate to whether there have been any material changes to the site, or change in local and national policy that would now render the proposed development unacceptable.

A site visit has revealed that there have been no material changes to the site. No notable structural alterations have occurred to the existing building or those adjoining and no subsequent planning applications which require further consideration have been approved. Therefore issues previously considered acceptable relating to the standard of accommodation, design, and impact on neighbouring amenity remain identical to the previous application. There have been no changes to local or national policy that would affect the consideration of these issues and render them unacceptable.

In respect of areas where there have been material changes in policy:-

Sustainability

Local Plan Policy SU2 has been supplemented by an adopted Supplementary Planning Document on Sustainability Building Design (SPD08). SPD08 was adopted in June 2008 and was not a material consideration when the original consent was approved. The extension to the time limit for this development must therefore be assessed in light of the adopted guidance.

For a development of this scale SPD08 would require Level 3 of the Code for Sustainable Home Level for the new-build element and EcoHomes for refurbishment for proposed flats within the converted building. The applicant has submitted a sustainability checklist which suggests there are no reasons why the above requirements could not be met, and for a development of this scale it is considered that further details can be required by condition.

The Site Waste Management Plans Regulation (SWMP) was introduced on 6 April 2008. As a result it is now a legal requirement for all construction projects in England over £300,000 to have a SWMP, with a more detailed plan required for projects over £500,000. The proposed development would be required under the regulations to have a SWMP and an informative is recommended to advise the applicant of this.

Transport

A condition on the planning permission required a contribution towards improvements to sustainable transport infrastructure and for the development to be car free. A revised condition, based on the current model conditions, is again recommended to ensure the development is genuinely car free. However, it is no longer possible to secure contributions through condition. A head of term for a s106 agreement is therefore recommended in place of the original condition. This would secure the required contribution. It should be noted that the development proposes 5 residential units and the agreed temporary measures to assist the development industry, involving 1-4 residential units, do not therefore relate to this application.

The approved plans of application BH2007/02518 showed cycle parking on the side of the building, which was located on the red line, i.e. on the ownership line. Condition 9 now requires further details to be submitted. There is sufficient space within the site to accommodate cycle storage and the revised condition remains within the approved scheme.

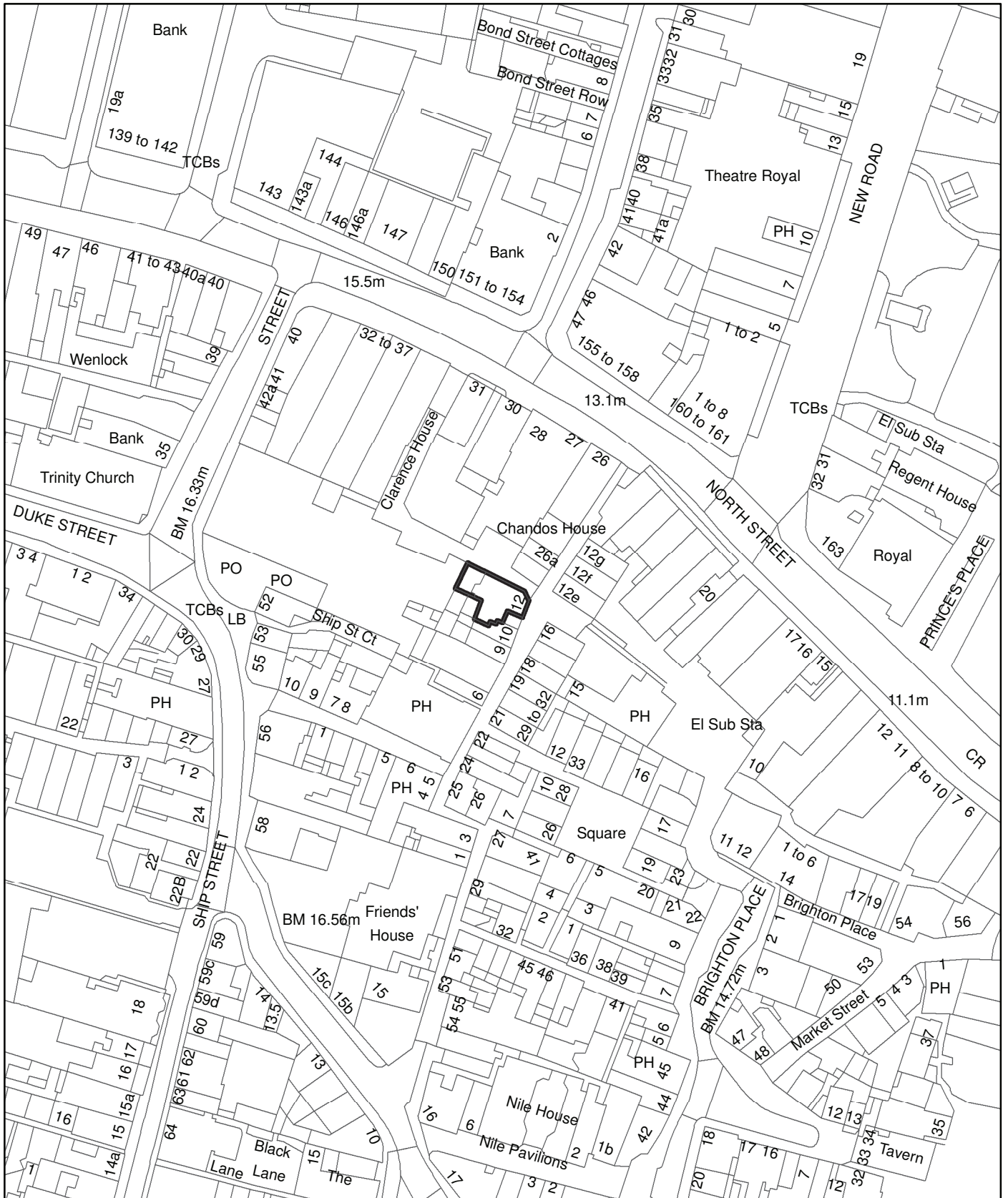
9 CONCLUSION

There have been no changes to the adopted development plan or other relevant material considerations to indicate that the proposal is no longer acceptable. The development would make a more efficient and effective use of land within the built up area without causing detriment to the Listed Building or the wider character and appearance of the Old Town Conservation Area. The development would not have a significant impact on neighbouring amenity and would not create a harmful demand for travel.

10 EQUALITIES IMPLICATIONS

A condition is recommended to secure the incorporation of Lifetime Home standards in the new-build element of the development. There is limited scope to meet Lifetime Home standards in the conversion due to listed building constraints.

BH2011/00635 12 Meeting House Lane, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2011/00652	<u>Ward:</u>	REGENCY
<u>App Type:</u>	Extension to Time Limit Listed Building		
<u>Address:</u>	12 Meeting House Lane, Brighton		
<u>Proposal:</u>	Application to extend time limit of previous approval BH2007/02608 for the conversion and extension of existing 1st, 2nd and 3rd floor residential unit to form 5no flats and 1no retail unit at ground floor levels.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Valid Date:</u>	04/03/2011
<u>Con Area:</u>	Old Town	<u>Expiry Date:</u>	29 April 2011
<u>Listed Building Grade:</u>	Grade II		
<u>Agent:</u>	Quilichan Consultancy, The Old Manse, High Street, Stockbridge		
<u>Applicant:</u>	Robert Edward Stokely Richard A Moore Haines & Stephen Skinner AS Joint LPA Receivers, C/O Edward Simmons LLP, 2 Sussex Street, London Bridge, London		

This application was deferred at Committee on the 23rd November to allow a site visit to take place.

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 7 of this report and resolves to be **GRANT** Listed Building Consent subject to the following Conditions and Informatives:

Regulatory Conditions:

- 1) The works hereby permitted shall be commenced before the expiration of three years from the date of this consent.
Reason: To comply with Sections 18 (as amended) and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 2) The external finishes of the alterations to 12 Meeting House Lane shall match in material, colour, style, bonding and texture those of the existing building.
Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policy HE1 of the Brighton & Hove Local Plan.
- 3) All new windows to the existing building at 12 Meeting House Lane shall be painted softwood, double hung vertical sliding sashes with joinery details to match originals, where existing, and shall be retained as such.
Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.
- 4) The development shall take place in accordance with 1:20 sample elevations and 1:1 profiles of the lead canopy and external doors approved under application BH2007/02518 on 5th December 2008 and shall be maintained 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 policy HE1 of the Brighton & Hove Local Plan.

- 5) All existing architectural features including staircases, balustrades, windows, doors, architraves, skirtings, dados, picture rails, panel work, fireplaces, tiling, corbelled arches, cornices, decorative ceilings and other decorative features shall be retained except where otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.

- 6) No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation fronting a highway.

Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.

- 7) This approval is limited to the works shown on the approved drawings and does not indicate approval for associated or enabling works that may be necessary to carry out the scheme. Any further works must be submitted to and approved in writing by the Local Planning Authority prior to any works commencing.

Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.

Pre-Commencement Conditions:

- 8) No development shall take place until samples of the materials (including colour of render, paintwork or colourwash) to be used in the construction of the rear extension and glazed link hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policy HE1 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. A.01, 02, 03 & 04 received on 9th July 2007; drawing nos. D.19 X received on 23rd July 2007; amended drawing nos. D.16 B received on 17th September 2007; and amended drawing nos. D.15 D, D.17 C & D.18 B received on 28th January 2008.
2. This decision to grant Listed Building Consent 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:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-
There have been no changes to the adopted development plan or other relevant material considerations to indicate that the proposal is no longer

acceptable. The development, subject to the recommended conditions, would preserve the historic character and appearance of the Grade II Listed Building.

2 THE SITE

The application site relates to a 3-storey Grade II Listed Building with a prominent corner frontage onto Meeting House Lane. The side and rear elevations of the building are less prominent but visible from Clarence Yard, a service road for the rear of properties on North Street and the former Post Office building.

The building currently comprises a retail unit at ground floor level with a residential unit at first, second and third floor levels. The rear of the site incorporates a hardstanding area currently used for parking.

The site is within the Old Town Conservation Area.

3 RELEVANT HISTORY

BH2007/02608: Conversion and extension of existing 1st, 2nd and 3rd floor residential unit to form 5 flats and 1 retail unit at ground floor levels. Approved (under delegated powers) 09/05/2008.

BH2000/02454/LB: Extension to rear first and second floors. Formation of two maisonettes on first, second and third floors. Associated internal and external alterations. Approved.

4 THE APPLICATION

Listed Building Consent is sought for an extension of time, and therefore a new consent, to replace the previously approved scheme granted on 9th May 2008, which expired on 9th May 2011.

The approved scheme has listed building consent for conversion of the upper floors, which were last in use as a HMO, to two one-bedroom units and one two-bedroom unit. The external changes relate to a new rear dormer, to match the front elevation of the building, and new lead canopy and side window opening. The conversion utilises the existing plan form of the building and this constraint has dictated the resulting size and mix of accommodation. The existing building, 12 Meeting House Lane, would be retained as a retail use and frontage at ground floor level.

To the rear of the original building a new three-storey building would be constructed with frontage to Clarence Yard, a service lane running parallel with North Street. This building would comprise a ground floor retail unit with 2 self-contained flats at first and second floor level. The building would incorporate rendered elevations, projecting bays and wall hung planters. The building would connect to 12 Meeting House Lane through a subservient / recessed glazed link extension at first and second floor levels.

An accompanying application for an extension of the time to the related

planning permission has been submitted and is included elsewhere on this agenda (ref: **BH2011/00635**).

5 CONSULTATIONS

External

Neighbours: No comments have been received.

Internal:

Conservation & Design: (previous comments)

The new extension at the rear of the site, linked by a glass extension, is acceptable in principle subject to conditions (*which are recommended*).

6 MATERIAL CONSIDERATIONS

Section 16 (2) of the Planning and (Listed Building and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent for any works the Local Planning Authority should have 'special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses':

Policy HE7 of PPS5 states that in decision making, local planning authorities should seek to identify and assess the particular significance of any element of the historic environment that be affected by the relevant proposal. Policies HE9.1 – 9.6 of PPS5 provide specific policy principles for designated assets. There is a presumption in favour of conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption on favour of its conservation should be.

The development plan is the Regional Spatial Strategy, The South East Plan (6 May 2009); East Sussex and Brighton & Hove Minerals Local Plan (18 November 1999); East Sussex and Brighton & Hove Waste Local Plan (February 2006); Brighton & Hove Local Plan (21 July 2005).

7 RELEVANT POLICIES & GUIDANCE

Planning Policy Statement

PPS 5 Planning for the Historic Environment

Brighton & Hove Local Plan:

HE1 Listed Buildings

Supplementary Planning Guidance

SPGBH1 Roof alterations and extensions

SPGBH11 Listed Building interiors

SPGBH13 Listed Building - general advice

8 CONSIDERATIONS

The development proposed in this application for an extension to the time limit for implementation has already been judged to be acceptable in principle at an earlier date. The previous consent expired on 9th May 2011. The

determining issues to consider relate to whether there have been any material changes to the site, or change in local and national policy that would now render the proposed development unacceptable.

A site visit has revealed that there have been no material changes to the site. No notable structural alterations have occurred to the existing building or those adjoining and no subsequent planning applications which require further consideration have been approved. Therefore issues relating to the impact of the proposal on the historic character and importance of the Listed Building remain identical to the previous application.

As part of this previous application it was considered that the subservient three-storey rear extension and glazed link would provide visual separation and preserve the historic character and appearance of the building. Internally the conversion utilised the existing plan form of the building and the works would not result in the unnecessary loss of original fabric. There have been no changes to local or national policy that would directly affect these previous considerations.

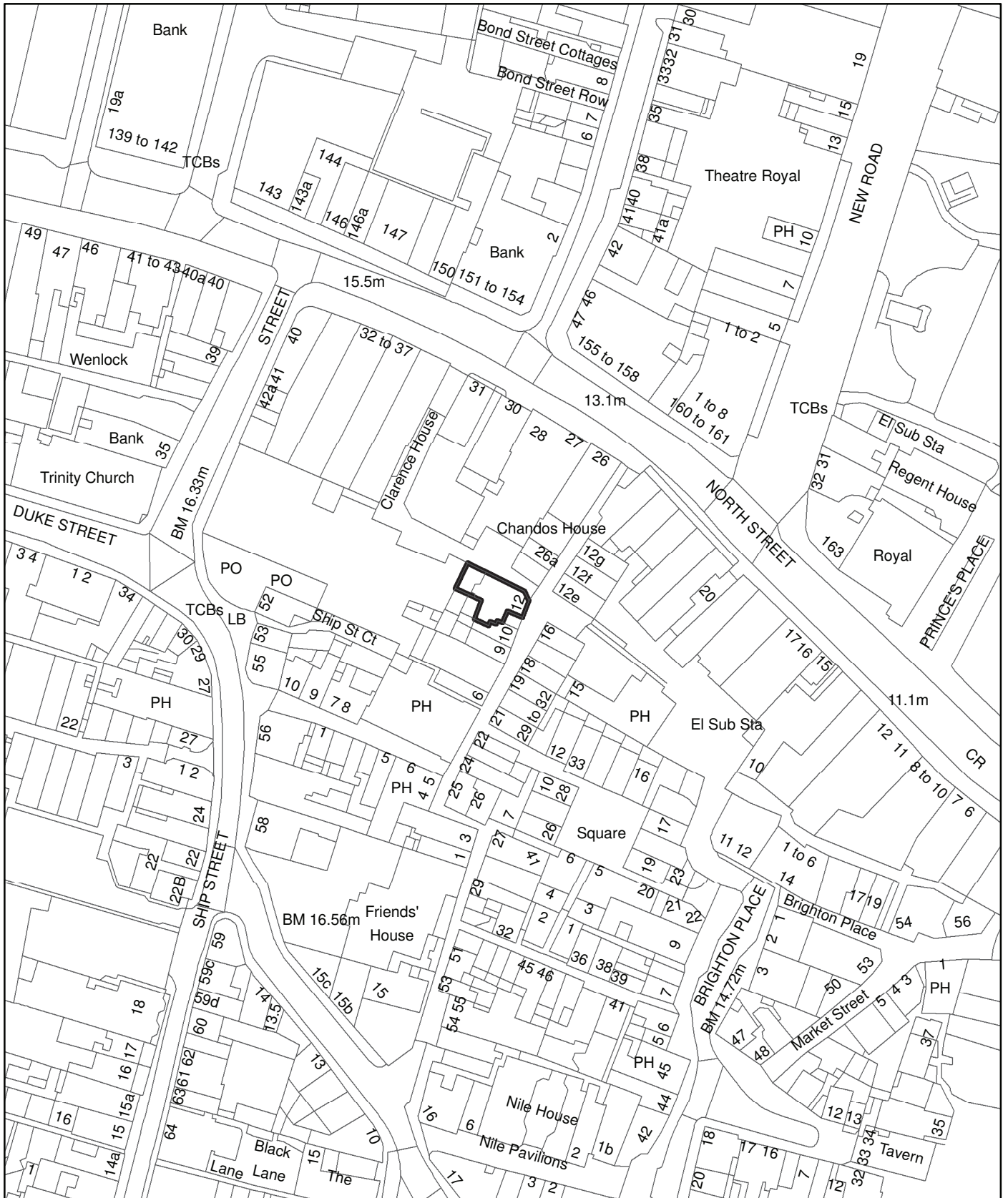
9 CONCLUSION

There have been no changes to the adopted development plan or other relevant material considerations to indicate that the proposal is no longer acceptable. The development, subject to the recommended conditions, would preserve the historic character and appearance of the Grade II Listed Building.

10 EQUALITIES IMPLICATIONS

A condition is recommended to secure the incorporation of Lifetime Home standards in the new-build element of the development. There is limited scope to meet Lifetime Home standards in the conversion due to listed building constraints.

BH2011/00652 12 Meeting House Lane, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2011/02570	<u>Ward:</u>	WITHDEAN
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Land Rear of Regency Court, London Road, Brighton		
<u>Proposal:</u>	Erection of 9no single garages.		
<u>Officer:</u>	Jason Hawkes, tel: 292153	<u>Valid Date:</u>	07/09/2011
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	02 November 2011
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Mr Andrew Borley, 10 Castle Gardens, London Road, Arundel		
<u>Applicant:</u>	Anstone Properties Ltd, 29 Palmeira Mansions, Church Road, Hove		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in below and the policies and guidance in section 7 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives.

Regulatory Conditions:

- 1) 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.
- 2) The development hereby permitted shall be carried out in accordance with the approved drawings no.A411/01B, 02A, 03, 04, 05A, 06, 07 received on the 30th August and 6th September 2011.
Reason: For the avoidance of doubt and in the interests of proper planning.
- 3) The garages hereby permitted shall be used only for parking of private vehicles or for purposes incidental to the enjoyment of a residential dwelling or flat and for no business or industrial use whatsoever.
Reason: To safeguard the amenities of the occupiers of adjoining properties.
- 4) The external finishes of the garages hereby permitted shall be finished in matching materials to the existing garages.
Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and in accordance with policies QD1 and QD14 of the Brighton & Hove Local Plan.

Pre-Commencement Conditions:

- 5) BH14.01 Archaeology (Investigation / Programme of work).
- 6) No development shall commence until an Arboricultural Method Statement regarding the protection of the large Sycamore tree and other trees on the railway embankment has been submitted and approved by the Local Planning Authority. The statement shall be in accordance with BS 5837 (2005) Trees in relation to Construction and will include

protection of roots.

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) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping, which shall include hard surfacing, means of enclosure, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development. The landscaping scheme shall include 5 trees to replace the 5 self-seeded Elms to be removed.

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

- 8) BH11.02 Landscaping / planting (implementation / maintenance).

Informatives:

1. 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:

(Please see section 7 of the report for the full list); and

- (ii) for the following reasons:-

The proposed development would not have a significant impact on local parking, highway safety or the amenities of the occupiers of adjacent properties and is also considered acceptable in terms of its design and appearance in relation to the existing development on site and the surrounding area. Subject to an acceptable Arboricultural Method Statement, landscaping scheme and Archaeological Programme of Works, the scheme is also deemed appropriate in terms of its impact on potential archaeological finds and trees adjacent and on the site.

2 THE SITE

The application site relates to land to the rear of a block of garages located to the rear of the residential blocks of Park Manor, Regency Court and Manhattan Court. The site is adjacent to a smaller block of garages to the north. The application site is a space used for overspill car parking at the end of the garages adjacent western boundary. The site includes a number of trees and bushes around the circular car parking area which is fenced off along the northern boundary. To the west of the site is a railway embankment. This site is identified as part of a Greenway in the Brighton & Hove Local Plan.

Regency Court and Park Manor (to the east of the site) are blocks of flats with a traditional appearance and Manhattan Court has a more modern

appearance, as it is a later addition. These buildings form large blocks around the garages. Manhattan Court is immediately adjacent the application site to the north and includes windows from first floor level and above which overlook the site and ground floor windows behind the northern boundary fence.

To the south site is the garden of houses for Withdean Rise. These houses have large gardens which slope down to the boundary with the garages. The houses are set a significantly higher ground level and are not visible from the application site.

3 RELEVANT HISTORY

BH2010/01214: Recently, permission was sought for the erection of 1no detached chalet bungalow with associated car parking. This scheme was the same site as the current application to the rear of the existing garages adjacent the railway embankment. This application was refused for the following reasons:

- Policies QD1, QD2, and QD3 of the Brighton & Hove Local Plan seek to ensure that developments demonstrate a high standard of design which take into account the height, scale, and bulk of existing buildings. Policy HO4 states that residential development will be permitted at higher density where it can be demonstrated that the proposal exhibits a high standard of design. The proposed dwelling by virtue of its siting and design is considered to be an overdevelopment of the site which fails to respect the constraints of the site and its relationship to surrounding properties resulting in a cramped form of development. It is also felt the scheme has an inappropriate access for a dwelling which would require future occupiers to pass through a block of 39 garages to access the site. The scheme is therefore considered as town cramming and an inappropriate form of development contrary to the above policies.

This decision was appealed by the applicant and the subsequent appeal was dismissed by the Inspectorate. The Inspector agreed that the access for the proposed dwelling was not ideal but did not consider this sufficient enough reason to be included as a reason to dismiss the application. The Inspector dismissed the appeal on the grounds that the 'proposed development would cause significant harm to the character and appearance of the area.'

BH2009/00413: A revised scheme was submitted for the construction of a three storey development above the existing garage block to create a 4 storey block of 6 no. two bedroom flats with roof top garden, cycle and refuse stores and ground level parking. This application was also refused in June 2009. The decision was appealed by the applicant and the appeal was dismissed by the Inspectorate.

BH2008/02134: Permission was then sought for the erection of 6 x 2 bedroom flats on three storeys above part of an existing garage block with cycle store, refuse store and parking provision. This application was refused in November 2008.

BH2004/02577/FP: Permission was refused for the construction of six new flats in a four storey block together with off-street parking for six vehicles. A secure cycle store and additional bin storage. This was a re-submission of the earlier refused application. This application was appealed and dismissed by the Inspectorate.

BH2004/00875/FP: Permission was refused for the construction of six new flats in a four storey block together with off-street parking for six vehicles.

BH2001/00475/FP: Planning permission was refused for the construction of one pair of three bedroom semi-detached houses with two parking spaces. This is the same site as the proposed dwelling in this application. The 2001 application was refused. This decision was appealed by the applicant and was dismissed by the Inspectorate.

93/0499/OA: Outline consent was refused for the erection of 9 flats on 3 floors above existing garage compound and the provision of additional 12 car parking spaces.

68/2098: Permission was allowed for additional garages and parking spaces for Regency Court and Park Manor. This scheme also refused additional garages to the north of Block E.

4 THE APPLICATION

Planning permission is sought for the construction of 9 additional garages. The garages are single-storey with flat roofs and follow the line of the existing garages with 5 garages on the south side and 4 garages on the north side. The applicant has stated that the garages will be offered to the residents of Regency Court. The scheme includes seating for residents adjacent trees to be retained at the end of the proposed garages.

5 CONSULTATIONS

External:

Neighbours: 42 representations have been received from **1, 12A, 15, 18 (x2), 19, 37, 23, 27, 29, 30, 32, 35, 36, 38, 39, 40, 41, 42, 43, 44, 46, 48, 49, 51, 52, 53, 56, 58, 59, 62, 65, 65, 68, 71, 72, 73, 76, 78 & 79** Regency Court and **7 & 19 Park Manor** objecting to the application for the following reasons:

- The application states that there no parking spaces at this site so this development will give a net gain of nine additional spaces. This is incorrect as this area is used for parking by Regency Court & Park Manor residents. There are regularly up to 10 cars parked in this area.
- The garages could be sold off and may not be used by Regency Court residents. This means that parking for residents would be lost and result in an increase in on-street parking.
- If the garages are sold to non Regency Court residents, they would not pay towards the up keep of this area as the Regency Court residents currently do.
- There is a lack of parking spaces for the residents of Regency Court. Anstone Properties are making no further provision for resident parking and the lack of parking is leading to conflict. The development will lead to greater problems.
- There is concern that residents only found out about this application

though the site notices.

- The gap between the garages is too small and this area acts as a turning circle.
- It is believed there is an extant permission for 16 garages on site. It would be better to implement this permission rather than use this piece of land.
- Who would the garages be used by? The garages may not be necessarily be used by the residents of Regency Court and it would be unreasonable to condition the garages for the sole use of the residents. Accordingly, the 10 valuable parking spaces could be lost to the residents. This would cause major disruption.

East Sussex County Council Archaeologist:

In light of the archaeological potential of this site, a condition is recommended the applicant submits a written scheme of investigation for the implementation of a programme of archaeological work for the approval of the local planning authority prior to commencement of works.

Network Rail: No response.

Internal:

Sustainable Transport:

No objection. The scheme will not have a material impact on the highway that could support a reason for refusal.

Arboricultural Section:

Overall no objection from Arboricultural Section subject to conditions being attached to any consent granted regarding protection of existing trees and replacements for those that may be lost.

6 MATERIAL CONSIDERATIONS

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

The development plan is the Regional Spatial Strategy, The South East Plan (6 May 2009); East Sussex and Brighton & Hove Minerals Local Plan (1999); East Sussex and Brighton & Hove Waste Local Plan (February 2006); Brighton & Hove Local Plan (21 July 2005).

7 RELEVANT POLICIES & GUIDANCE

Planning Policy Statements (PPS):

- PPS 1: Delivering Sustainable Development
PPS 5: Planning for Historic Environment
PPG13: Transport

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
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
QD15	Landscape design
QD16	Trees and hedgerows
QD19	Greenways
QD27	Protection of Amenity
HE12	Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Guidance:

SPGBH4 Parking Standards

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste
SPD06 Trees & Development Sites
SPD11 Nature Conservation & Development

8 CONSIDERATIONS

The main considerations in the determination of this application relate to the appearance of the garages in relation to the site and surrounding area, the impact of the scheme on residential amenity, highway safety and parking, impact on trees and archaeological considerations.

Planning Policy:

Policy TR1 requires that developments provide for the demand for travel that they create and maximise the use of public transport, walking and cycling. Policy TR7 states that planning permission will be granted for developments that do not increase the danger to users of pavements, cycle routes and roads. Where there are no acceptable solutions to problems that arise from development proposals, planning permission will be refused.

Policies QD1 and QD2 sets out the design criteria for the assessment of new development. QD1 requires proposals to demonstrate a high standard of design and make a positive contribution to the visual quality of the environment. Policy QD2 requires developments to emphasise and enhance the positive qualities of the local neighbourhood by taking into account the local characteristics, of particular relevance is point a) which refers to height, scale, bulk and design of existing buildings.

Policy QD19 states that development within the setting of a Greenway will be required to contribute to the provision and / or enhancement of the network, proportional to the development and its potential impact on the Greenway.

Policy QD27 of the Brighton & Hove Local Plan 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.

Design:

Planning permission is sought for the construction of nine garages. The garages are single-storey with flat roofs and are joined on to the end of the existing block of garages. Four additional garages are proposed to the northern row of garages and five additional garages are proposed to the southern row of garages. The garages are each 3m wide, 5.2m long and 2.4m high.

The garages are slightly stepped up the gradient towards the railway embankment. The scheme results in an additional 12m of garage to the southern row and an additional 15m to the northern row. The garages are proposed to match the appearance of the existing garages in matching brickwork, fascia detail, metal up and over doors and flat asphalt roofs.

The piece of land in question is tucked away at the back of the site behind the back of the garages in an inconspicuous location. The proposed garages will continue the line of the existing garages. Given this location and the design of the garages, the proposal would not look out of character in the area and are deemed appropriate in terms of their design and appearance.

The parking area is surrounded by trees and the site is identified in the Brighton & Hove Local Plan as being part of a Greenway. The scheme does result in the loss of some of the trees. The Council's Arboriculturist has addressed the impact of the scheme on trees on site and adjacent the site below. Whilst the loss of some trees is regrettable, there will still be a large number of trees retained on site and to the west of the site on the railway embankment. A condition is also recommended requiring the planting of replacement trees outlined in a landscaping scheme. Consequently, the proposed garages and the subsequent impact on trees is considered to be acceptable and the scheme would not significantly impact on the appearance of this site, the surrounding area or the Greenway.

Impact on Amenity:

Due to their position, the proposal most affects the immediate block of flats (Manhattan Court) to the north. As the properties at Withdean are set at a high ground level to the south of the site, these properties would not be affected by the proposal in terms of loss of amenity.

Manhattan Court is large of block of flats adjacent the site which includes windows that overlook the site from the upper floors as well windows at ground floor level set behind the boundary fence. The ground floor windows are over 2.5m way from the boundary fence. The boundary fence is 2m high and the garages results in an increase of 600mm above the height of the fence. Given the distance between the windows and the increase in height, it is felt that the scheme would not result in a significant impact on the amenity of the ground floor windows in terms of loss of light, outlook or an increased sense of enclosure.

In terms of the use of the garages, the applicant has stated that the garages will be offered to the residents of the adjacent flats for parking and storage. This is deemed an acceptable use and would not detrimentally affect the amenity of any adjacent properties. To ensure the appropriate use of the garages a condition is recommended stating that the garages hereby permitted shall be used only for parking of private vehicles or for purposes incidental to the enjoyment of a residential dwelling or flat and for no business or industrial use whatsoever.

Impact on Trees and Landscaping:

The Arboricultural Section has commented that to the west of the development site is the railway line and on the embankment in this location are several trees, one of which appears to be a fine Sycamore (just behind the “Smile – You Are On CCTV” poster). This tree should be protected to BS 5837 (2005) Trees in Relation to Construction during the course of the development.

On the development site, to the west of proposed Garage No. 1, is a group of 5 self-seeded Elms. They have grown up with the woodland area on the railway line and therefore are of poor form. Garage No. 1 appears to be within the Root Protection Zone of this group of trees and given their poor form, the inspecting officer would question their retention in such close proximity to the proposed garage. The Arboricultural Section has not objected to the loss of these trees subject to a suitable replacement landscaping scheme. If the group of 5 self-seeded Elms is to be lost, a landscaping condition should be attached to any planning consent granted to plant 5 replacement trees either in the proposed new seating area for residents or elsewhere in the grounds. The applicant has confirmed that these trees are to be removed and agreed to a landscaping condition including replacement trees.

To the south of the development site, behind proposed Garages nos. 5, 6 and 7, are several over-mature Cherry Laurel shrubs of large stature. Major stems will need to be removed back to the boundary to facilitate the development. They are of little arboricultural value and the Arboricultural Section have not objected to this work. It is presumed that these will only be pruned back to the boundary and therefore Common Law regarding pruning back of overhang applies.

Overall, the Arboricultural Section has no objection to the proposal subject to suitable conditions being attached to any planning consent granted.

Archaeological Considerations:

The site is within an Archaeological Notification Area. The East Sussex County Council Archaeologist has commented that this area is defined as a former medieval and post-medieval hamlet of Withdean, the site of a 19th Century chapel and has potential for prehistoric and Roman remains.

In light of the archaeological potential for this site, the archaeologist recommends that the proposal is subject to a programme of archaeological works. This will enable any archaeological deposits and features, disturbed during the proposed works, to be adequately recorded. Having regard to the comments of the County Archaeologist, a condition is recommended requiring the submission of programme of archaeological works to be agreed by the planning department prior to commencement of works.

Sustainable Transport:

The Transport Manager has commented that this area of land is currently being used by residents of Regency Court to informally park vehicles. It is understood that the existing residents of Regency Court will be given the first opportunity to lease the use of the garages. However it is not guaranteed that they will take up this opportunity, therefore it is possible that the vehicles currently parking on this parcel of land could be displaced on to the local highway. It is not believed that the displacement of car parking from this area could be considered as having a material impact on the provision for parking on the highway within the vicinity of this site.

As the existing parcel of land is being used to park vehicles at present it is considered that the proposal will not result in a material net increase in trips generated by this site.

Additionally, a previous application on this site was subjected to a planning appeal (ref: **BH2009/00413**). This application was for the construction of a three storey development above the existing garage block to create a 4 storey block of 6 no. two bedroom flats with roof top garden. The Inspector examined concerns relating to the loss of car parking on this site. In this instance the Inspector believed that the loss of parking within this site could not be considered as having a material concern and the appeal was not dismissed on these grounds.

Given the above information the Transport Manager does not believe that the application will have a material impact on the highway that could support a reason for refusal on highway grounds.

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. A suitable statement has been submitted with the application.

Other considerations:

The applicant has referred to an extant permission for additional garages on site which was granted in 1968 under reference 68/2098. The remaining record for this application is limited and it is unclear as to whether the consent for the additional garages approved was ever commenced. The Local Planning Authority therefore cannot confirm that the garages granted under the 1968 permission can be constructed under a previously commenced permission.

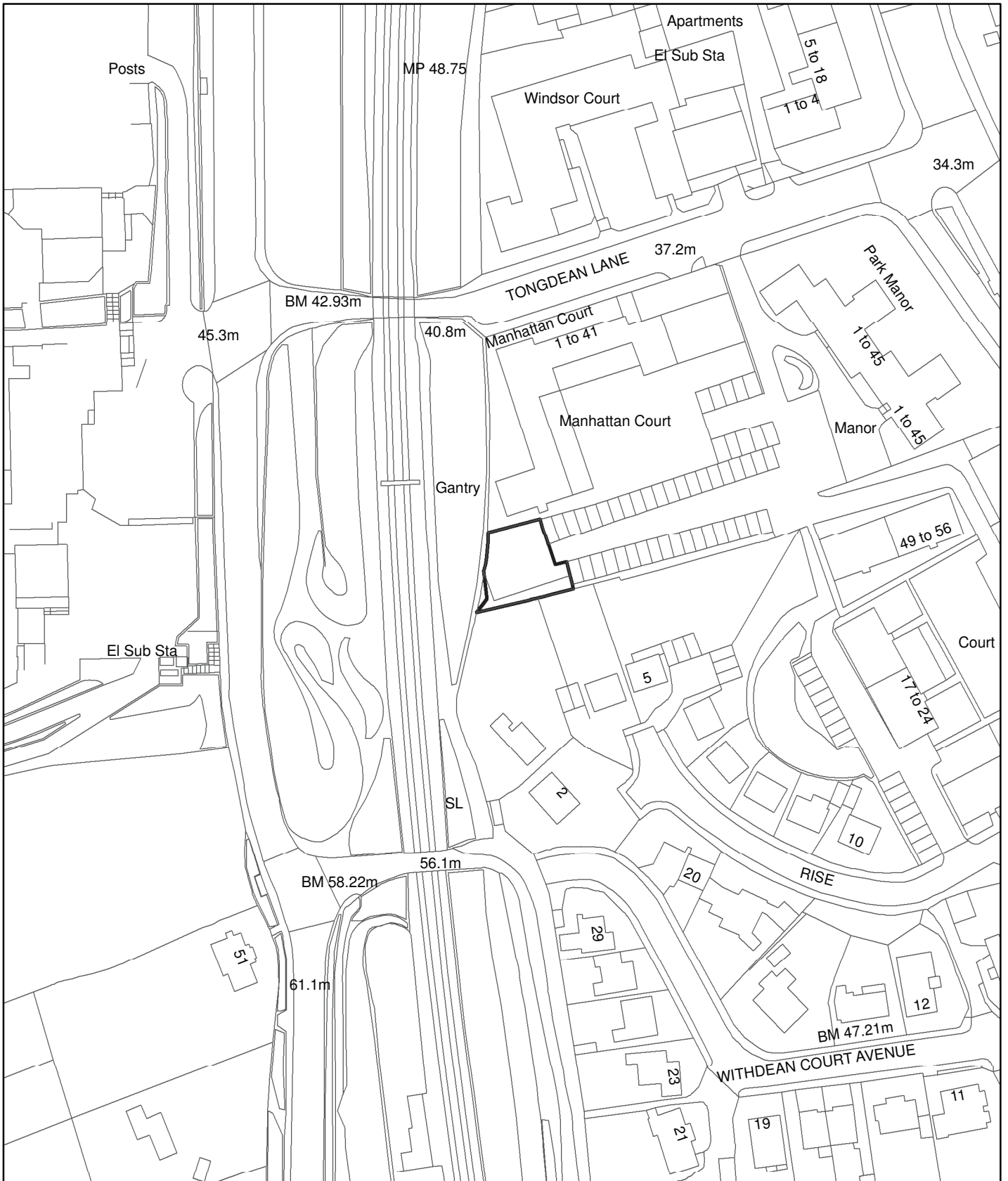
9 CONCLUSION

The proposed development would not have a significant impact on local parking, highway safety or the amenities of the occupiers of adjacent properties and is also considered acceptable in terms of its design and appearance in relation to the existing development on site and the surrounding area. Subject to an acceptable Arboricultural Method Statement, landscaping scheme and Archaeological Programme of Works, the scheme is also deemed appropriate in terms of its impact on potential archaeological finds and trees adjacent and on the site.

10 EQUALITIES IMPLICATIONS

None identified.

BH2011/02570 Land Rear of Regency Court, London Road



Scale: 1:1,250

<u>No:</u>	BH2011/02138	<u>Ward:</u>	CENTRAL HOVE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	70-72 Church Road, Hove		
<u>Proposal:</u>	Change of Use from licensed restaurant (A3) to mixed use restaurant and bar (A3/A4) with revised opening hours of Monday -Tuesday 10:00-00.30, Wednesday - Saturday 10:00-02:30 and Sunday 12:00-00:00 (Part-retrospective).		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Valid Date:</u>	25/07/2011
<u>Con Area:</u>	The Avenues	<u>Expiry Date:</u>	19 September 2011
<u>Listed Building Grade:</u>	Adjoining Grade II (Albert Mews)		
<u>Agent:</u>	CJ Planning Ltd, 80 Rugby Road, Brighton		
<u>Applicant:</u>	Mr Ben Samendi, C/O CJ Planning Ltd		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and the policies and guidance in section 7 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives.

Regulatory Conditions:

- 1) 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.
- 2) The development hereby permitted shall be carried out in accordance with the approved drawing no. 0141.01 received on 18th July 2011; and drawings no. 0143.11 & 0143.12 received on 25th July 2011.
Reason: For the avoidance of doubt and in the interests of proper planning.
- 3) The use hereby permitted shall not be open to customers except between the hours of 10:00 and 00:30 on Mondays and Tuesdays; between the hours of 10:00 and 02:30 on Wednesday to Saturday; and between the hours of 12:00 and 00:00 on Sundays.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan
- 4) The outside terrace area to the Third Avenue frontage shall not be used between the hours of 23:00 and 07.00 on any day.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan
- 5) All ground floor doors and windows to Church Road and Third Avenue shall be shut between the hours of 23:00 and 07:00, except for access and egress.
Reason: To safeguard the amenities of the locality and to comply with

- policies SU10 and QD27 of the Brighton & Hove Local Plan
- 6) A minimum of 75% of the total customer floorspace at ground and basement floor levels shall only allow for food and drink service to seated customers (in the manner of a café bar).

Reason: To ensure vertical drinking space is not disproportionate to the seating area in order to minimise opportunities for crime, disorder and harm to amenity in the vicinity of the site, and to comply with policy SR12 of the Brighton & Hove Local Plan.

Informatives:

1. 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:

(Please see section 7 of the report for the full list); and

- (ii) for the following reasons:-

The proposed mixed use is appropriate in this central location and, subject to conditions to minimise the potential for noise and disruption, would not cause harm to the amenity of the area or adjoining properties.

2 THE SITE

The application site relates to a basement and ground floor restaurant / bar premises at the corner of Church Road and Third Avenue, with the premises having a frontage to both streets.

The site is within the Hove Town Centre and The Avenues Conservation Area, and adjoins Grade II Listed Buildings on Albert Mews (Third Avenue).

3 RELEVANT HISTORY

BH2011/00559: Installation of new shopfront to front and side elevations, replacement awnings to front elevation and new awnings, boundary wall and railings to side elevation. (Retrospective). Approved.

BH2008/03654: Change of use from retail / offices to restaurant / wine bar. Replacement of shopfront doors and windows to match existing layout of restaurant. Approved (*72A & 72 B Church Road only, fronting Third Avenue*).

BH1998/02279/FP: Partial demolition of rear extension and rebuilding, together with installation of folding windows to Church Road elevation and folding doors to Third Avenue elevation. Approved.

3/91/0680(F): Change of use from retail opticians shop / store to licensed restaurant (ground floor only) and kitchen store / staff roof and staff toilet (basement). Approved (*72 Church Road only*).

3/77/0408: Extension to use from Take Away Sandwich Bar to use as Take Away Hot Foods and Restaurant. Approved (*70 Church Road only*).

4 THE APPLICATION

Planning permission is sought for the mixed use of the premises as a restaurant / bar with opening hours between 10:00-00.30 on Monday and

Tuesday; 10:00-02:30 on Wednesday to Saturday; and 12:00-00:00 on Sundays.

5 CONSULTATIONS

External

Neighbours: Letters of representation have been received from **66-68A (flat 6) Church Road; 7, 12, 15, 17, 25, 26 Grand Avenue Mansions, Grand Avenue; 8 The Drive; 1-9 Albert Mews, 22 (flat 2), 25, 35A & 35B Third Avenue;** and **2 (flats 1 & 2) Tisbury Road** objecting to the application for the following reasons:

- The proposed use is not suitable for a mainly residential area;
- The area is already saturated by bars;
- There are no other properties open until 2.30am;
- Increased noise disturbance from coming and goings, and outdoor smoking;
- Increased crime;
- Increased odour nuisance;
- Occurrences of unsocial behaviour in adjoining streets;
- Increased parking in restricted areas increases the risk of accidents;
- Issues relating to air conditioning / extract equipment and refuse storage;
- The application is retrospective;
- Consider that additional properties should have been consulted.

Sussex Police: No objection. Conditions applied to the premises license will aid the prevention of crime and disorder and safeguard the amenity of local residents.

Cllr Wealls: Objects – letter attached.

Internal:

Environmental Health: No objection, subject to conditioning the proposed hours and use of the outdoor terrace, as there is a history of noise complaints relating to the outdoor area.

Sustainable Transport: No objection.

6 MATERIAL CONSIDERATIONS

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

The development plan is the Regional Spatial Strategy, The South East Plan (6 May 2009); East Sussex and Brighton & Hove Minerals Local Plan (1999); East Sussex and Brighton & Hove Waste Local Plan (February 2006); Brighton & Hove Local Plan (21 July 2005).

7 RELEVANT POLICIES & GUIDANCE

Planning Policy Guidance Notes (PPGs):

PPG 24: Planning and Noise

Brighton & Hove Local Plan:

SU10 Noise nuisance

QD27 Protection of Amenity

SR5 Town and district shopping centres

SR12 Large Use Class A3 (food and drink) venues and Use Class A4 (pubs and clubs)

8 CONSIDERATIONS

The main considerations in the determination of this application relate to the impact of the change of use and associated opening hours on neighbouring amenity, particularly with regards noise and disturbance.

The existing ground floor premises has grown incrementally since planning permission for a restaurant was first granted in 1977 at no. 70. The premises now extends across 70-72 Church Road and includes a long frontage and terrace area along Third Avenue. Taken as a whole the site has planning permission as a restaurant (Class A3). The only section of the building subject to a planning condition relating to opening hours is the front section of no. 72; this condition restricts opening hours to 23:30 hours Monday to Saturday, and 23:00 hours on Sundays. There are no opening hour conditions on the remainder of the site.

The current use incorporates elements of both a restaurant (Class A3) and drinking establishment / bar (Class A4) use within the same planning unit. This application seeks retrospective planning permission for this mixed use with opening hours between 10:00-00.30 on Monday and Tuesday; 10:00-02:30 on Wednesday to Saturday; and 12:00-00:00 on Sundays.

Proposed use

The mixed use of the premises, as a restaurant and bar, would not harm the retail vitality of the Hove Town Centre and there is no objection in principle to the proposed use.

Local plan policy SR12 relates to proposals for large restaurants (Class A3) and drinking establishments (Class A4) with a public floorspace in excess of 150 sq metres. The application site has a floorspace in excess of 150 sq metres and policy SR12 states that premises of this size should be conditioned so that no alcohol is consumed except by persons who are taking meals on the premises and who are seated at tables. This form of condition does not though readily fit in relation to a mixed use premises with separate eating and drinking elements.

The vast majority of the premises is run in the manner of a café bar with service to seated customers. This arrangement and the existing layout of the

premises prevents vertical drinking in the manner of a traditional bar / pub and reflects the overall intention of policy SR12. It is considered that a condition could reasonably require a proportion of the customer floorspace be laid out for seated service only. This would avoid opportunities for vertical drinking to take place and would comply with the intent of policy SR12. A condition is recommended to secure this arrangement (no. 6). This is also consistent with the premises license which requires a minimum of 75% of the floorspace operate under café bar conditions (i.e. with service to seated customers rather than vertical drinking).

Proposed opening hours

A number of representations have been received objecting to the application due to increased noise and disturbance, primarily from the bar element of the use.

The main bar is located to the rear of the site at ground floor level and within the basement area. The bar allows for direct access onto a side terrace area on the Third Avenue frontage. It is considered that noise from within the premises can be minimised effectively subject to conditions restricting use of the terrace between the hours of 23:00 and 07:00; and requiring all windows and doors being kept shut, except for access and egress, after 23:00 hours. Environmental Health Officers have raised no objection to the use or opening hours subject to conditions.

It is apparent from the received representations that disturbance occurs from late night / early morning movements along Church Road in the vicinity of the application site. In response to these concerns the applicant has submitted a statement indicating that the premises ceases operations in phases to reduce the overall capacity, with the basement (bar) element open latest. Furthermore it is understood that late night movements (including access, egress and smoking) are focused on the Church Road access rather than those along Third Avenue. Whilst this moves potential disruption away from residential properties on Third Avenue it has created concerns for occupiers of properties above commercial units on Church Road.

It is appreciated that intermittent noise occurs and does cause some disturbance for adjoining residents. There is though concern that noise sources along Church Road and in this specific area cannot be directly linked to the application site and could not be effectively controlled through planning conditions. Environmental Health Officers are aware of the objections, and the grounds for objection, but have not been able to establish a noise nuisance in this location. Sussex Police consider the existing premise license aids the prevention of crime and disorder and safeguards amenity. In planning terms it cannot be demonstrated that intermittent noise or disturbance is causing demonstrable harm to the amenity of the area that would justify refusing planning permission.

It is therefore considered that subject to appropriate conditions the potential

for noise and disturbance from the proposed use and opening hours can be adequately controlled. For this reasons it is recommended that planning permission be granted.

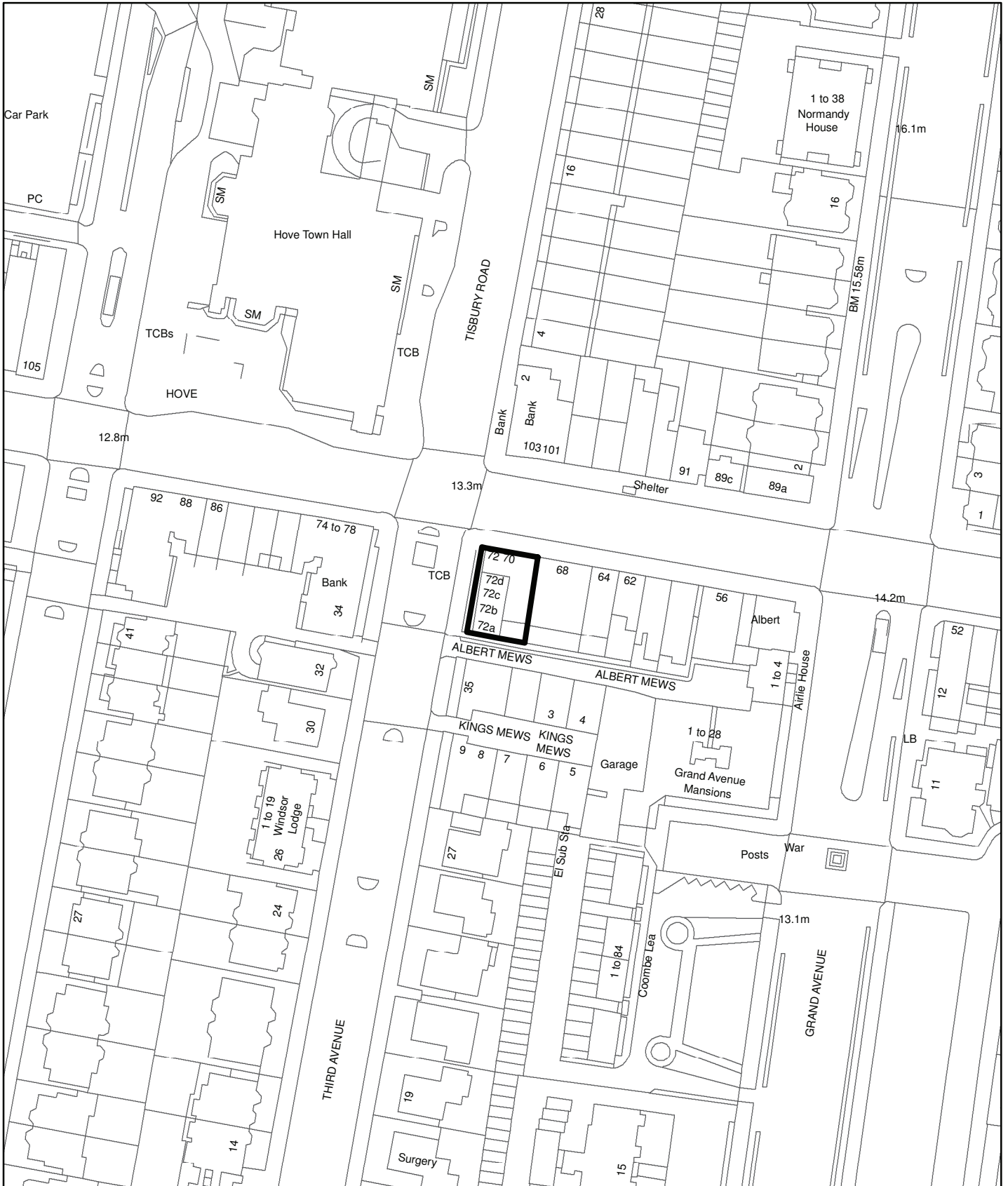
9 CONCLUSION

The proposed mixed use is appropriate in this central location and, subject to conditions to minimise the potential for noise and disruption, would not cause harm to the amenity of the area or adjoining properties.

10 EQUALITIES IMPLICATIONS

The existing access arrangements would not be altered as part of the application.

BH2011/02138 70-72 Church Road, Hove.



**Brighton & Hove
City Council**



Scale: 1:1,250

27th November 2011

Dear Mr Nichols

Ref: Application Number: BH2011/02138, Havana Spoon, 70-72 Church Road, Hove

Following approaches by residents living near to these premises at 70-72 Church Road, I would like to formally object to this application.

It is clear to me that the restaurant is already operating as a bar/restaurant, which is clearly outside its current planning authority. By allowing a change to this permission, we are condoning and rewarding this.

Residents are already disturbed by late night noise from people smoking outside and cars and taxis arriving and departing. An authorised change of use potentially increases the capacity of the premises as bars require less seating than restaurants. More people mean more noise for local residents.

I am concerned that Church Road becomes a new centre of late night bars, attracting increasing levels of noise and anti-social behaviour. Police resources, already deployed to areas with high concentrations of bars are too stretched to properly police additional areas.

Please let me know if you need any further information.

Thank you in advance.

Yours sincerely,

Andrew Wealls

<u>No:</u>	BH2011/03093	<u>Ward:</u>	HOVE PARK
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Land Rear of 25 Dyke Road Avenue, Hove		
<u>Proposal:</u>	Erection of new two storey four bedroom detached dwelling house with basement.		
<u>Officer:</u>	Christopher Wright, 292097	tel: <u>Valid Date:</u>	13/10/2011
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	08 December 2011
<u>Agent:</u>	Alan Phillips Architects, 31 Montefiore Road, Hove		
<u>Applicant:</u>	Mr & Mrs S Hardman, C/O Alan Phillips Architects		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and the policies and guidance in section 7 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives.

Regulatory Conditions:

1. 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.
2. The development hereby permitted shall be carried out in accordance with the approved drawing nos. HH.01, HH.03, HH.04, HH.05, HH.06, HH.07, HH.08, HH.09, HH.13, HH.14, HH.15, HH.16, HH.17 and HH.18 received on 13 October 2011; the supporting information received on 24 October 2011; drawing no. HH.02 Revision B received on 3 November 2011; the supporting information received on 24 November 2011; and drawing nos. HH.10, HH.11, HH.12 and HH.18 received on 25 November 2011.
Reason: For the avoidance of doubt and in the interests of proper planning.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alteration of the dwellinghouse(s) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.
Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
4. BH02.04 No permitted development (windows and doors)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no window, dormer window, rooflight or door other than those expressly authorised by this permission shall be constructed without planning permission obtained from the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of nearby properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

5. Unless otherwise agreed in writing by the Local Planning Authority, the new dwellings hereby permitted shall be constructed to Lifetime Homes' standards prior to its first occupation and shall be retained as such thereafter.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

6. The hard surfaces hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policy SU4 of the Brighton & Hove Local Plan.

7. The vehicle parking area and garage shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles belonging to the occupants of and visitors to the development hereby approved.

Reason: To ensure that adequate parking provision is retained and to comply with policy TR19 of the Brighton & Hove Local Plan.

8. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development is occupied.

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.

Pre-Commencement Conditions:

9. Unless otherwise agreed in writing by the Local Planning Authority, no residential development shall commence until:
 - (a) evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design

Stage/Interim Report showing that the development will achieve Code level 5 for all residential units have been submitted to the Local Planning Authority; and

- (b) a Design Stage/Interim Code for Sustainable Homes Certificate demonstrating that the development will achieve Code level 5 for all residential units has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment 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.

10. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping, which shall include hard surfacing, means of enclosure, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

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.

11. No development shall commence until fences for the protection of trees to be retained have been erected in accordance with the scheme contained in the Arboricultural Report submitted. The fences shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas 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.

12. No development shall commence until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the occupation of the development hereby approved.

Reason: To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy QD17 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD11: Nature Conservation and Development.

13. No development shall commence until full details of existing and proposed ground levels within the site and on land adjoining the site to OS Datum, by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved level details.

14. **Reason:** To ensure a satisfactory appearance to the development and to protect the amenity of surrounding neighbours in accordance with policies

QD1, QD2, and QD27 of the Brighton & Hove Local Plan.

Pre-Occupation Conditions:

15. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan.
16. Unless otherwise agreed in writing by the Local Planning Authority, the residential unit hereby approved shall not be occupied until a Final/Post Construction Code Certificate issued by an accreditation body confirming that each residential unit built has achieved a Code for Sustainable Homes rating of Code level 5 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.
17. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development 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.
18. The development hereby permitted shall not be occupied until a scheme to enhance the ecological value of the site, including bat and bird boxes to be attached to mature trees retained within the site, has been submitted and approved by the local planning authority and fully implemented. The development shall be retained as such thereafter.
Reason: To increase the biodiversity and nature conservation interest of the site, to mitigate any impact from the development hereby approved and to comply with policy QD17 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD11: Nature Conservation and Development.

Informatives:

1. 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:
(Please see section 7 of the report for the full list); and

(ii) for the following reasons:-

The design, form, external finishes, scale and siting of the proposed dwelling is considered of sufficient quality and is considered appropriate to the site and its wider context and would not detract from the character and appearance of the locality. For reasons including the design, layout, siting and separation distances with neighbouring properties, the proposal would not have a significant adverse impact on residential amenity. The development would achieve a minimum of Code Level 5 of the Code for Sustainable Homes and incorporates landscaping and cycle and car parking to provide for the transport demand generated by the development together with measures to enhance the ecological value of the site. In view of the above the proposal accords with the development plan.

2. The applicant is advised that details of Lifetime Homes standards can be found in Planning Advice Note PAN 03 Accessible Housing & Lifetime Homes, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk).
3. The applicant is advised that details of the Code for Sustainable Homes can be found on the Planning Portal (www.planningportal.gov.uk), on the Department for Communities and Local Government website (www.communities.gov.uk) and in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk). Accreditation bodies at March 2010 include BRE and STROMA; other bodies may become licensed in future.
4. The applicant is advised that advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website (www.communities.gov.uk).

2 THE SITE

The application relates to a plot of land to the rear of 25 Dyke Road Avenue, which is adjacent to the junction with Chalfont Drive and backs onto Woodlands.

Access to the plot would be via a strip of land along the north side of 25 Dyke Road Avenue, measuring between 4m and 12m in width alongside the flank wall of the existing house and at the opening of the site onto the public footway respectively. The plot itself is somewhat triangular in shape, having a maximum width of 32m and a depth of between 12m and 71m. The plot area is propounded to be 0.1155 hectares.

Excluding the strip of land to be used for access to the site, the plot of land measures some 770 square metres in area.

3 RELEVANT HISTORY

BH2010/00602: On 12 May 2010 an application for the proposed erection of a one and two storey residential dwelling with associated new access, was withdrawn owing to officer concerns related to:

- The scale, footprint, height, bulk of the building and the limited space around it together with the close proximity of the building to the plot boundaries being cramped and unduly dominant in the backland location.
- Height, proximity and position of windows/balconies having an overbearing impact and result in overlooking of neighbours.
- Removal of protected trees without satisfactory landscaping/planting scheme incorporated at design stage.

BH2007/00730 & BH2006/03598: On 13 March 2007 and 8 November 2006, permission was granted for the lopping of protected trees.

BH2004/00050/FP: Approval was granted for a replacement front boundary wall on 3 February 2004 following the refusal of a previous application for a replacement front boundary wall on 21 October 2003 (ref. BH2003/02821/FP).

3/95/0638(F): Permission was granted on 31 January 1996 for the erection of a swimming pool enclosure over an existing open air pool in the rear garden.

3/81/0234: Erection of a swimming pool enclosure over an existing open air pool in the rear garden – approved 12 June 1981.

3/74/0164: Alterations to existing house to form two self-contained flats – allowed to lapse.

M/16501/72: Alterations – not proceeded with.

M/4378/56: Erection of a small temporary garage – not proceeded with.

4 THE APPLICATION

The application is a revised submission following the withdrawal of application BH2010/00602 and is for the proposed sub-division of the rear garden of 25 Dyke Road Avenue to form a separate plot and to construct a 4-bedroom detached dwelling on two storeys and with a basement and underground car parking and cycle storage.

First Floor:

- Three en-suite bedrooms including master bedroom and hallway.

Ground Floor:

- Living room, kitchen and dining area semi open plan style.

Basement:

- Garage for one car and 4 bicycles; laundry and utility rooms; control centre for Microgeneration; bedroom, bathroom and playroom; underground rainwater harvesting tank.

On the roof it is proposed to install Microgeneration equipment including solar vacuum tubes and photovoltaics. The proposed dwelling is designed to achieve Level 5 of the Code for Sustainable Homes.

5 CONSULTATIONS

External:

Neighbours: Fifteen (15) letters have been received from 12 The Close; 25 Dyke Road Avenue; 7 Elsted Crescent; Green Ridge; Flat 4, 26 Holland Road; 4 Playden Close; 9 Powis Villas; 30 Stanford Avenue; 25 Varndean Drive; 165 Westbourne Street; 30 Whittingehame Gardens; 2 Woodlands “Barrowfield” (x 2); and 9 Woodland Avenue and 12b Woodlands, supporting the application for the reasons summarised below:-

- Excellent use of the land
- Fits comfortably on site of disused swimming pool
- Suitable for size of the plot
- Sympathetic size, scale and appropriate in the area
- Both existing and proposed homes will have large gardens
- Attractive and contemporary design which would enhance the design of neighbourhood
- Tradition of large gardens being redeveloped for bespoke houses
- Improved landscaping
- Environmentally friendly and sustainable
- Ecological enhancement
- Modern and innovative
- Bike storage incorporated
- No infringement of adjoining properties
- Much needed housing
- Housing elderly relatives close by

Five (5) letters have been received from 7 Chalfont Drive; 15, 16, 17 and 18 Woodlands, including a submission from landscape architects commissioned by 17 Woodlands, objecting to the application for the reasons summarised below:-

- Outlook
- Visual amenity
- Out of keeping
- Town cramming and would be harmful to character of area
- Breaches Chalfont Drive building line
- Scale and height is out of character with the area
- Detrimental to amenity and result in an overbearing impact
- Overlooking, loss of privacy and intrusive design
- Missing long sections
- No 3D photomontages
- Limited landscape proposals
- The planted screening is inadequate and likely to fail
- Inadequate arboricultural report
- Full impact on root protection areas has not been assessed and the impact of trees on adjacent properties not assessed
- Impractical arrangement for temporary construction access
- Misrepresentative design and access statement

- Greenfield back garden land should not be built on
- Reference to typical density is misleading
- Does not overcome issues with previous application
- Environmentally unfriendly

Councillor Vanessa Brown raises an objection. Letter attached.

Internal:

Sustainability Officer: No objection.

The proposals meet policy SU2 and the SPD08 standard for Code level 5 on previously undeveloped land. Energy and carbon reduction are addressed robustly with a dwelling that will have good thermal performance and a substantial solar array of Photovoltaics and solar hot water to enable the dwelling to be zero carbon in its central and water heating needs and fixed lighting. The dwelling will minimise water use through efficient water systems including a rainwater harvesting system.

Sustainable Transport: No objection.

It is recommended the vehicular access to the site is widened to 4.1m to allow for two cars to pass.

Council Ecologist: No objection subject to enhanced biodiversity.

Additional nature conservation requirements are necessary to meet the requirements of SPD11.

Arboriculture: No objection.

Of six trees covered by Tree Preservation Order No. 4 of 2010, five are in the rear garden. One Sycamore in the rear garden will need to be felled to facilitate the development. This has been categorised as a “C1” grade tree, indicating it is in adequate condition to remain until new planting could be established. Of the four remaining trees to be felled that are not covered by the TPO, two should be removed as soon as possible on the grounds of Health and Safety.

This means eight trees in the vicinity of the development will remain on-site post development.

Overall, the Arboricultural Section has no objection to the proposed development subject to conditions being attached to ensure landscaping and screening/hedging are plentiful in the vicinity of the new development, all trees to remain on site are protected during the course of the development, and the new driveway in the vicinity of root plates of trees is constructed in such a way as to ensure the retention of the roots beneath.

6 MATERIAL CONSIDERATIONS

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be

made in accordance with the plan unless material considerations indicate otherwise.”

The development plan is the Regional Spatial Strategy, The South East Plan (6 May 2009); East Sussex and Brighton & Hove Minerals Local Plan (1999); East Sussex and Brighton & Hove Waste Local Plan (February 2006); Brighton & Hove Local Plan (21 July 2005).

7 RELEVANT POLICIES & GUIDANCE

Planning Policy Statements (PPS):

- PPS 1: Delivering Sustainable Development
- PPS 3: Housing
- PPS 9: Biodiversity and Geological Conservation
- PPS 22: Renewable Energy

Planning Policy Guidance Notes (PPGs):

- PPG 13: Transport

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
- 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
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD27 Protection of Amenity
- HO3 Dwelling type and size
- HO4 Dwelling densities
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes

Supplementary Planning Guidance:

- SPGBH4 Parking Standards

Supplementary Planning Documents:

- SPD03: Construction & Demolition Waste
- SPD06: Trees & Development Sites
- SPD08: Sustainable Building Design
- SPD11: Nature Conservation & Development

8 CONSIDERATIONS

The principal considerations in the determination of the application include whether residential development is acceptable in principle; the design and relationship of the development with the site and its wider context; impact on neighbour amenity; transport; and sustainability.

Principle

In June 2011 a revised PPS3: Housing was issued by central Government and private residential gardens no longer can be considered as previously developed land. As such they are Greenfield sites.

This does not mean they are not appropriate for development, but any development which is permitted to take place should be of the highest design quality and seek to minimise its environmental impact, for example by enhancing natural features and by minimising use of energy, water and materials.

In this particular instance the proposed dwelling would partly occupy the site of an existing outdoor swimming pool which is no longer used and the scheme would achieve Level 5 of the Code for Sustainable Homes as required for development of a Greenfield site.

In principle the application accords with policy QD3 of the Local Plan as it would make efficient and effective use of the existing large rear garden area and create an additional residential unit. The proposed housing density would be just under 13 dwellings per hectare and this is not considered out of keeping with densities typically found in the locality and is accords with policy HO4 of the Local Plan. The area is characterised by relatively large residential dwellings set in plots with front and rear gardens and the proposed dwelling type and size, being a 4-bedroom house, is not out of character with these predominant characteristics. Furthermore, the proposal is considered to meet the requirements of policy HO3 as it responds to the need for additional housing in the city.

Design

Policy QD1 of the Local Plan states that all proposals for new buildings must demonstrate a high standard of design and make a positive contribution to the visual quality of the environment. Design aspects taken into consideration include the scale and height of development; architectural detailing; quality of materials; visual interest; and appropriate levels and type of landscaping.

Policy QD2 of the Local Plan requires proposals to take into account local characteristics with the aim of the development to emphasise and enhance the positive qualities of the neighbourhood. The appearance of proposed development and its relationship to its surroundings are matters that relate to the design of buildings and to urban design. Policy QD3 of the Local Plan concerns the efficient and effective use of sites, but makes clear that in order to avoid town cramming, proposals for “backland” development will be

rigorously examined in respect of features including the design and quality of spaces between buildings, grassed areas and trees.

There were concerns with the plot coverage, design, bulk and massing of the previous application, and the limited space proposed between the building and the plot boundaries.

These concerns have been resolved in the current application. The footprint of the proposed dwelling as seen above ground would be 13.5m across and 9m in depth. This is comparable with existing houses in Chalfont Drive and the existing property of 25 Dyke Road Avenue. In addition, there would be open space around the building appropriate to the layout and spatial characteristics of existing housing development and the property would be between 5m and 15m from the plot boundary at the closest and farthest points, and separated from neighbouring 2 Chalfont Drive by a gap of some 8.4m. In addition the front elevation of the dwelling would be separated from the boundary of the remaining rear garden of 25 Dyke Road Avenue by a distance of 7.4m.

The lower ground level and excavated area would extend out from the footprint of the dwelling and seen above ground level.

However, the plot coverage and space around the proposed dwelling is considered appropriate for development on a backland site and in keeping with the spatial characteristics of neighbouring development and would ensure the development is not cramped or of appearance or unduly dominant. The space around the building would also create an appropriate setting for the style and architecture of the property proposed.

The proposed external finishes include white render and glass walls and a flat roof with photovoltaic cells and solar panels. The windows would have powder coated aluminium frames. Small details would be of stainless steel and the front door and garage door made from close horizontal timber boards of Douglas Fir. The east elevation of the building, forming the principal façade and facing the rear elevation of 25 Dyke Road Avenue, would feature Galaxy Structuran polished recycled glass to provide interest, allow passing of light and also obscure views to prevent overlooking. Existing brick boundary walls would be kept and a 1.8m high timber fence erected along the boundary with 25 Dyke Road Avenue. The driveway and hard surfaces would be permeable surfaces to allow for natural drainage. The palette of materials is considered to be acceptable.

The form of the dwelling would have a flat roof up to a maximum height of 6.7m above ground level and comprising three 'blocks' at first floor level, resting on the rectangular base of the ground floor. The property would be less high than the neighbouring property in 2 Chalfont Drive and 3.8m lower than the ridge height of 25 Dyke Road Avenue. The reduced height of the dwelling helps reduce its potential dominance and is appropriate for this scale of development within a backland site surrounded by street fronting

development, which should remain the predominant features of the street scene.

The front and rear elevations feature curved facades at one end of the property and this helps to add architectural interest and articulation as well as serving a functional purpose for the design of the interior and measures to safeguard neighbouring occupiers' amenity. The windows openings comprise a series of bespoke slots and narrow openings together with square and rectangular openings. The overall design of the building is consistent and unified and would form an attractive building of modern appearance.

The objections expressed by some of the neighbouring occupiers are noted, however, the application site is significantly larger than the plots of other neighbouring dwellings, and the scale and position of the proposed dwelling is considered appropriate within the site context.

For reasons included safeguarding the character of the area and the amenity of adjoining residents it is recommended a condition is imposed removing permitted development rights for future extensions and alterations to the proposed dwelling.

In view of the above the proposal is considered to comply with policies QD1, QD2 and QD3 of the Local Plan.

Impact on Amenity

In order to meet the requirements of policy QD27 of the Local Plan it is important the development would not have a significant adverse impact on neighbouring amenity, with particular reference to overbearing impact, loss of light, overlooking and loss of privacy.

The two storeys of the dwelling above ground level would be set in from the plot boundaries and the first floor layout and design has been carefully considered.

The front elevation would be 7.4m back from the plot boundary and 33m from the rear elevation of 25 Dyke Road Avenue. This is sufficient separation to preclude overshadowing and overlooking. Similarly, 23 Dyke Road Avenue is a considerable distance from the proposed building and the orientation of the southern flank elevation, together with the curved façade and window design of the front elevation, would preclude any direct views towards this property. The southerly flank elevation faces towards the line where back gardens in Woodlands and Dyke Road Avenue meet. In any case, first floor glazing to the front elevation is proposed to be Structuran recycled glass arranged in narrow strips angled randomly, similar to a fixed blind, allowing slots of light to pass through but preventing views from the proposed dwelling into neighbouring properties. A sample of the Structuran recycled glass has been submitted.

The northerly flank elevation of the dwelling would have high level slot windows 1.77m above finished floor level and this would preclude overlooking of the rear garden of 2 Chalfont Drive, and these together with the proposed separation distance of 9.5m is adequate to prevent significant harm to amenity.

Properties in Woodlands have raised objections to the proposal, in particular 16, 17 and 18 Woodlands, which adjoin the rear boundary of the plot. The shape of the plot is such that the proposed dwelling would not be parallel to the rear boundary and the rear elevation of the dwelling would be at an angle of less than 45 degrees to properties in Woodlands and hence not directly opposite. The proposed house would be between 7m and 11m from the rear boundary of the plot and a minimum of 31.5m to 18 Woodlands and 37m to 17 Woodlands. 16 Woodlands would be nearly 40m from the rear elevation of the proposed house. These separation distances are considerable and mean the development will not result in undue overshadowing or have an overbearing impact and the potential impact is further mitigated by the low height of the proposed dwelling. A planning condition can also be used to obtain precise levels and ensure the dwelling is not constructed any higher up than shown on the plans. There is a gentle downward slope of the land towards Woodlands but this would not have a meaningful effect on the amenity impact of the development.

Residents have also raised concerns there would be balconies at first floor level on the rear elevation of the building. The applicant has responded to this in their letter received on 24 November. An inward opening “window” is proposed to the master bedroom and a sliding door on one of the single bedrooms. These would open out onto shallow ledges which are recessed within the footprint of the dwelling and beneath the overhang of the roof. At between 500mm and 1m these would not be large enough to sit out on, and in any case the “ledges” are within the footprint of the building and no closer to neighbouring properties and as such the amenity impact would not be significantly greater than sliding doors or opening windows.

In addition, the applicant proposes a landscaping scheme including tree planting which would aid screening of the development.

The proposal includes a driveway with parking or turning in front of the dwelling and a ramped access to an underground garage for one car. Four secure, covered and convenient cycle parking spaces are proposed in the garage also.

The amount of car parking proposed is considered reasonable. SPGBH4 requires a minimum of one cycle parking spaces per dwelling and the proposal would provide four cycle parking spaces. A condition can be imposed to ensure this level of cycle parking provision is provided within the development. Whilst raising no overall objection, Transport Planning has raised the issue of potential future uses of the garage could preclude cycle

storage within it.

The proposal is considered to satisfactorily provide for the transport demand generated and complies with policies TR1, TR14 and TR19 of the Local Plan.

Sustainability

The proposal is to develop back garden land and this constitutes Greenfield. As such, to meet the requirements of SPD08: Sustainable Building Design, the development should achieve a minimum of Code Level 5 of the Code for Sustainable Homes. The applicant has submitted a BRE Pre-Assessment Estimator which demonstrates an overall Code Level 5 with the water use achieving Code Level 6. The applicant has also submitted a Sustainability Checklist.

The application proposes efficient heating and construction and includes a plant room at low ground level and an array of evacuated tubes and photovoltaic solar panels on the flat roof. These would be set in from the roof edges and hidden from view by the parapet upstand around the edge of the roof. The proposal is also orientated to maximise natural light from the south.

The proposal is considered to accord with policy SU2 of the Local Plan and SPD08: Sustainable Building Design and the Sustainability Officer raises no objection.

As a new residential property, the proposal has been designed to achieve Lifetime Homes and accessible housing requirements under policy HO13 of the Local Plan. This includes wheelchair circulation in all living areas, level access, sufficient space for disabled parking and adequate widths of corridors and doorways as well as appropriate height of switches, sockets and service controls between 450mm and 1200mm above floor level.

Landscaping and biodiversity

In accordance with the requirements of policies QD15 and QD16 of the Local Plan the applicant has submitted an arboricultural report and a simple landscaping plan shown on the proposed site plan (drawing no. HH.17).

The Council's Arboricultural team is in agreement with the arboricultural report submitted and has provided additional comments in response to the objection commissioned by residents of Woodlands of their own landscape architect. The trees to be felled have been agreed with the Council's Arboriculturalist and the applicant proposes to comply with BS5837:2005 "Trees in Relation to Construction – Recommendations" in terms of protecting trees to be retained during construction. The proposed driveway runs through root protection areas of three trees (T5, T6 and T17) and a porous surfaced "no dig" driveway constructed using a cellular confinement system to bridge over the root area of the trees. During construction fencing to BS5837 is proposed to protect existing trees and prevent plant and materials straying onto protected root areas.

The proposed site plan shows some landscaping, including planting of birch trees along the rear boundary of the site. This would act as a border and screening of the development site and help to soften its appearance and merge with the character of the local area. The landscaping also includes wildflower grassland, shrubs and some water features. The precise details of the landscaping scheme, including species and projected heights of trees, can be controlled by planning condition.

A biodiversity checklist has been submitted in accordance with policy QD17 of the Local Plan and SPD11: Nature Conservation and Development. The checklist states the development would involve change to a “derelict area with exposed soil, brambles, piles of rubble etc. of more than 100 square metres” and “veteran trees on or overhanging the development site”. Veteran trees are trees with holes, cracks or cavities or with peeling bark, or with large dead branches or which support well established ivy growth. This has triggered a Extended Phase 1 Habitat Survey. The site currently supports typical suburban garden characteristics including hardstanding, lawn and borders containing ornamental garden flora and shrubs with some trees which are common habitats and of low ecological value. The report states there are no signs of protected species such as bats or badgers on the proposal site and there are no notable habitats which could potentially support protected species. One tree is found to have a medium potential for supporting roosting bats, and this is to remain in situ (a horse chestnut). One tree was found to have a low potential for supporting roosting bats (a mature sycamore), and this is proposed to be removed for health and safety reasons. No signs of badgers were found on the site and it is not considered suitable for amphibians or likely to support reptiles. Recommendations for enhancing the ecological value of the site include bird and/or bat boxes together with planting of native fruit trees and the applicant has stated in the design and access statement submitted that bat and bird boxes would be placed on the mature trees retained on site.

The Council Ecologist raises no objection to the report submitted but considers additional measures, such as Sedum roof and a small green wall could be required to further enhance the nature conservation value of the site and meet the requirements set out in SPD11: Nature Conservation and Development. The applicant is amenable to these suggestions and it is recommended a condition be imposed to that effect.

9 CONCLUSION

The proposal seeks to make more efficient and effective use of the site providing an additional dwellinghouse, and is considered acceptable in terms of design, materials, scale and siting, and would be appropriate to the size of the plot and wider context.

The dwelling would be of high quality contemporary design whilst taking into consideration the height and spatial characteristics of existing development. The appearance of the proposed dwelling together with its landscaped setting

would not be detrimental to visual amenity.

Due to the design, layout and position of the proposed house in relation to neighbouring properties, there would be no significant adverse impact on residential amenity by way of loss of privacy, overshadowing or an overbearing impact.

Although situated on Greenfield land, the scheme proposes a high level of sustainability, achieving a minimum of Code Level 5 of the Code for Sustainable Homes, together with measures to enhance the ecological value of the site with bat and bird boxes. A landscaping scheme incorporating new tree planting is proposed and considered to be acceptable.

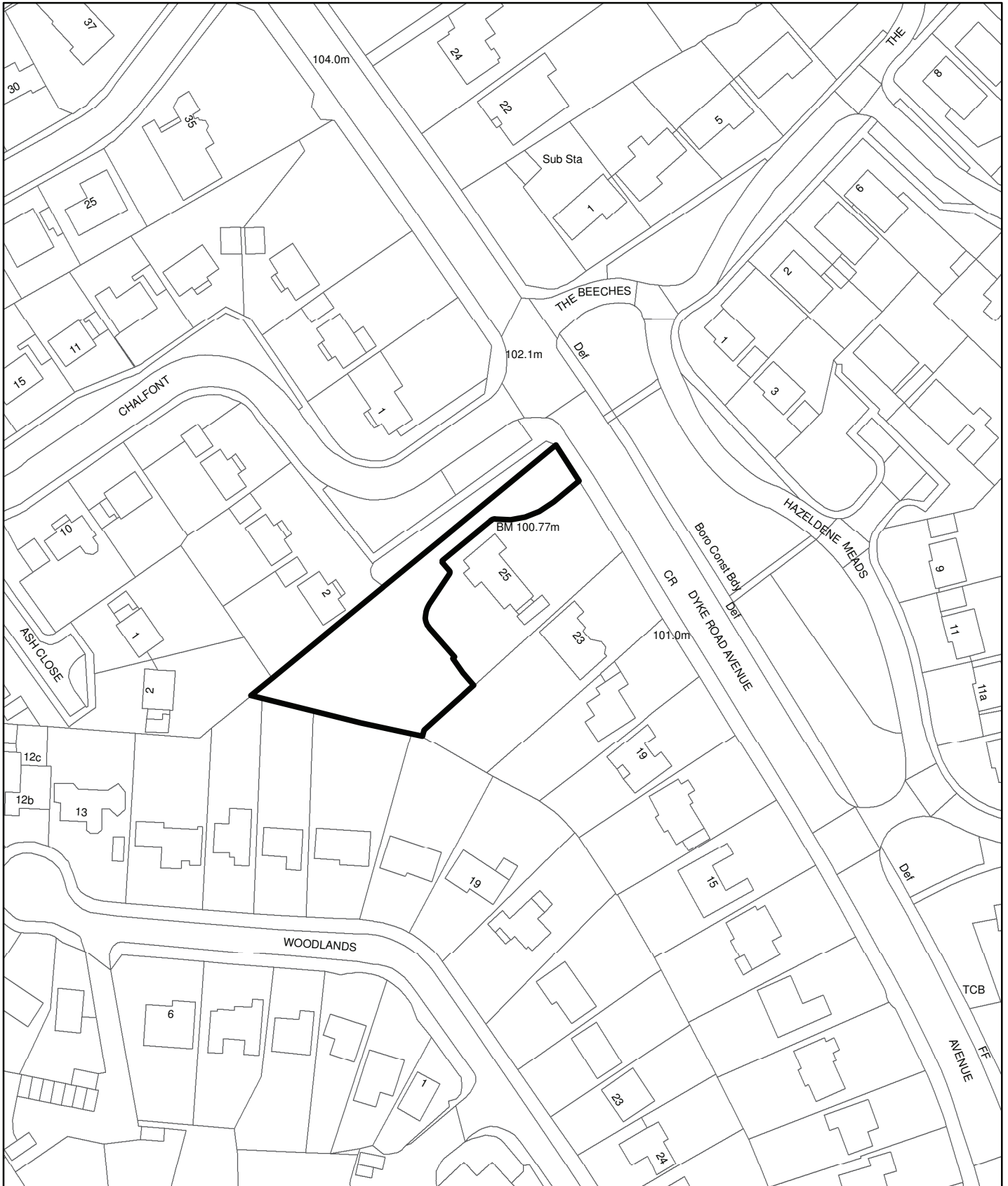
In addition the proposed development would be accessible and meet Lifetime Homes' standards and would also provide for the additional transport demand generated with secure and covered cycle storage and off-street parking.

For these reasons the proposal is considered to meet the requirements of the development plan and guidance listed in part 7 above and approval subject to conditions is recommended.

10 EQUALITIES IMPLICATIONS

The development shall be constructed to be accessible and meet Lifetime Homes' standards wherever practicable.

BH2011/03093 Land Rear of 25 Dyke Road Avenue, Hove.



Scale: 1:1,250



**Brighton & Hove
City Council**

PLANS LIST – 14 DECEMBER 2011

COUNCILLOR REPRESENTATION

From: Vanessa Brown
Sent: 11 November 2011 20:40
To: Christopher Wright
Subject:

Dear Mr Wright

Re: BH2011/03093 Land to the rear of Dyke Road Avenue

As a councillor for Hove Park Ward I am writing to object to this application for a back garden development. These developments are changing the distinctive character of those parts of the ward that are characterised by individually built houses in large gardens.

This development will have an adverse effect on the Barrowfield and Woodlands area of Hove which is characterised by being a semi rural area with many trees. This application is for a very large house which will be an overdevelopment of the site. It will have a particularly detrimental effect on the residents of 17 Woodlands who will suffer overlooking from the three large bedroom windows and a door at first floor level that will presumably open onto a balcony. The small amount of replacement planting would not form an effective screen. Windows in the proposal would also overlook the garden of 23 Dyke Road Avenue causing a loss of privacy.

The design of the house is also completely out of keeping with the surrounding neighbourhood.

If this application is not recommended for refusal I would like it to go before the planning committee.

Yours sincerely

Vanessa Brown

Cllr Vanessa Brown
Cabinet Member for Children and Young People
Member for Stanford Ward

<u>No:</u>	BH2011/03058	<u>Ward:</u>	QUEEN'S PARK
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	3 St James's Street, Brighton		
<u>Proposal:</u>	Application for variation of condition 2 of application BH2002/02810/FP (Change of use from A1 (shop) to A3 (restaurant) (resubmission following refusal BH2001/02411/FP) including restriction of opening hours to between 08.00 and 24.00 hours on any day) to allow opening hours between 07.00 and 05.00 the following day, Monday to Sunday.		
<u>Officer:</u>	Jonathan Puplett, tel: 292525	<u>Valid Date:</u>	18/10/2011
<u>Con Area:</u>	East Cliff	<u>Expiry Date:</u>	13 December 2011
<u>Listed Building Grade:</u>	Grade II		
<u>Agent:</u>	N/A		
<u>Applicant:</u>	Mrs Mumtaz Ahmed, 78 Wilfrid Road, Hove		

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 reason:

1. This area experiences high levels of crime, disorder, noise nuisance and anti-social behaviour causing disturbance to residents in the locality. The significant extension to the opening hours proposed would result in additional disturbance and increase the fear of crime at a late hour when nearby residents would normally be sleeping, to the detriment of neighbouring amenity. The proposal is therefore contrary to policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on the drawings and supporting documentation received on 24th October 2011, and the location plan received on 18th October 2011.

2 THE SITE

The application relates to a ground floor hot food takeaway use located on the northern side of St James's Street. The building is Grade II listed and located within the East Cliff Conservation Area. The basement of the building is used for ancillary storage in association with the ground floor use.

At the time of the case officer's site visit, the upper floors of the property appeared to be in residential use and unauthorised signage was in place at the premises. These matters have been passed to the Planning Investigations team.

3 RELEVANT HISTORY

Relating to the application property

BH2003/03208/FP: Sought consent to extend the opening hours of the premises to 03.00 on Saturdays and Sundays only. This application was refused in November 2003 for the following reasons:

'This area experiences high levels of crime, disorder, noise nuisance and anti-social behaviour, especially to the residents in the locality. The proposed extension to the opening hours would result in additional public disturbance and general noise disturbance, increasing the fear of crime, and therefore harming the amenities of the area. The proposal is therefore contrary to policies ENV4, ENV44 and ENV45 of the Brighton Borough Plan and SU9, SU10 and QD27 of the Brighton & Hove Local Plan Second Deposit Draft.'

BH2004/01108/F: Sought consent to extend the opening hours of the premises to 02.00 on Saturdays and Sundays only. This application was refused in July 2004 for the following reasons:

'The site lies within an area which experiences high levels of crime, disorder, and noise nuisance and anti-social behaviour. The proposed extension to the opening hours would result in additional public disturbance and general noise disturbance, enhancing the fear of crime, at a late hour when residents would normally be sleeping, which would harm their amenity. The proposal would therefore be contrary to policies ENV1, ENV4, ENV44 and ENV45 of the Brighton Borough Plan and SU9, SU10, and QD27 of the Brighton & Hove Local Plan Second Deposit Draft.'

Relating to 116 St. James's Street

BN87/2108/F: The hours of operation of the nearest hot food takeaway along St James's Street, No. 116, are restricted by Condition 2 which states that:

'The premises shall not be open for business except between the hours of 08.00 and 24.00 hours Monday to Saturdays and 09.00 and 23.00 Sundays or Bank Holidays.'

BN89/118/F: Sought consent to extend these opening hours to between 08.00 and 0300 Monday to Saturday and 09.00 and 01.00 on Sundays and Bank Holidays. This application was refused in February 1989.

BN90/01243/F: Sought consent to extend these opening hours to between 08.00 and 03.00 Monday to Saturday and 09.00 and 01.00 on Sundays and Bank Holidays. This application was refused in October 1991.

93/0862/FP: Sought consent to extend these opening hours to 03.00 seven days a week. An appeal was lodged against the non-determination of this application. The appeal was dismissed in March 1994.

96/0813/FP: Sought consent to extend these opening hours to 01.30 Monday to Wednesday night, 02.30 Thursday to Saturday night, midnight on Sunday night, and 02.30 on bank holidays. This application was refused in June 1997.

BH2001/01784/FP: Sought consent to extend these opening hours to 02.30 on Friday and Saturday night and midnight on Sunday night. This application was refused in November 2002, and dismissed on appeal in July 2003.

BH2005/01170/FPP: Sought consent to extend these opening hours to between 16.00 and 24.00 Sunday to Tuesday and 16.00 and 01.00

Wednesday to Saturday. This application was refused in June 2005 and dismissed on appeal in April 2006.

Other takeaway uses on St. James's Street

96/1226/FP: Condition 8 restricts the opening hours of **No. 102 St James's Street** (currently 'The Catch' Fish and Chips) to between the hours of 09.00 and 23.00 Mondays to Saturdays and between 09.00 and 22.30 on Sundays.

4 THE APPLICATION

Planning permission is sought for an extension of the hours of operation of the premises. The proposal would extend closing time at night from midnight to 05.00 and would also permit opening one hour earlier in the morning.

5 CONSULTATIONS

External

Neighbours: Letters have been received from occupiers of **Nos. 4 and 5 Charles Street, No. 6 Dolphin Mews, No. 2 St James's Place and Nos. 8 and 12 Princes Street** objecting to the proposed extension of operating hours of the following grounds:

- The proposed opening hours will encourage increased visits by pedestrians and those who come by car, causing increased noise and anti-social behaviour, disorder and public nuisance.
- The police have been called on a number of occasions to the premises because of fights.
- The streets off St. James's Street are overwhelmingly residential and are used by pedestrians travelling to and from St. James's Street. Such people in night time hours are often intoxicated, loud and socially unaware, and cause continual noise and stress for neighbouring residents, regularly interrupting neighbouring residents' sleep. The proposal will encourage more pedestrians to visit St. James's Street late into the night. Sample pages from a noise diary have been submitted.
- The proposal would provide a further late night venue in an area where disorder and public nuisance has reached problem levels.
- The proposal would increase congregation outside the premises, dispersal and related disorder, noise and general nuisance.
- If the application is granted it would 'open the flood gates' in respect of other applications.
- The proposal will cause increased litter.

A letter has been received from **The Kingscliffe Society** objecting to the proposed extension of operating hours of the following grounds:

- The premises are within the Council's Cumulative Impact Area. Whilst this designation relates to Licensing, if permission is granted, it would give rise to a potential negative cumulative impact.
- There is a long history of late night noise and disturbance in the locality of the site caused by patrons of public houses and clubs etc. journeying home through the area. These problems have been tackled over a number of years and current measures such as the Cumulative Impact Area

provide increased control. At present noise and disturbance tends to reduce as the night goes on. The proposal would encourage increased numbers of such people to the area at later times in the night.

- The approval of the current proposal would set a precedent for the approval of similar applications in relation to other hot food takeaways in the area.

Letters have been received from the occupiers of **No. 67 Embassy Court, Nos. 6 and 56 George Street, Flat 11 No. 7 Lower Rock Gardens, No. 57 Merton Court, No. 85 Leach Court, Park Street, No. 1 Steyne Mansions, Nos. 2, 2a, 4, 4a, Flat 2 No. 9, Nos. 14, 95A, 116, 119, Flat 1 and Flat 6 Nos. 124-125 St. James's Street** stating support for the proposed extension of operating hours of the following grounds:

- The business would provide a valuable service during late hours; there is a lack of late night takeaways in the area at present.
- If a late night takeaway is open it will stop people from congregating and wandering the streets searching for food (making noise).
- The proposal for a doorman / security guard would stop people congregating on the street and would increase the security of the area.
- The business does not sell alcohol.
- There are already late night premises in the area (pubs, clubs etc.).
- Sussex Grill is a small local business; the increased opening hours proposed will stop the business going bust.

Councillor Ben Duncan has written in support of the application.

Sussex Police Crime Prevention Design Adviser: The area is within the parameter of the late night economy of the city centre and as such it experiences large amounts of footfall, noise, litter and acts of anti-social behaviour. The level of crime and anti-social behaviour in the area is high when compared to the rest of England and Wales. It is the opinion of the Crime Prevention Design Adviser and the Neighbourhood Police Team that the introduction of the proposed hours would have a detrimental effect on residential amenity and that of the surrounding community. The application is not supported.

Internal

Environmental Health: There have been no noise complaints registered with the council arising from these premises. The proposed increased opening hours will encourage large numbers of lively and loud pedestrians to congregate in the area after leaving nearby late night venues to the detriment of the living conditions of residents during a noise sensitive part of the night. Refusal of planning permission is recommended.

Sustainable Transport: No objections.

6 MATERIAL CONSIDERATIONS

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that

“if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

The development plan is the Regional Spatial Strategy, The South East Plan (6 May 2009); East Sussex and Brighton & Hove Minerals Local Plan (1999); East Sussex and Brighton & Hove Waste Local Plan (February 2006); Brighton & Hove Local Plan (21 July 2005).

7 RELEVANT POLICIES & GUIDANCE

Planning Policy Statements (PPS):

PPS 4: Planning for Sustainable Economic Growth

PPS 6: Planning for Town Centres

Planning Policy Guidance Notes (PPG):

PPG 24: Planning and Noise

Brighton & Hove Local Plan:

TR1 Development and the demand for travel

TR7 Safe development

SU9 Pollution and nuisance control

SU10 Noise nuisance

QD27 Protection of Amenity

8 CONSIDERATIONS

The main considerations relate to the location of the property, use and impact on amenity.

The setting of the application site

St James's Street is a busy road with heavy pedestrian footfall and is used by vehicular traffic including buses. The street primarily comprises ground floor commercial uses with the upper floors of many buildings in residential use. Many smaller roads lead off St. James Street and are of primarily residential character.

There are a large number of residential properties located above commercial premises in the vicinity of the application property. St. James's Street is a relatively busy thoroughfare, particularly during daytime and evening hours. The site is not however in the city centre and a balance needs to be struck between the needs of businesses and the reasonable expectations of residents. In night time hours and the early morning, residents of the area could reasonably expect that noise caused by pedestrians, traffic and commercial activities would be significantly reduced in comparison to daytime/evening activity.

The hot food takeaway use

The premises are at present occupied by a business selling a range of ‘fast food.’ There are some tables within the premises to enable eating in and takeaway food is available. It appears that a delivery service is also offered.

At present the hours of operation of the premises are restricted by Condition 2 of application BH2002/02810/FP which states that:

‘The premises shall not be open or in use except between the hours of 0800 and 2400 each day.’

It should be noted that the nature of the hot food takeaway use may change in the future, as may the ownership of the premises. The planning considerations relate to the proposed increased opening hours in relation to a general hot food takeaway use as opposed to those of the current occupier of the premises.

The proposed increase in opening hours

The application seeks to extend the current authorised hours of operation to between 07.00 and 05.00 the next day. This would allow operation of the takeaway use for 22 out of 24 hours a day, seven days a week.

Consideration of the application must take a general view on whether a hot food takeaway, operating during the hours proposed, would be likely to cause harm to neighbouring amenity.

Policy Context

Planning Policy Guidance: Planning and Noise (PPG24) outlines national policy on noise issues. Paragraph 20 of Annex 3 states that:

‘Commercial developments such as fast food restaurants, discos, night clubs and public houses pose particular difficulties, not least because associated activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the attendant problems of noise that may be made by customers in the vicinity. The disturbance that can be caused by traffic and associated car parking should not be underestimated.’

Paragraph 12 of PPG24 states that the hours when people are normally sleeping are 23.00-07.00.

Policies SU9, SU10 and QD27 of the Brighton & Hove Plan seek to ensure that development does not cause noise nuisance and does not cause harm to neighbouring amenity.

Planning history regarding hot food takeaways along St. James’s Street

The planning history relating to the application site and to the two nearest hot food takeaways along St. James’s Street (nos. 102 and 116) is detailed in

Section 3 above.

At present the application premises cannot be open beyond midnight. No. 102 St. James's Street cannot be open beyond 23.00 Mondays to Saturdays or beyond 22.30 on Sundays. No. 116 St James Street cannot be open beyond midnight Mondays to Saturdays, or beyond 23.00 on Sundays.

On two previous occasions permission has been sought to extend the opening hours of the application property, firstly until 03.00 on Saturday and Sundays, and secondly until 02.00 on Saturdays and Sundays. Both applications were refused planning permission.

On six occasions permission has been sought to extend the opening hours of no. 116 St James's Street. All six applications were refused planning permission and three of these decisions were upheld on appeal.

It is clear that the Local Planning Authority has taken a very consistent stance in relation to the extension of opening hours of hot food takeaway establishments along St. James's Street. This view has been upheld at appeal on a number of occasions by the Planning Inspectorate. For example, the most recent appeal decision relating to no. 116 St James's Street (application ref. BH2005/01170/FP, which sought opening hours of between 16.00 and **24.00** Sunday to Tuesday and 16.00 and **01.00** Wednesday to Saturday.) includes the following comments from the Inspector:

'In my experience late night fast food uses such as in this case tend to attract significant levels of activity, including lively individuals who may have been clubbing and are likely to talk in loud tones. Vehicular activity is also likely with the revving of engines, doors slamming and in car stereos likely to be particularly disturbing late at night. I consider the noise and disturbance generated by groups of young people, some of whom may travel by car, would be particularly detrimental to the living conditions of the occupiers of nearby dwellings at the times proposed in this case. Although some of these effects may already occur to a degree, the proposed hours would mean that they would arise at a later more sensitive time.'

'The appellant has submitted evidence that a number of other nearby premises stay open later than proposed in this case. The concentration of such late night uses appears to be a factor in the anti-social behaviour that the Police have identified as taking place in St. James's Street. I have no doubt that extending the opening hours of Super Chef would encourage people to stay in the area longer and lead to additional potential for disorder and noise and disturbance over and above that which otherwise would occur. Indeed the Police Licensing Officer explains that the number of people in the street and the level of disorder have been

significantly higher on occasions when Super Chef has been open after midnight.'

The previous decisions of the Local Planning Authority and the Planning Inspectorate are material planning considerations and should be given significant weight in determining the current application. The opening hours proposed are far later than those which have previously been proposed and held to be unacceptable in relation to both the application premises and No. 116 St. James's Street.

There has been no significant change in national or local planning policy with regard to these issues. Indeed, this Council has implemented a Cumulative Impact Area with regard to the licensing regime since the most recent decision set out above. The site lies within the Cumulative Impact Area, illustrating the concerns of the licensing authority and Sussex Police about disturbance caused by licensed premises in St James's Street.

Neighbouring amenity

Whilst St James's Street is of a mixed commercial and residential character, the occupiers of residential units in the locality of the site should reasonably expect that noise and other disturbance caused by pedestrians, traffic and commercial activities in late night/early morning hours would be significantly reduced in comparison to daytime/evening activity noise levels. Noise and other disturbance late into the night can cause significant harm to residential amenity.

As the Inspector's comments above illustrate, there is an increased risk of disturbance, including crime and anti-social behaviour, from late night uses such as the one proposed. A hot food takeaway use is likely to cause noise and disturbance by way of customers arriving and departing from the premises and congregating outside the premises. These customers may also cause disturbance on their journeys to and from the premises therefore the harm caused may extend beyond the immediate vicinity of the application site. As there is no stopping or parking available for vehicles immediately in front of the application premises, the noise and disturbance which customers' vehicles and delivery vehicles arriving and departing would cause may therefore be dispersed beyond the immediate vicinity of the site. The operation of plant and machinery associated with the use, i.e. the mechanical ventilation system for the kitchen facilities may also cause noise audible from neighbouring residential properties.

At present, the restrictions on the hours of operation of the premises ensure that any noise and disturbance associated with the application premises ceases at midnight. The Environmental Health team has confirmed that there have been no recent noise complaints regarding the application premises.

It is considered that the proposal to increase the authorised opening hours of the premises would be likely to cause significantly increased harm to

neighbouring amenity. Sussex Police and Environmental Health have objected to the proposed increase in hours of operation on these grounds. The proposed opening hours would attract increased pedestrian and vehicular activity to the premises and the locality during the most noise sensitive period of the night and early morning.

It is acknowledged that there are a number of premises in the vicinity of the application site, such as public houses, that are open beyond the authorised hours of operation of the application premises. It is, however, the case that many of these uses are historic and not subject to planning conditions which restrict their hours of operation. Furthermore the potential impacts of a hot food takeaway use open late into the night would differ to those of other uses such as drinking establishments. The Local Planning Authority must consider proposals for late night opening hours as and when they arise, and judge each case on its own merits.

Such uses can have a cumulative impact on the character and noise levels of an area. Therefore the existence of a number of late night uses in the area does not necessarily mean that additional late night uses will not cause significantly increased harm. Sussex Police have confirmed that the St James's Street area already experiences large amounts of footfall, noise, litter and acts of anti-social behaviour, and the level of crime and anti-social behaviour in the area is high when compared to the rest of England and Wales. It is therefore clear that there is an existing problem in the area and the proposed increase in opening hours would be likely to significantly worsen the situation to the detriment of neighbouring amenity.

The applicant has outlined proposed measures to reduce crime and disorder. These include a security guard on the door, 24 hour mobile security services, increased CCTV, clearing up litter and providing free tap water on request. As detailed above however, the considerations of the application must take a general view regarding the potential impacts of any hot food take away open for the hours proposed, rather than giving significant weight to the nature of the current business occupying the premises. Whilst planning conditions can secure some measures to control the nature of a proposed use, the detailed operation of the use cannot however reasonably be controlled in this fashion. For example it would not be reasonable to require that a security guard be in situ at all times, and the behaviour of the staff of the premises, responsible or otherwise, is beyond the control of the planning system. Overall, the applicant's proposed measures, whilst beneficial to the operation of the use, would not address concerns about adverse impact upon residential amenity for the five hours between 24.00 and 05.00 each day.

Transport

The proposed increase in opening hours would be likely to cause increased pedestrian activity and additional vehicles visiting the site. Delivery vehicles associated with the hot food takeaway use would also be likely to arrive and depart during the increased hours. The potential for this increased activity to

cause additional disturbance is detailed above. With regard to highway safety and capacity, the proposed increased hours of use are unlikely to cause concern. It is noted that this section of St James's Street consists either of bus stops or double yellow lines. It therefore appears that those travelling to the premises to purchase food, and delivery drivers, would have to park elsewhere in the vicinity of the site.

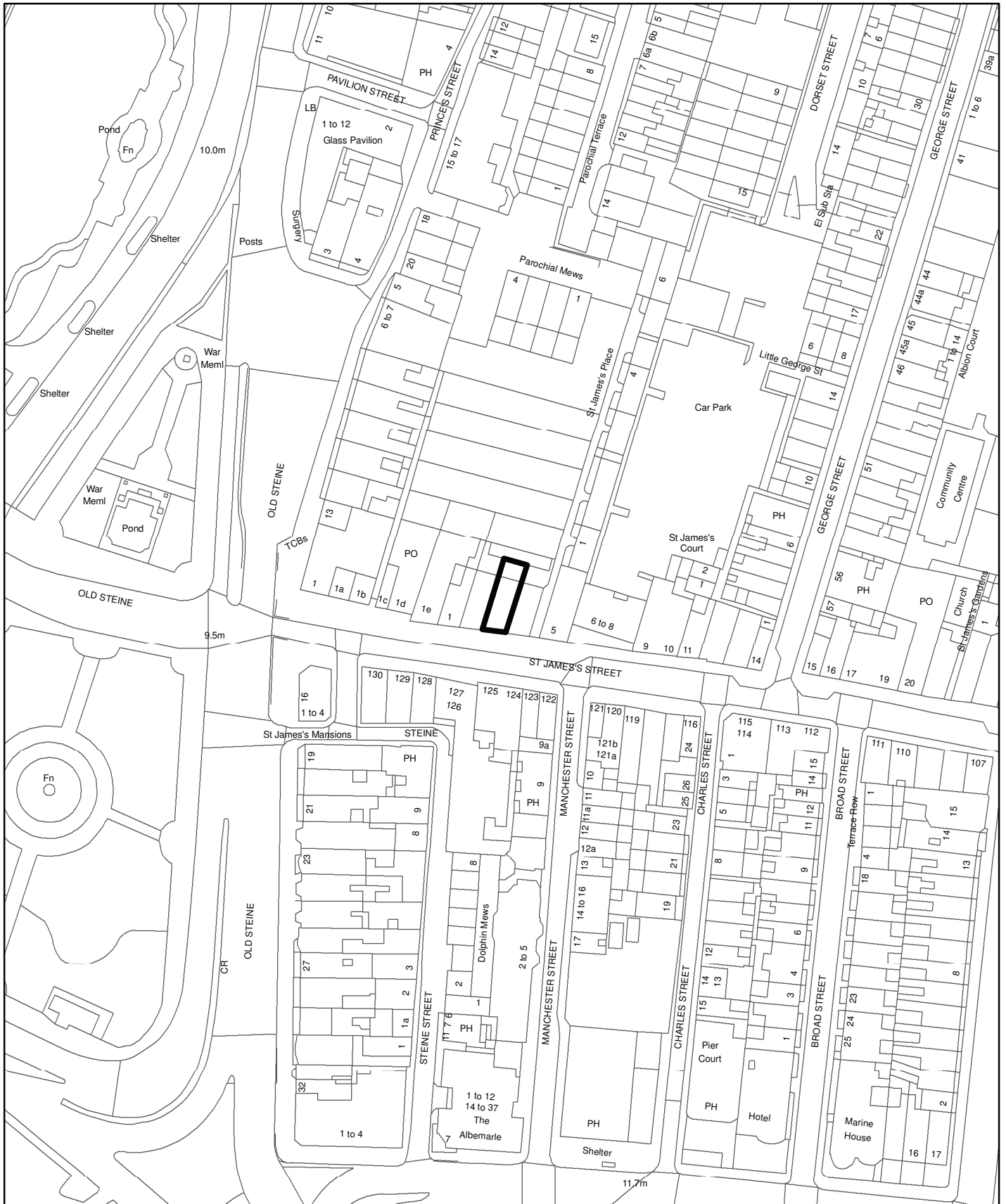
9 CONCLUSION

The restriction on opening hours currently in place ensures that the hot food takeaway use does not cause noise and disturbance late into the night and in the early hours of the morning. Extending these authorised hours of operation to the level proposed is wholly excessive and would attract increased pedestrian and vehicular activity causing significant noise, crime, disorder and anti-social behaviour. Consequently, the proposal would cause significant disturbance to residential amenity and refusal is recommended.

10 EQUALITIES IMPLICATIONS

None identified.

BH2011/03058 3 St James's Street , Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250