

**PLANS LIST  
ITEM B**

**Land at Brighton Marina comprising Outer  
Harbour West Quay and adjoining land**

**BH2012/04048  
Removal or variation of condition**

**24 APRIL 2013**

# BH2012/04048, Land at Brighton Marina comprising Outer Harbour West Quay & adjoining land, Brighton.



**Brighton & Hove  
City Council**



**Scale: 1:4,000**

<b><u>No:</u></b>	<b>BH2012/04048</b>	<b><u>Ward:</u></b>	<b>ROTTINGDEAN COASTAL</b>
<b><u>App Type:</u></b>	<b>Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Land at Brighton Marina comprising Outer Harbour West Quay and adjoining land</b>		
<b><u>Proposal:</u></b>	<b>Application for variation of condition 70 of application BH2006/01124 as amended by BH2012/00042 (Major mixed use development comprising new engineered basement structure to create platform on Spending Beach and West Quay, 853 residential units in 11 buildings ranging from 6-40 storeys, Class A, D1, D2 and B1 uses, Lifeboat Station, 496 parking spaces, alterations to pontoons and moorings, new bridges, informal and formal recreation space and alterations to access arrangements) to allow revisions to basement structures over Spending Beach and West Quay with associated landscaping and engineering works to accommodate revised car parking layout. Total number of car parking spaces and main access point to remain unchanged.</b>		
<b><u>Officer:</u></b>	<b>Maria Seale, tel: 292232</b>	<b><u>Valid Date:</u></b>	<b>14/01/2013</b>
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	<b>06/05/2013</b>
<b><u>Listed Building Grade:</u></b>			
<b><u>Agent:</u></b>	<b>DP9, 100 Pall Mall, London SW1Y 5NQ</b>		
<b><u>Applicant:</u></b>	<b>Brunswick Developments Group plc, c/o DP9, 100 Pall Mall, London</b>		

## **1 RECOMMENDATION**

- 1.1 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 be **MINDED TO GRANT** planning permission subject to a Deed of Variation to the original S106 Planning Obligation dated 4<sup>th</sup> July 2006 and Conditions and Informatives as set out in section 11.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The site is located within Brighton Marina and relates to the site where planning permission was approved in July 2006 for a mixed use development including 853 residential units.
- 2.2 The specific area which relates to the proposed car park to serve the development is above the Spending Beach (located to the south behind the David Lloyd centre, casino and bowlplex) and the area known the West Quay (south/south-east of The West Quay Public House). Currently part of the site accommodates the Brighton Marina Yacht Club within portacabins on the wave wall, the Royal National Lifeboat Institution building, car parking, moorings and

temporary structures providing a café, fishing tackle shop and organised boat hire.

### 3 RELEVANT HISTORY

**BH2006/01124:** planning permission granted 4/7/06 subject to a Section 106 agreement for major mixed use scheme including new structure over Spending Beach and West Quay and 853 residential units in 11 buildings ranging from 6-40 storeys. Retail, office and community uses were proposed. Three storeys of car parking (total of 491 car spaces plus 5 visitor spaces at deck level, 32 motorcycle spaces and 876 bicycle spaces) were proposed in an enclosed basement structure over the Spending Beach with a series of wave chambers beneath.

This permission is deemed to have lawfully commenced (confirmed in August 2008) and thus the permission remains 'live'. There is no statutory time limit to complete a commenced development.

**BH2006/04307:** planning permission granted 23/3/07 for an amendment to BH2006/01124 to reconfigure basement car parking. This sought to move the lower 2 storeys of basement car parking from on Spending Beach (behind David Lloyd, casino and bowlplex) to under the West Quay. The total number of car parking spaces in whole scheme remained same. The development essentially remained the same above basement level. This permission has now expired.

**BH2012/00042:** Approval of Non Material Amendment to BH2006/01124 to add condition listing the approved drawings of the existing 2006 permission (resulting in new condition no.70). Granted 10/2/12.

**BH2013/00799:** Non Material Amendment to BH2006/01124 to the proposals consented in respect to the RNLI station. Currently under consideration.

**Section 106 Deed of Variations** Since the original Section 106 legal agreement dated 4<sup>th</sup> July 2006, there have been a number of variations in order to assist the applicant with the delivery of this scheme.

### 4 THE APPLICATION

- 4.1 Planning permission is sought for a 'Minor Material Amendment' (under Section 73) to the original planning permission BH2006/01124. [note: See Section 6 for details of the background to Minor Material Amendments.]
- 4.2 This S73 application seeks to vary the additional condition (70) imposed by BH2012/00042, which lists the approved drawing numbers, of the original permission to allow substitute plans, and thus allow amendments to the scheme.

- 4.3 The amendments involve replacement of the wave wall and lower two levels of basement car parking under the main development platform with an open piled structure over the Spending Beach. One level of basement car parking would be retained. The car parking lost as a result would be relocated to 3 new basement levels underneath the West Quay and buildings F1 and F2. The total numbers of car parking and motorcycle parking would remain the same. The cycle parking spaces would increase slightly from 876 to 880. The overall size of basement structure would increase by 658sqm.
- 4.4 The main point of access into the site - the existing ramp south east of McDonalds – remains the same as in the original scheme. No changes to traffic management outside the site are proposed. Minor changes are proposed within the site to allow access into the new basement car park and egress from the Spending Beach car park.
- 4.5 This application proposes very similar amendments to the basement car parking layout as that approved under the now expired permission BH2006/04307. The differences are that floor space has increased (by 658sqm) as have number of cycle spaces.
- 4.6 The reasons for the amendments are to spread the parking more widely within the scheme to increase accessibility, to ensure some parking is provided in phase 1 (the West Quay) to serve the first occupiers as opposed to a temporary measure, to aid the marketability of those first flats (and thus aid viability of whole scheme), to ensure up front provision of RNLI spaces to serve the lifeboat station and because the open piled structure over the Spending Beach involves a less complex construction process.
- 4.7 An updated Environmental Statement has been provided with the application, under the Town & Country Planning (Environmental Impact Assessment) Regulations 2011. A revised Transport Assessment has been provided.

## 5 PUBLICITY & CONSULTATIONS

### External

- 5.1 **Neighbours:** Letters of representation have been received from Twelve (12) residents [**A2, C6, F8, F12, G17, M1 Marine Gate, Marine Gate Action Group c/o R5 Marine Gate, Roedean Residents Association, Proff John Watts of Space in Time Architects & Interior Designers (Concorde House 18 Margaret Street), 39 Britannia Court, Flat 6, 22 Lewes Crescent, Brighton Marina Residents Association**] objecting to the application for the following reasons:
- Application is not 'minor' or insignificant, should be a fresh major application subject to planning policy and legislation now in force and take account of South Downs National Park
  - Contradiction with emerging City Plan which states no development above cliff height
  - Contrary to planning policy incl PAN04

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- Limited or no public consultation, including at pre-application stage
- Limited and inadequate evaluation of impacts of development, especially transport. Should not rely on previous transport assessment. Absence of significant marine model testing.
- Inaccuracies in documentation. Invalidity - red line of application site exceeds applicant's ownership
- Adverse impact to traffic movement within and to and from Marina, incl to buses. Traffic would be re-routed causing chaos, ramp inadequate for new purpose. How will mitigation, incl new 7x bus service work?
- Will detrimentally alter character of Marina. Does not protect or enhance marine function. Loss of 80 berths, no indication where will be replaced
- Car park wall will be unsightly
- Adverse impact to ecology, incl marine ecology and starlings habitat, contrary to habitat regulations. Adverse impact to water quality through displacement of water
- Inadequate drainage. Risk to public health.
- Out of scale and will reduce sea and harbour views
- Increased noise and disturbance and overlooking. Construction will be decided by tides and not confined to normal working hours. CEMP needs to be strictly monitored.
- New car park layout inconvenient for disabled users
- Development does not adhere to sustainable principles or enhance ecology. No evidence of wind power. Design not eco-friendly as involves artificial ventilation and lighting also ventilation details vague. Car park environment will be unpleasant damp and dank needing continual pumping out
- Where are affordable housing units in scheme? Only 10% affordable in phase 1 and no social rented. Low cost housing will not contribute meaningfully
- Flood risk. No guarantees for on-going maintenance of Marina sea defences
- Token works carried out to implement original scheme, did not effectively commence the scheme
- Losing parking over Spending Beach reduces marketability and accessibility of flats above it
- Adverse microclimate. Adverse wind conditions. Overshadowing of Boardwalk
- Where is RNLI lifeboat to be moored? Does not appear to be pontoon for visitors to report to the harbourmaster. Where will RNLI station be relocated to?
- Use of Black Rock for construction area problematic
- Raises questions of safety and engineering. Unstable nature of cliffs. No significant testing taken place of effect of removing amkons or discarding the wave wall -piling could destabilize sea floor and western breakwater. Boat safety compromised. Fire risk as ceiling heights too low for emergency vehicles.
- Could set undesirable precedent to fill in whole of tidal harbour



- May require marine licence from Marine Management Organisation. Is not within Council's jurisdiction to determine application.
- Will be an underwater obstruction and hazard.
- Need for Full Council approval under 1968 Marina Act

- 5.2 **Ward Councillor Mary Mears:** Objection (see letter attached to end of report).
- 5.3 **Brighton Marina Yacht Club:** No response.
- 5.4 **Crown Estate:** Comment. The Crown Estate sold its interest in the seabed, site of the Marina, in 1972. Our adjoining interest is in the seabed outside of the breakwaters. The planning application appears to relate to works entirely within the marina and as such no comments are made.
- 5.5 **East Sussex County Council Archaeology:** Comment. The proposed development is of archaeological interest due to its location immediately adjacent to the site of a 16th century shipwreck. This wreck was designated as a protected wreck in 1983. The site lies in 5 to 10 metres of water just west of Brighton Marina West Breakwater. A number of pieces of rare ordnance are known to have been recovered from this site over the period from 1974 to 1985. These include two sixteenth-century wrought iron built stave guns, one with a stone cannon ball still in the barrel, a rare fifteenth-century bronze hackbut and a number of breech chambers. Remains of a timber-built vessel have also been located though it is also possible that some timbers were removed or overlain by the construction of the western breakwater. This is revealed only occasionally with sand movement. Distribution of these and other as yet unexplored contacts seem to lie in a line from south-west to north-east leading towards the marina wall. The full whereabouts of the numerous pieces of ordnance recovered from this site is presently unknown.
- 5.6 English Heritage has previously advised that the area of ground within the proposed development with the most potential for the survival of shipwreck remains is that below the spending beach. This advice was carried forward as planning condition 58 on the permission for BH2006/01124, requiring archaeological monitoring and recording.
- 5.7 In the light of the potential for loss of heritage assets on this site resulting from development the area affected by the proposals should be the subject of a programme of archaeological works secured by condition. This will enable any archaeological deposits and features, disturbed during the proposed works, to be adequately recorded. These recommendations are in line with the requirements given in the NPPE (the Government's planning policies for England).
- 5.8 **East Sussex Fire & Rescue Service:** Comment. When considering fire safety measures for all types of premises, including residential and domestic buildings, ESFRS would recommend the installation of sprinkler systems. With regards to access for firefighters into the subterranean car park, the fire service would not

enter these areas with an appliance but access via vertical shafts specially designed to protect them and provide a bridgehead for firefighting operations.

- 5.9 **English Heritage:** Comment. The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.
- 5.10 **Environment Agency:** No objections from a flood risk or groundwater protection perspective, however, it is recommended that the Council's own Coastal Protection Engineer is consulted. Issues of structural stability of coastal engineering works are outside the remit of the EA.
- 5.11 **Harbour Control Offices:** No response.
- 5.12 **HM Coastguard:** No response.
- 5.13 **Inspector of Seamarks:** No response.
- 5.14 **Kemp Town Society:** Objection. The amendments are not minor. Potential for harmful piecemeal development, no financial guarantees whole development will be carried out - with affordable housing or community benefits or architecturally significant tower. Limited S106 benefits. Future phases should be legally bound by Council to commence. First phase likely to be second homes, will not increase Marina population as desired. Will cause overshadowing. The traffic re-route needs to be assessed. The development contravenes BHCC City Plan by exceeding Cliff height. Adverse impact to setting of listed buildings and Kemp Town Conservation Area. Change of identity of applicant – how are they able to make variations to a permission granted to another company?
- 5.15 **Marine Management Organisation:** Comment. The applicant may require a licence under the Marine and Coastal Access Act (2009).
- 5.16 **Natural England:** No objection. Proposal is unlikely to have significantly different impacts on the natural environment than the original proposal.
- 5.17 **Royal Lifeboat National Lifeboat Institution:** No response.
- 5.18 **Secretary of State for Communities and Local Government:** No response.
- 5.19 **South Downs National Park Authority:** No objection given the minor nature of the proposed amendments.
- 5.20 **Southern Water:** No objection. The exact position of water mains, foul sewer and surface water sewer must be determined on site by the applicant before the layout of the proposed development is finalised.
- 5.21 **Sussex Police (Counter Terrorism Intelligence Unit):** Comment. Due to the prominence of the new residential units and the proximity to existing crowded



places e.g. West Quay pub, Seattle Hotel, etc, consideration should be given to consulting a structural engineer to assess progressive collapse in the event of a Vehicle Borne Improvised Explosive Device (VBIED) in the basement car parks.

- 5.22 **Sussex Police (Crime Prevention Design):** Comment. It is imperative that the car parking areas are controlled and an access control system applied to all pedestrian and vehicular entrances. Inward opening automatic gates or roller grilles must be located at the building line or at the top of the ramps to avoid the creation of a recess. They may be capable of being operated by the driver whilst sitting in the vehicle, the operation speed of the gates or shutters shall be as quick as is possible to avoid tailgating by other vehicles. It is recommended that automatic shutter are certified to LPS1175SR2 or WLC2BR2. Lighting in the car parks should meet BS5489-1:2003. Consideration should be given to applying a rendering or pigment to the walls material which will reduce the luminaries required to meet an acceptable lighting level. Any internal stairwell must be illuminated and where necessary have security measures such as security mirrors. CCTV within the lower levels should be considered.

**Internal:**

- 5.23 **Access Consultant:** Comment. In addition to the 300mm clear space required at the leading edge of doors on the 'pull' side, 200mm clearance should also be provided on the 'pull' side. That seems to be missing on some doors from the West Quay parking into the lift lobby (North & Central cores).
- 5.24 It is difficult to scale accurately at 1:500 but the spaces for disabled people appear to be the bare 4.8m long and do not have the dedicated 1.2m space at the rear of the vehicle as recommended by BS8300 (the required space is shown in the other section of the car park under the blocks along the spending beach) This omission is particularly relevant when there are so many such spaces facing each other across the car park which would cut into the vehicle access route. 2.6m clear headroom should be provided in the appropriate areas of the car parks to facilitate the use of vehicles fitted with wheelchair hoists. Without the clearance disabled users who need to load/unload wheelchairs into the boot (not all) will need to use the space behind the car and rely on other drivers to give way.
- 5.25 The preference is to have spaces for disabled people close to the cores, which would mean moving some of them to the other levels. On the other hand, it is also preferable to keep the travel distance in the case of fire as short as possible for disable people. On balance, it is probably sensible to have the dedicated spaces on the upper level as shown.
- 5.26 **City Clean:** Comment. Since the previous permission the way recycling is collected has changed to a two stream co-mingled collection, the same floor space would however still be as previously requested in the Planning Advice Note.
- 5.27 **City Neighbourhood Co-ordinator:** No response.

- 5.28 **City Parks:** No response.
- 5.29 **Coast Protection Engineer:** Comment. The development is wholly within the Marina itself so will have no impact on coastal processes past or around the Marina and so no impact on the City's coast defences.
- 5.30 Piling/Wave chamber – given the reputation of Prof. Allsop and HR Wallingford, his comments are accepted with respect to the suitability and effect of a piled structure as opposed to the 'wave chamber' previously proposed, all of which appears to be sound. Piling into chalk will have detrimental effects to surrounding structures. It is also understood that the applicant continues to use and rely on the expertise of HR Wallingford for this development. The applicant states that the issue of abrasion has been considered and some form of sacrificial collars will be needed in the abrasion zones of the piles within the Spending Beach area in order to prevent abrasion of the piles themselves. The detailed design of these will be undertaken prior to commencement of construction. This sounds satisfactory.
- 5.31 **Ecology:** No objection. The Conservation of Species and Habitats Regulations 2010 do not offer any protection to starling habitat. Similarly the Offshore Marine Conservation (Natural Habitats & c.) Regulations 2007 (amended 2012) are not relevant to this application.
- 5.32 **Economic Development:** Comment. The application for variation of Condition 70 if approved will enable the implementation of the first phase of the comprehensive redevelopment scheme which is welcomed and supported.
- 5.33 **Environmental Health:** Comment.  
Noise & Vibration: It is confirmed that the revised EIA includes the relevant updated legislation and the content is satisfactory. Tight control of construction activities can be achieved through a Construction Environmental Management Plan (CEMP). In addition a section 61 consent issued under the Control of Pollution Act 1974 can be used. These can be secured through the s106 process. Having revisited the conditions applied to the decision notice for 2006/01124, it is considered that conditions 34, 35, 36, 37, 39, as well as 15, 16, 17, 18, 28 and 29 are still relevant and that there has not been any significant changes that would affect the rationale behind the conditions. Approval is recommended subject to conditions.
- 5.34 Air Quality: Chapter 8 of the Environmental Statement includes a detailed addition to assess the development's impact on local air quality. The conclusions of the Environmental Statement are agreed with. The city is currently updating its air quality action plan and Sussex guidance but this will not change the conclusions of the air quality chapter in the Environmental Statement.
- 5.35 **Planning Policy:** Comment. The application should be determined in accordance with the Development Plan.

- 5.36 **Sustainability:** The amendment sought to the development is for a revised basement car park. Whilst this in its own right raises limited sustainability issues, it is understood that all original conditions relating to the whole development need to be re-imposed and updated where necessary, including those relating to sustainability (which seek various measures and minimum standards). The conditions are addressed in the submitted Environmental Statement.
- 5.37 It is understood that it is not possible to make the requirements of original conditions more onerous, other than where they relate to the change specifically being sought – i.e. the car park. In addition, it is a material consideration that the amendment now sought is to an already implemented ‘live’ permission. If the conditions were able to be judged against current planning policy and standards, some concerns would be raised with the applicant’s case as put forward in the Environmental Statement and further information and justification would be required. Ideally, for such an important major development, improved up to date standards should nevertheless be pursued if possible, given the significant progression in sustainability since 2006. The following comments are on this basis. To summarise:
- an unusual argument is presented on the equivalence between Ecohomes and Code for Sustainable Homes standards;
  - renewables have been reduced within the scheme.
- 5.38 There has been a change in national assessment standards since the 2006 permission and Ecohomes has been replaced by the Code for Sustainable Homes (CSH). The development was conditioned in application BH2006/01124 to achieve ECOHOMES ‘excellent’. CSH4 is generally considered in construction and planning sectors as equivalent to Ecohomes ‘excellent’. The applicant seeks to make the case that CSH3 should be accepted and conditioned as there is an improvement to the scheme since the original application. CSH3 standard has proposed by the applicant because of sited financial viability issues with targeting CSH4, following the applicant’s estimate in correspondence that: *‘the cost of moving to Code 4 across the whole of phase 1 has cost implications in excess of £600k’*. It is considered that CSH4 (or very close to) should be pursued if possible as the planning authority would normally view CSH3 as a reduction in standards. CSH3 is widely viewed as equivalent to Ecohomes ‘very good’. Current policy SPD08 on sustainability allows for a flexible approach to sustainability standards where viability or other specific issues prevent standards being met on site. This approach is established practice at Brighton & Hove. The ES does not examine viability in relation to the targeted CSH standard. As part of a flexible approach the applicant was requested to investigate delivering a % of units at CSH4 if 100% is not viable. There has been a positive response from Environmental Consultants Whitecode (27.03.13) confirming that *‘11 wheelchair units will be designed, installed and certified to meet Code for Sustainable Homes Level 4. The remainder of the units on Phase 1 will achieve Code for Sustainable Homes Level 3’*. This revision is strongly welcomed. It is recommended that the applicant continue to pursue CSH4 for further units if this is possible during

Phase 1 construction, and for future phases. Given the viability issues with the scheme, this is an acceptable approach and the achievement of minimum CSH4 should be conditioned in the 11 wheelchair units (of phase 1) as a minimum.

- 5.39 Furthermore whilst the previous ES referred to renewable technologies being included in the scheme including wind, solar and tidal; these were all removed from the proposals, until recent correspondence confirmed that the inclusion of street lighting powered by renewable energy generated from solar photovoltaics would be maintained. Whilst Local Plan Policy SU2 is being addressed less comprehensively, the inclusion of some renewable technology is welcomed though the energy contribution this will make is minimal. There is limited discussion of this and condition 65 in the Environmental Statement. The continued exploration of renewables for future phases is recommended and this should be secured by a condition requesting further feasibility/viability studies for future phases assessing long term financial viability covering life time benefits over a 25 year period as a minimum.
- 5.40 In addition to this what was a district wide sustainable energy solution was reduced in the Environmental Statement to a series of discrete energy systems for each block, losing the potential efficiency that such a scheme could deliver. Following correspondence with the applicant, the district wide solution has now been reinstated:  
*'A single energy centre will be located in phase 1 to serve the site wide development. This will contain boilers and CHP engine(s) with thermal store(s). The plant installed will be phased to match the site load for optimum running efficiency'.*  
This is strongly welcomed and the district wide solution should be conditioned.
- 5.41 **Sustainable Transport:** Comment.  
Summary: The application includes work which successfully demonstrates that the previous consents on this site remain appropriate once relevant changes since the consents were granted have been considered.
- 5.42 General: The main principles of this application have been accepted in approvals for applications BH2006/1124 and BH2006/4307 and in assessing the current application it is only necessary to confirm or otherwise that policies and/or local conditions have not changed in such a way as to make the application unacceptable. The local plan policies and parking standards which are the basis of evaluation have not altered since the previous consent. In pre-application discussions a number of potential relevant changes have been identified and the applicants have addressed these as part of the Environmental Statement and by a Supplementary TA.
- 5.43 Expected traffic impact: The Supplementary TA makes the point that changes since the 2006 consent would lead to a reduction in the estimated future traffic impact of the development. These are firstly the fact that the DfT estimates of general traffic growth in the TEMPRO forecasts have been reduced and

secondly that the B&H Annual Monitoring Report 2011 documents that there has been little change in traffic levels in recent years. This acceptably demonstrates that the traffic impact estimates at the time of the previous consent are robust and that the impact remains acceptable.

- 5.44 Expected bus service impact: Since the 2006 consent growth in bus patronage has been higher than expected and this requires examination of the feasibility of potential continuing increases in provision of bus services to the Marina as envisaged as part of the 2006 consent. The Supplementary TA considers this by reporting new counts of passengers boarding at bus stops and estimating likely growth from developments on a pro-rata basis. This acceptably indicates that the estimated increase can be accommodated by existing bus services. This analysis does not allow for further modal shift or bus service congestion in Churchill Square but the 2006 consent includes a flexible process of travel planning and sustainable modes contributions to react to such issues as they arise. It would be unreasonable to require this developer to completely address the wider potential of bus congestion. The 2006 consent with accompanying transport provision therefore remains appropriate.
- 5.45 Other points: For both the traffic and bus impact analysis reported above the estimated cumulative impact of the current application together with the Inner Harbour and the 3Ts/ RSCH proposals have been considered and the conclusions reported above remain valid. The Supplementary TA also confirms that the RNLIs are happy with the parking which will be available to them provided that delivery access remains unrestricted, which is in the power of the applicants to guarantee. The revised parking schedule in Appendix F of the Supplementary TA does not identify separate car club parking provision and this aspect of the 2006 consent should be retained in any new consent, as should all the transport provisions agreed at that time. These provisions can also accommodate the failure to progress the CTS as expected in 2006.
- 5.46 Approval is recommended while retaining the transport related S106 and conditions attached to the previous consents on the site.

## **6 MATERIAL CONSIDERATIONS**

- 6.1 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.”
- 6.2 The development plan is:
- Brighton & Hove Local Plan 2005 (saved policies post 2007);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
  - East Sussex and Brighton & Hove Minerals Local Plan (November 1999);  
Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;



- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

- 6.3 The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is a material consideration which applies with immediate effect.
- 6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.
- 6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## 7 RELEVANT POLICIES & GUIDANCE

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR2	Public Transport accessibility and parking
TR4	Travel plans
TR5	Sustainable transport corridors and bus priority routes
TR7	Safe development
TR8	Pedestrian routes
TR13	Pedestrian network
TR14	Cycle access and parking
TR15	Cycle network
TR18	Parking for people with a mobility related difficulty
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU3	Water resources and their quality
SU4	Surface water run-off and flood risk
SU5	Surface water and foul sewage disposal infrastructure
SU6	Coastal defences
SU7	Development within the coastal zone
SU8	Unstable land
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



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QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD4	Design – strategic impact
QD5	Design – street frontages
QD6	Public art
QD7	Crime prevention through environmental design
QD10	Shopfronts
QD15	Landscape design
QD17	Protection and integration of nature conservation features
QD18	Species protection
QD25	External lighting
QD27	Protection of Amenity
QD28	Planning obligations
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
HO19	New community facilities
HO20	Retention of community facilities
HO21	Provision of community facilities in residential and mixed use schemes
EM4	New business uses on unidentified sites
SR1	New retail development within or on the edge of existing defined shopping centres
SR12	Large Use class A3 (food and drink) venues and Use Class A4 (pubs and clubs)
SR17	Smaller scale sporting and recreation facilities
SR18	Seafront recreation
SR20	Protection of public and private recreation space
SR21	Loss of indoor recreation facilities
NC4	Sites of Nature Conservation Importance (SNCI's) and Regionally Important Geological Sites (RIGS)
NC8	Setting of the South Downs Area of Outstanding Natural Beauty
HE3	Development affecting setting of a listed building
HE6	Development within or affecting the setting of a conservation area
HE11	Historic parks and gardens
HE12	Scheduled ancient monuments and other important archaeological sites

### Supplementary Planning Guidance:

SPGBH4	Parking Standards
SPGBH5:	Black Rock development brief
SPGBH15	Tall Buildings
SPGBH20	Brighton Marina Vols 1&2

Supplementary Planning Documents:

SPD02	Shop Front Design
SPD03	Construction & Demolition Waste
SPD08	Sustainable Building Design
SPD11	Nature Conservation & Development

Planning Advisory Notes:

PAN04	Brighton Marina Masterplan
PAN05	Design guidance for the storage and collection of recyclable materials and waste

Brighton & Hove City Plan Part One (submission document)

SS1	Presumption in favour of sustainable development
DA2	Brighton Marina, Gas Works and Black Rock Area
SA1	The Seafront
SA6	Sustainable neighbourhoods
CP1	Housing delivery
CP4	Retail provision
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Managing flood risk
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP15	Heritage
CP16	Open space
CP17	Sport provision
CP18	Healthy city
CP19	Housing mix
CP20	Affordable housing

## **8 CONSIDERATIONS & ASSESSMENT**

### **The application process:**

- 8.1 Concerns have been expressed by some objectors as to why the application has been described as 'minor' and not a major development in its own right. This section outlines the application process.
- 8.2 This application has been submitted under Section 73 of the Town and Country Planning Act 1990 as a 'minor material amendment' to the planning permission granted on 4 July 2006 (BH2006/01124), incorporating the non-material amendment approved on 10 February 2012 (BH2012/00042). The applicant wishes to substitute the plans originally approved, for new plans showing a revised basement car park layout.

- 8.3 Guidance published by the Department for Communities and Local Government in October 2010 entitled '*Greater flexibility for planning permissions*' was introduced in order to make it easier for developers and local planning authorities to facilitate development which has the benefit of planning permission, during the economic downturn. The Guidance implements the recommendations of the Killian Pretty Review which advised the government that they should take steps to allow a more proportionate approach to minor material changes in development proposals after permission is granted.
- 8.4 Para 62 of the Guidance defines a 'minor material amendment' as "one whose scale and nature results in a development which is not substantially different from the one which has been approved". The applicant has submitted the current application in the context of the major mixed-use development as a whole, on the basis it involves re-arrangement of basement car parking, resulting in no change to the main access point or parking numbers or to the buildings above, and is thus 'minor' as it does not alter the scale or nature of the development. It is considered that a submission under S73 is appropriate in this case.
- 8.5 The Guidance confirms that S73 applications for minor material amendments should be determined in accordance with S38 (6) of the Planning and Compulsory Purchase Act 2004, but local planning authorities should, in making their decisions, focus their attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought.
- 8.6 Para 71 of the Guidance advises that the development which the application seeks to amend will, by definition, have been judged to be acceptable in principle at an earlier date. The assessment of the current application therefore focuses on the amended car park only. Objectors have raised various concerns about the principle of development and the original scheme, which are not relevant to this particular current application.
- 8.7 The Council advised the applicant that an updated Environmental Statement (ES) would be required under the EIA Regulations, in a Screening Opinion. The ES has been duly refreshed and some chapters have been replaced completely. The main findings of the ES, and consultee comments received thereon, are summarised and discussed in the following sections below.
- Planning Policy:**
- 8.8 The Planning Policy Team comment that the proposal should be determined in accordance with the Development Plan.
- 8.9 As can be seen from the comments above the principle of the overall major mixed use development cannot be revisited. In addition, it is of significant weight that the original permission is extant and has commenced.

- 8.10 The approach therefore is a narrow consideration of whether these amendments are firstly acceptable in their scale and nature given the context of the commenced permission, and secondly, whether this amendment of itself is acceptable within the context of any policy changes or other material considerations.
- 8.11 It is not considered that there have been significant changes in either material or local policy that affect the consideration of this proposal. The NPPF has been published by Government and the Regional Spatial Strategy has been withdrawn and we have an emergency strategic City Plan. Additional Supplementary Planning Guidance has been published, such as SPD08 which is relevant to the proposal.
- 8.12 SPG20 remains in place, which seeks to assist the identified need for regeneration of the Marina, as does Planning Advice Note (PAN 04) published in March 2008. This Note was prepared in the context of an extant permission at the Outer Harbour site. The proposed revised car parks help the viability of Phase 1 and thus the deliverability of the overall scheme, which accords with the aims of these documents and is welcomed. Phase 1 involves the Boardwalk being extended to go along the length of the West Quay, past the West Quay pub and down to beyond the RNLI Station in front of the new restaurants. This will help breathe new life into the Marina and will have a beneficial effect on the 'offer' and will improve the Marina as a tourist destination. Community uses such as a new RNLI station, yacht club, harbour control offices and doctors surgery are provided within Phase 1, which are welcomed as well as 192 residential units, including 20 affordable. Concerns about piecemeal development are acknowledged, but there is no evidence that only phase I will come forward and this current application will give more certainty that later phases will follow.
- 8.13 Also of some weight is the fact an almost identical scheme for a car park amendment was given permission in 2007 (although now lapsed).
- 8.14 The relevant Local Plan policies are discussed under the separate headings below.

**Sustainable Transport including highway safety and accessibility:**

- 8.15 Local Plan transport policies and TR1 in particular seek to ensure development meet the demand they create for travel and promote sustainable modes. Highway safety should not be compromised. The application includes an updated Transport Assessment and chapter within the ES. These have been updated to include current bus patronage figures, failure to programme RTS, bus congestion in city centre, cumulative impact with other developments and RNLI confirmation of acceptance of proposals. It concludes that the transport aspect of the development would have limited impact beyond those of the original application given the parking numbers remain the same and that appropriate mitigation/promotion measures are in place.

- 8.16 The Council's Transport Planner considers the submitted transport assessment to be robust, despite concerns of residents in this regard. He concludes that the application includes work which successfully demonstrates that the previous consents on this site remain appropriate once relevant changes since the consents were granted have been considered. The main principles of the application have already been accepted – including the number of parking spaces and access arrangements. The number of parking spaces remains the same and local plan policies and parking standards have not altered since 2006. TEMPRO forecasts actually indicate a reduction in estimated future traffic to the development. The impact to the bus service would be acceptable. The Transport Planner recommends the application be approved subject to the retention of transport related S106 and conditions attached to the original consent. On this basis it is considered the proposal complies with Local Plan policy and would have an acceptable impact.
- 8.17 Some of the reasons for the amendments are to spread the parking more widely within the scheme to increase accessibility and to ensure some parking is provided in phase 1 (the West Quay) to serve the first occupiers as opposed to a temporary measure, which are both welcomed,
- 8.18 The proposal includes the same amount of disabled parking spaces as originally approved. The comments of the Access Officer are noted and it is considered that the proposal should improve accessibility of the development as parking would be more spread out as would disabled spaces. Headroom would be improved for disabled users to achieve 2.6 metres. The layout would meet disabled standards and whilst a clear 1.2m space cannot be achieved behind all disabled spaces, on balance, this is considered acceptable. It would affect a minority of disabled users and access is still possible – it is not unreasonable to expect other car park users to wait temporarily whilst a small minority of users access their cars.

**Revised external appearance of basement car parks:**

- 8.19 Local Plan policies QD1, QD2, QD3 and QD4 seek to ensure developments incorporate quality design, which respect their surroundings. A Design and Access Statement has been submitted.
- 8.20 With regard to the proposed finish material of the new basements, this is not specified within the application as this was to be left to condition, but it is anticipated that it is likely to be concrete, which is characteristic of the Marina. The visual impact of one level of basement car park over the Spending Beach will be less than originally approved with the three basement levels and wave chambers. The proposed basement car park under the West Quay would have limited impact being below 'ground' level and would have an acceptable appearance. The walled enclosure now proposed would have similar appearance to existing marina enclosures. The applicant states that the current wall of the West Quay is a combination of sheet piles and concrete, which in two places has rather unsightly sheet pile dams where the sheet piling goes to the top of the quay. The new car park should effectively move this structure

33m east and improve it substantially in appearance. Submitted drawings 4191PL0130 and 4191PL0131 show the mean low tide as -2.800 AOD. The car park will go down to the sea bed either to silt or chalk level and as it would be partially submerged, this would limit its impact.

- 8.21 Very limited changes are proposed at promenade level. The main ones are introduction of a ventilation shafts and car park grilles. These are considered acceptable in principle and could provide opportunities to incorporate an artistic element and/or public seating. Precise details will be secured by condition.
- 8.22 As the proposal is for the revised basement car park, it is considered that there would be no impact to the setting of the South Downs National Park, which accord with policy NC8. The South Downs National Park Authority confirm they have no comments to make on the current application.
- 8.23 Concerns have been expressed regarding the development approved under the original permission, which include buildings which breach cliff height and a 40-storey tower. These are not relevant to the car park change now sought and the permission has been implemented so can be developed.

**Coastal protection, engineering, hydrodynamics, navigation/berths and safety matters:**

- 8.24 As the site is located in a coastal area, Local Plan policies SU6 (coastal defences), SU7 (development within the coastal zone) and SU8 (unstable land) are relevant. These seek to ensure development takes account of the particular conditions experienced in such areas and can be developed and used safely. The original scheme involved a basement structure (albeit with wave chambers over the Spending Beach), which was assessed and deemed acceptable. The ES has been updated to include the new cofferdam structure now proposed. The ES states that the implications of the revised structure for the deck have been undertaken on the basis of the previous assessment for this form of structure. Model results show that for key wave conditions, there would be no increases in wave heights within the Outer or Inner harbours. Tests were carried out to examine wave resonance effects, which were shown not to be significant. The ES concludes that it is not expected that the proposals would lead to significantly worse wave conditions in the Marina. It also concludes that the implications of the proposals for coastal defences are not expected to be significant, since the disturbance of the current hydraulic behaviour of the Outer Harbour is expected to be acceptable and insignificant beyond the breakwaters.
- 8.25 The concerns of some objectors are noted, however, the Council's Coast Protection Engineer considers the methodology and conclusions of the ES to be sound. He confirms the development is wholly within the Marina itself so will have no impact on coastal processes past or around the Marina and so no impact on the City's coast defences. The Coast Protection Engineer considers the submission to be sound and accepted with respect to the suitability and effect of a piled structure as opposed to the 'wave chamber' previously proposed. The proposed open piled structure over Spending Beach involves a



less complex construction process, which is welcomed. Concerns have been expressed regarding the proposed piling into chalk and the potential for breaking the seabed or destabilizing other structures such as the breakwaters. The Council's Coast Protection Engineer confirms piling into chalk would not have detrimental effects. The applicant states that the issue of abrasion has been considered and he is satisfied on this point. The details of this (and the precise detail of the construction generally) will be undertaken prior to commencement of construction and is subject to condition. In addition, it should be noted that issues regarding stability of the development are covered separate to the planning process under Building Regulations and/or via a Marine Licence.

- 8.26 The ES demonstrates that there would be no significant adverse effects on water quality in the Outer Harbour or outside the Marina during construction, which accords with Local Plan policy SU3. Mitigation would ensure spillages would not occur, and will be secured by condition/obligation. Southern Water and the Environment Agency raise no concerns in this regard.
- 8.27 The proposal will not provide any more of a 'barrier' to navigation than the West Quay structure originally approved. The area below the West Quay was not to be used for navigation, despite not having a basement. Any alterations in the Harbour entrance have already been approved in the previous planning application. The applicant states that the Marina operators are satisfied that they can operate the harbour normally during construction. Some objectors have expressed concern regarding the relocation of existing berths. The proposed revised basement car park has no effect on the number of berths which will be relocated, as the principle of relocating a number of berths has already been accepted and approved. Clause 6 of the S106 requires that all displaced berths (62 not 80 as has been suggested) shall be replaced elsewhere within the Marina and details of this need to be agreed before any berths are removed. The Marina is understood to have spare capacity to accommodate this. The applicant has confirmed that they intend to relocate the fishing boats and tourist boats for hire to be closer to the restaurants adjacent to the Boardwalk.
- 8.28 Whilst no consultation response from the RNLI has been received regarding the application, the revised Transport Assessment includes an email from the RNLI stating they are happy with the proposed revised car park layout and thus this is considered satisfactory to ensure safety is not compromised. Parking would be provided up front which is an improvement. Some objectors express concern regarding relocation of the RNLI lifeboat station. This is not relevant to the current application for the revised car park. The original S106 states that details of how and where the RNLI lifeboat station will be temporarily located during construction (including any associated parking) need to be submitted to and agreed by the Council prior to removal of the existing station. There will be no break in service. The new development incorporates a permanent and enhanced replacement.

8.29 Policy QD7 seeks crime prevention through design as crime is a material planning consideration. The revised car park is not considered to pose a particular crime threat but a condition is recommended to ensure the scheme achieves a Secured By Design standard, to ensure the aims of the policy are met. Sussex Police raise no objection and suggest a number of measures be incorporated to prevent crime and these will be conditioned. In particular access to the car parks will be controlled.

8.30 Fire safety is not a material planning consideration as this is covered by Building Regulations. The Fire Service has however been consulted and they do not raise an objection. They do suggest measures to be included within the scheme such as sprinklers and access shafts, which should not unduly impact the layout proposed, and these are included as an informative.

**Impact on Amenity:**

8.31 Local Plan policies QD27, SU9, SU10 and SU11 seek to protect the amenity of existing nearby occupiers and users and prospective occupiers of the development. Some concerns have been expressed regarding the impact of the development during construction in particular. The construction methodology is outlined within the ES and consultees have not raised objections to it in principle. The Environmental Health team confirm that the revised ES includes the relevant updated legislation and the content is satisfactory.

8.32 It is considered that conditions requiring mitigation measures will adequately prevent adverse impacts both during construction and for the finished development. In particular, a revised Construction Environment Management Plan (CEMP) will be required by the S106 legal agreement to cover the revised basement structures. Despite some concern expressed by objectors about potential need for working along tide times, and not standard hours, this is not stated as a requirement within the ES or agreed with by consultees, including the Council's Coast Protection Engineer. In any event, the Council's Environmental Health team confirm that the CEMP will be able to tightly control activities. In addition a section 61 consent issued under the Control of Pollution Act 1974 can be used. The CEMP includes hours of working, control of noise, dust and vehicular routing and where departures are required, prior identification and notification of local residents will be required. Use of Black Rock for construction purposes is considered appropriate in principle and will be controlled by the Council as landowner.

8.33 A new condition relating to details of the noise and odour control of the ventilation shafts now proposed to ensure there is no adverse impact.

8.34 Some objectors have raised concerns about the impacts with regard to microclimate, in particular wind and overshadowing, however, they are not considered relevant to this particular application for the basement car park. The conditions above ground level do not alter with the current proposal, and were considered and deemed acceptable at the time of the original application in 2006.

- 8.35 The amenity of the car park environment as such is not strictly a planning matter. Whilst natural ventilation is the ideal, basement car parks requiring mechanical ventilation are common place and Building Regulations will control the level and type of ventilation required.

**Sustainability:**

- 8.36 Local Plan policy SU2 and SPD08 seek to ensure development is efficient in the use of energy water and materials. The ES contains an updated chapter in this regard. The Council's Sustainability Officer confirms that the revised car park does not in its own right raise significant sustainability issues.
- 8.37 Given that this is an application under S73 it does, however, mean that all conditions imposed on the original permission should be revisited to ensure they are workable and up to date – which has further implications for sustainability. The main area which has changed since the original permission is that EcoHomes standards no longer exist as there is now (the more onerous) Code for Sustainable Homes standard. This means that several conditions of the original permission are no longer relevant. The need for changes to the sustainability strategy are discussed in the ES. This concludes the development will meet an appropriate sustainability standard and states that Code Level 3 is equivalent to EcoHomes 'excellent' (which was previously achieved) and that renewables are no longer required (previously solar, wind and tidal energy was proposed).
- 8.38 The Council's Sustainability Officer does not disagree with the broad assessment in the ES but does raise some issues with it (see comments in section 5) and suggests that improved standards should be sought. It is considered that this is reasonable given this is such a major scheme and that 6 years have passed since it was first granted and standards have moved on significantly. As a result of negotiation it is considered that the overall sustainability offer has improved to an acceptable position. On balance it is considered that as Code Level 3 will be achieved (with Code level 4 for wheelchair units) and use of PV street lighting and district CHP, this is an acceptable compromise. It is not considered reasonable to impose more onerous standards as these conditions do not apply specifically to the amendment currently being sought (to car park) and significant weight is given to the fact the permission has been implemented. Also there are known viability issues with the development and SPD08 allows for this to be considered. Revised conditions are recommended to secure the measures negotiated, in accordance with the aims of policy SU2 and SPD08.

**Ecology/Nature Conservation:**

- 8.39 The site is located within a locally designated Site of Nature Conservation Importance SNCI (the Marina Harbour and Black Rock Beach) and the cliffs are nationally designated as a site of Special Scientific Interest (SSSI), and Regionally Important Geological and Geomorphological Site (RIGS) at Black Rock. Therefore Local Plan policies NC2, NC4, QD17 and QD18 are relevant, which seek to preserve or enhance nature conservation features. At the time of

the original application the impacts of a wide range of potential impact was assessed including habitat loss, pollution risks and disturbance from piling. The conclusion is that although the likely scale of physical impact would, in some cases, be substantial, the effects would not be significant because of the low sensitivity or ecological interest of the habitats affected. Ecological surveys were carried out which did not identify habitats or more than very local importance. The same conclusions apply to the revised basement car parks. A number of mitigation and enhancement measures for the whole scheme have been agreed since the original 2006 permission, and conditions are recommended to ensure they are carried out, as well as conditions/obligations controlling construction (eg CEMP).

- 8.40 The Council's Ecologist confirms that he agrees with the assessment and conclusions of the updated Environmental Statement, and does not wish to make any further comment. The concerns expressed by an objector regarding starlings are noted, however, the Ecologist raises no objection and confirms the Conservation of Species and Habitat Regulations 2010 do not offer any protection. In addition, the Offshore Marine Conservation (Natural Habitats) Regulations are not relevant to the application.

**Waste Management:**

- 8.41 Local Plan policies SU2 and SU14 (and PAN05) seek to ensure developments manage their waste demand appropriately. Based on information contained within the ES and plans, the revised basement car parks are considered to provide sufficient space and are of an appropriate layout to satisfactorily serve the development. The Council's City Clean team raise no objection in principle, as the provision broadly complies with PAN05, and confirm that space for only two recycle waste streams is now needed as opposed to the three originally sought in 2006. A condition requiring the detail of the refuse and recycling provision is recommended to ensure it is delivered in the best way.
- 8.42 Local Plan policy SU13 and SPD03 Construction & Demolition Waste seek to minimise waste during construction. Originally a condition was imposed requiring submission of a Site Waste Management Plan to address these policies, however, new legislation in 2008 now requires developers to comply, and thus an informative replaces the original condition.

**Flood risk & drainage:**

- 8.43 Local Plan policies SU4, SU6 and SU7 seek to ensure development is not permitted which poses a flood risk. Although the Strategic Flood Risk Assessment (2008 and 2012) identifies the Marina as falling within an area of higher probability of flooding, a Sequential test was carried out as part of the emerging City Plan to demonstrate the appropriateness of high density development in principle (emerging policy DA2). The ES confirms that the level of the platform has been designed to ensure the development will not flood during a combined wave and tidal event that has a probability of occurring once in 200 years, based upon tide levels that take account of projected global warming. This accords with Environment Agency and DEFRA policy guidelines.

The Environment Agency have raised no objection, and the ES is considered robust in this regard.

- 8.44 Local plan policies SU3, SU4 and SU5 seek to protect water resources and ensure adequate infrastructure. Some concern has been expressed regarding drainage capacity and water infrastructure. It is not considered the revised car park would in itself raise significant issues and Southern Water and the Environment Agency are key consultees, and have reviewed the ES and raise no objection to the proposal.

**Archaeology:**

- 8.45 Local Plan policy HE12 seeks to ensure development preserves or enhances sites of known and potential archaeological interest and their settings. The ES states that there is no potential for the survival of prehistoric remains within the footprint of the development and that previous disturbance of the site during the construction of the Marina indicate that any maritime remains, including those related to the nearby protected 16<sup>th</sup> century shipwreck (WA1001), are unlikely to have survived. Whilst the methodology of the ES is considered robust, the County Archaeologist states that there could be potential for loss of heritage assets given the proximity of the protected shipwreck, and recommends imposition of a condition requiring a programme of archaeological works. They recommend a new two-part condition in line with the NPPF, and this is considered to sufficiently address the aims of Local Plan policy HE12.

**Updated conditions & S106 legal agreement:**

- 8.46 As part of the assessment of a s73 application, all conditions on the original permission should be assessed to see if they need updating in any way to ensure they are relevant and enforceable. They need to take account of new legislation and policy and other material considerations. Other than where they relate specifically to the revised car park, they cannot be made more onerous. Some may have been complied with or need amending to make them compatible with the amended development now sought. New conditions can be imposed if required.
- 8.47 Section 11 sets out all of the conditions as updated or amended as appropriate.
- 8.48 As with conditions, the original S106 legal agreement forming part of the 2006 permission (and any subsequent Deed of Variations) should be assessed to see if there are conflicts or new sections that are required in relation to the amended development now sought. See section 11 for a summary of what would need to be contained within a Deed of Variation to the Section 106.

**Other matters:**

Brighton Marina Act and Marine Management Organisation

- 8.49 The need or otherwise for approval of the development by the Council under the Brighton Marina Act or by the Marine Management Organisation via a marine licence is separate to the planning process and is not a material planning consideration.



Deed of Variations to S106

- 8.50 Some concern regarding Deed of Variations to the original section 106 legal agreement made subsequent to the original permission in 2006 have been raised (including that related to phasing of affordable housing). These DoVs are not relevant to the revised car park arrangement now sought.

RNLI provision:

- 8.51 Concern has also been expressed regarding relocation of the RNLI lifeboat station. This is not relevant to the current application for the revised car park. The original S106 states that details of how and where the RNLI lifeboat station will be temporarily located during construction (including any associated parking) need to be submitted to and agreed by the Council prior to removal of the existing station. There will be no break in service. The new development incorporates a permanent and enhanced replacement.

Implementation of permission:

- 8.52 Some concerns have been expressed that the works undertaken to implement the original permission were tokenistic. For the avoidance of any doubt, the works in question comprised 'enabling works', which involved a new access route along the Western Breakwater comprising an infill of the decking over the breakwater and construction of a temporary access bridge. These works were inspected by officers and it was confirmed in writing on 8<sup>th</sup> September 2008 that the works were accepted as comprising a 'material operation' as defined in the Town and Country Planning Act 1990.

**9 CONCLUSION**

- 9.1 It is considered appropriate to deal with the application on the basis of a 'minor material amendment' to the original permission as it does not alter the overall scale or nature of the major redevelopment proposals.
- 9.2 The assessment of the application relates only to the change being sought, ie the car park, and not the whole principle of development again. The changes to the scheme are considered to be minor in the context of the entire development and would have limited impacts.
- 9.3 The Environmental Statement (ES) has been refreshed and is considered robust. Whilst concerns of objectors are noted as set out in the report, consultees have found the methodologies and assessment within the ES to be sound and do not dispute the findings. It is not considered that the proposed basement car park revision would have a significant or different impact from that originally approved under the original 2006 permission.
- 9.4 The development would meet higher sustainable standards than those in the original, which is welcomed.
- 9.5 The revised parking layout almost identical to that now applied for was approved by the Local Planning Authority in 2007.



- 9.6 The reasons for the amendments - to spread the parking more widely within the scheme to increase accessibility, to ensure some parking is provided in phase 1 (the West Quay) to serve the first occupiers as opposed to a temporary measure, to aid the marketability of those first flats in Phase 1 (and thus aid viability of whole scheme), to ensure up front provision of RNLI spaces to serve the lifeboat station and because the open piled structure over Spending Beach involves a less complex construction process - are to be welcomed and help regenerate the Marina in accordance with the aim of adopted and emerging planning policy. Phase 1 provides community uses and 192 units of housing including 20 affordable units, and is supported.

## 10 EQUALITIES

- 10.1 Lift access and disabled car parking spaces are to be provided within the new car park layout. The number of disabled spaces remains as originally approved. See also comments under Sustainable Transport in Section 8 above.

## 11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

### 11.1 Section 106 Agreement

Deed of Variation to S106 Agreement dated 4<sup>th</sup> July 2006 to ensure:

- Reference to Application BH2012/04048
- The new car park cannot be carried out in isolation from the whole original development
- The new car park cannot be carried out together with the original car park layout
- The re-phasing of the outdoor recreation contribution (for enhancement of East Brighton Park) so that £10,000 is paid within 6 months of commencement of buildings F1 and F2 above basement car park level

### 11.2 Conditions

1. (Note: original time limit condition no.1 deleted.) The development shall be carried out in accordance with the approved drawings listed below:  
(Note: the full list will be included in the Late List).
2. No development shall take place until a Phasing Plan for the whole development, including the basement car parks hereby approved, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Phasing Plan unless any variation or amendment is agreed in writing with the Local Planning Authority.

**Reason:** To ensure that key objectives in the Brighton & Hove Local Plan are delivered and to meet the demands of occupiers of the development and regeneration of the wider area, including the delivery of high quality landmark buildings and bridges, associated infrastructure and affordable housing, in accordance with policies QD1, QD2, QD3, QD4, QD6, HO2, HO3, HO4, TR1, TR8, TR13, TR15, HE3 and HE6 of the Brighton & Hove Local Plan.

3. Construction of the buildings above the level of basement car parking structures within each respective phase of the development (as agreed by condition 2) shall not take place until details of the concept design of roads and footpaths forming part of the development have been submitted to and approved in writing by the Local Planning Authority. All roads and footways and ancillary works shall be constructed to a standard to the satisfaction of the Local Planning Authority which broadly accords with the principles within the Estate Roads. The development shall be carried out in accordance with the agreed layout and the approved Phasing Plan (as agreed by condition 2) unless any variation or amendment is agreed in writing with the Local Planning Authority.

**Reason:** To ensure a satisfactory highway provision within the development, to comply with policies TR1, TR7 and TR8 of the Brighton & Hove Local Plan.
4. No development of each respective phase of the development (as agreed by condition 2) shall take place above the level of basement car parking structures until the number, location and size of the affordable housing units within the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with details agreed and the approved Phasing Plan unless any variation or amendment is agreed in writing with the Local Planning Authority.

**Reason:** To ensure a satisfactory mix and location of affordable units to ensure sufficient housing opportunity and choice, and to ensure sufficient numbers of affordable units are proposed within each phase of development, in accordance with policies HO2 and HO3 of the Brighton & Hove Local Plan.
5. The vehicle parking areas hereby approved shall not be used otherwise than for the parking of private vehicles and motorcycles belonging to the occupants of and visitors to the residential and commercial development hereby approved. The car parking area shall be clearly laid out and signed for residents, disabled users, visitors and the car club.

**Reason:** To ensure that adequate parking provision is retained and to comply with policy TR19 of the Brighton & Hove Local Plan.
6. The RNLI building hereby approved shall not be first brought into use until the emergency RNLI parking area located within building F2 (as shown on drawing no. 4191 PL 103 Rev P1) has been implemented and is ready for use, unless it is agreed in writing with the Local Planning Authority that temporary parking has been provided elsewhere to the satisfaction of the RNLI.

**Reason:** To ensure satisfactory parking provision to serve the RNLI to comply with policies TR1 and TR19 of the Brighton & Hove Local Plan.
7. Each respective phase of the development (in accordance with the Phasing Plan agreed by condition 2) shall not be first occupied until the cycle parking facilities associated with that particular phase have been implemented and made available for use. The cycle parking facilities 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 the private car, in accordance with policies TR1 and TR14 of the Brighton & Hove Local Plan.

8. Notwithstanding the cycle parking facilities for visitors indicated on the submitted plans, a scheme for monitoring the need for additional cycle parking for visitors within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of each respective phase of the development (of the Phasing Plan agreed by condition 2). If required, the scheme shall include details of the number, location and design of any additional cycle parking facilities and shall be implemented to the satisfaction of the Local Planning Authority within an agreed timeframe.

**Reason:** The scheme is considered to potentially have the capacity to accommodate a number of additional visitor cycle spaces, in the interests of encouraging sustainability through the use of non-car modes of travel, in accordance with policies TR1 and TR14 of the Brighton & Hove Local Plan.

9. No respective building above the level of the basement car parking structures shall be first occupied until a loading/unloading scheme for the relevant building has been submitted to and approved in writing by the Local Planning Authority. This shall include details of proposed designated loading/unloading areas to serve the residential and non-residential elements of the relevant phase (of the Phasing Plan agreed by condition 2) and shall identify measures to ensure conflict with pedestrians is minimised, such as through the provision of hard landscaping or hatched areas with appropriate signage. The scheme shall be implemented in accordance with the agreed details before first occupation of the particular building(s) to which it relates to. Loading/unloading shall thereafter not occur outside the designated areas.

**Reason:** To ensure there is satisfactory loading/unloading provision to serve the development and to prevent pedestrian/vehicular conflict, to comply with policies TR1, TR7 and TR8 of the Brighton & Hove Local Plan.

10. No car parking (other than loading/unloading and dropping off/setting down) shall occur within the application site except within the designated parking spaces hereby approved as indicated on the submitted plans. The applicant shall submit details of a Parking Strategy which will ensure that parking restrictions are clearly conveyed to residents and visitors, and the agreed Strategy and any measures therein, shall be implemented to the satisfaction of the Local Planning Authority. The Strategy should explore measures including the provision of yellow lines, signage and bollards and identify them on a plan. The agreed measures shall be implemented to an agreed timescale, in accordance with the Phasing Plan agreed by condition 2.

**Reason:** To ensure parking does not occur haphazardly across the site and to ensure the sustainability of the scheme is not undermined, and in

- the interests of highway safety, to comply with policies TR1, TR4, TR7, TR8 and TR19 of the Brighton & Hove Local Plan.
11. The underground residential car parks hereby permitted shall not be first brought into use until the associated actuated signalling system has been installed to the satisfaction of the Local Planning Authority unless otherwise agreed in writing.  
**Reason:** In the interests of highway safety, to comply with policy TR7 of the Brighton & Hove Local Plan.
  12. No buildings hereby approved shall be first occupied until details of a Waste Storage and Collection Strategy for the residential and retail/commercial units have been submitted to and approved in writing by the Local Planning Authority. The approved Strategy shall include details of the following: access arrangements, including ensuring measures are in place to ensure communal refuse is placed at agreed collection points that can be accessed by council vehicles; types and sizes of containers and frequency of collection. Measures identified within the agreed Strategy shall be implemented to the satisfaction of the Local Planning Authority before first occupation of the buildings within each respective phase of the development (of the Phasing Plan agreed by condition 2).  
**Reason:** To ensure that satisfactory measures for refuse and recycling storage and collection are in place that are compatible with the council's waste service, to comply with policy SU2 of the Brighton & Hove Local Plan.
  13. All the communal refuse areas serving residents shall provide recycling provision and separated storage for a minimum of two separated waste streams. Sufficient space should also be provided within the development to enable the incorporation of communal composting facilities for use by residents and others, such as landscape contractors.  
**Reason:** To ensure provision of satisfactory facilities for the storage of refuse and recycling to comply with policy SU2 of the Brighton & Hove Local Plan.
  14. Each respective building above the level of the basement car parking structures shall not be first occupied until the refuse and recycling storage facilities indicated on the approved plans serving each building (within the particular phase agreed as part of the Phasing Plan required by condition 2) have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure provision of satisfactory facilities for the storage of refuse and recycling to comply with policy SU2 of the Brighton & Hove Local Plan.
  15. The premises for Use Class A (A1, A2, A3, A4 and A5) hereby permitted shall not be open or in use except between the hours of 07.00 and 23.30 hours Mondays to Fridays, and between 07.30 and 23.30 hours on Saturdays and between 08.00 hours and 23.00 hours on Sundays or Bank Holidays.  
**Reason:** To safeguard the amenities of the locality and the amenities of occupiers of nearby residential properties and to prevent crime, to comply with policy QD27 of the Brighton & Hove Local Plan.

16. The yacht club/divers office premises shall not be open or in use except between the hours of 07.00 and 23.30 hours Mondays to Fridays, and between 07.30 and 23.30 hours on Saturdays and between 08.00 hours and 23.00 hours on Sundays or Bank Holidays unless otherwise agreed in writing with the Local Planning Authority.  
**Reason:** To safeguard the amenities of the locality and the amenities of occupiers of nearby residential properties and to comply with policy QD27 of the Brighton & Hove Local Plan.
17. The community uses in block J, Block F1, crèche in Block A (excluding outside play), visitor centre, educational premises and public viewing gallery in block K and 'public amenity Class D1' facility on the first floor in Block F1 as shown on drawing no. 353/P/559 Rev P3 and 353/P/201 Rev P3 shall not be open to the public except between the hours of 07.00 and 21.00 hours Mondays to Fridays, and between 07.30 and 21.00 hours on Saturdays and between 08.00 hours and 19.00 hours on Sundays or Bank Holidays, unless otherwise agreed in writing with the Local Planning Authority.  
**Reason:** To safeguard the amenities of occupiers of adjacent residential properties, to comply with policy QD27 of the Brighton & Hove Local Plan.
18. The outside children's play area directly associated with the crèche in Block A and multi-use court located between Blocks A and B as both indicated on drawing no. 353/P/201 Rev P3 shall be used only between the hours of 08.00 and 19.00 hours Monday to Saturdays and 09.00 and 18.00 hours on Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.  
**Reason:** To safeguard the amenities of occupiers of adjacent residential properties, to comply with policy QD27 of the Brighton & Hove Local Plan.
19. Block A shall not be first occupied until details of the proposed multi-use court/play area located between blocks A and B, including details of surfacing, layout and boundary treatment, have been submitted to and approved in writing by the Local Planning Authority. The court shall be implemented in accordance with the agreed details and made available for use before first occupation of Block A unless otherwise agreed in writing by the Local Planning Authority. The facility shall thereafter be retained for such use at all times.  
**Reason:** To ensure the demand created by the development for outdoor recreation space is satisfactorily met, to comply with policy HO6 of the Brighton & Hove Local Plan.
20. Blocks A, J and K shall not be first occupied until details of the boules pitch and bowling green located between Block F1 and Block A, including their proposed surfacing and layout, have been submitted to and approved in writing by the Local Planning Authority and the facilities implemented in accordance with the agreed details. The facilities shall thereafter be retained for such use at all times.  
**Reason:** To ensure the demand created by the development for outdoor recreation space is satisfactorily met, to comply with policy HO6 of the Brighton & Hove Local Plan.



21. The residential properties within Block J shall not be first occupied until the community room and youth space located within the block have been completed and ready for occupation. Reason:  
**Reason:** To ensure the demand created by the development for community spaces is satisfactorily met, to comply with policy HO21 of the Brighton & Hove Local Plan.
22. The residential properties within Block F1 shall not be first occupied until the 'public amenity space Class D1' located within the block has been completed and ready for occupation. Reason:  
**Reason:** To ensure the demand created by the development for community/health facilities is satisfactorily met, to comply with policies HO21 and QD28 of the Brighton & Hove Local Plan.
23. The residential properties within building F2 shall not be first occupied until the shell and core of the yacht club has been completed and transferred to the Yacht Club and the harbour offices have been completed and ready for occupation.  
**Reason:** To ensure these facilities are satisfactorily replaced within the development, to comply with policies HO21 and QD28 of the Brighton & Hove Local Plan.
24. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or amendments thereto, the Community Hall and Youth Space in Block J and educational facility and visitor gallery in Block K and crèche in Block A, and as shown on plan ref. no. 353/P/201 Rev P3 and 353/P/559 Rev P3, shall not respectively be used for any other uses within Use Class D1.  
**Reason:** The Local Planning Authority would wish to control future changes of use in the interests of safeguarding the amenities of occupiers of nearby residential properties and the amenities of the locality and to ensure the demand created by the development for community uses is met, to comply with policies QD27 and HO21 of the Brighton & Hove Local Plan.
25. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or amendments thereto, the yacht club as shown in Block F2 on plan ref. no. 4191 PL100 Rev P1 and 4191 PL103 Rev P1 shall be a mixed D1/D2 used for yacht club/divers premises only and no other use within Use Class D1/D2.  
**Reason:** The Local Planning Authority would wish to control future changes of use in the interests of safeguarding the amenities of occupiers of nearby residential properties and the amenities of the locality and to ensure the demand created by the development for community uses is met, to comply with policies QD27 and HO21 of the Brighton & Hove Local Plan.
26. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or amendments thereto, the 'Class D1 public amenity space' in Block F1 as shown on plan ref. no. 353/P/201 Rev P3 shall be used as a D1 (a) use Medical or Health facility (excluding animal treatment) only and for no other use within Use Class D1.



**Reason:** The Local Planning Authority would wish to control future changes of use in the interests of safeguarding the amenities of occupiers of nearby residential properties and the amenities of the locality and to ensure the demand created by the development for health facilities is met, to comply with policies QD27, HO21 and QD28 of the Brighton & Hove Local Plan.

27. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or amendments thereto, the harbour office premises shown on plan ref. no. 4191 PL100 Rev P1 and 4191 PL103 Rev P1 shall be only used as a harbour administration/control/security office in connection with activities within the Marina, and shall not be occupied by an alternative office/light industrial use within Use Class B1.

**Reason:** Unrestricted hours of use have been allowed exceptionally for the use given its role within the marina and need for 24 hour use for security purposes, and the Local Planning Authority would wish to control future changes of use in the interests of safeguarding the amenities of occupiers of nearby residential properties and the amenities of the locality, to comply with policy QD27 of the Brighton & Hove Local Plan.

28. The offices (Use Class B1) located on the first floor of building F2 shall not be open except between the hours of 07.00 and 23.00 hours Mondays to Fridays, and between 07.30 and 23.00 hours on Saturdays and between 08.00 hours and 22.30 hours on Sundays or Bank Holidays, unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To safeguard the amenities of occupiers of nearby residential properties, to comply with policy QD27 of the Brighton & Hove Local Plan.

29. Loading or unloading of vehicles in connection with the non-residential uses hereby approved (excluding the RNLI use) shall only take place between the hours of 07.00 and 19.00 hours Monday to Fridays, 07.30 and 19.00 hours on Saturdays and not at anytime on Sundays or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To safeguard the amenities of occupiers of nearby residential properties, to comply with policy QD27 of the Brighton & Hove Local Plan.

30. Occupation of the Class A floorspace within the development hereby permitted for uses within use Class A4 shall not exceed a net internal floor area of more than 150 square metres per individual unit.

**Reason:** To safeguard the amenities of occupiers of nearby residential properties and in the interests of crime prevention, to comply with policies SR12 and QD27 of the Brighton & Hove Local Plan.

31. Occupation of the Class A floorspace within the development hereby permitted for uses within use Class A4 shall not in total comprise more than 50% of the shopping frontage or floor area of the total Class A floorspace hereby permitted. Buildings F1 and F2 are taken as one combined stretch of frontage.

**Reason:** To safeguard the amenities of occupiers of nearby residential properties and to avoid concentrations of A4 uses in the interests of crime prevention, to comply with the aims of policies SR12 and QD27 of the Brighton & Hove Local Plan.

32. Within any units used for purposes within Use Class A3 and exceeding 150 square metres in net internal floor area, alcohol shall only be sold or supplied to persons who are taking meals on the premises and who are seated at tables.  
**Reason:** To safeguard the amenities of the locality and the amenities of occupiers of nearby residential properties and in the interests of crime prevention, to comply with policies SR12 and QD27 of the Brighton & Hove Local Plan.
33. The development hereby permitted shall incorporate measures to ensure the development meets 'Secured by Design' standards and includes crime prevention measures indicated in the letter dated 11<sup>th</sup> February 2013 from Sussex Police and measures to control the access to the car park from both vehicles and pedestrians. Evidence shall be submitted to demonstrate the development meets Secured By Design standards such as a Developers Award Certificate. The agreed measures shall be implemented within each respective phase of the development (as agreed as part of the Phasing Plan by condition 2) before that phase is first brought into use/occupied. Details of any CCTV cameras that are not mounted on buildings shall be submitted to and approved in writing by the Local Planning Authority.  
**Reason:** In the interests of crime prevention and visual amenity, to comply with policies QD7 and QD1 of the Brighton & Hove Local Plan.
34. A scheme indicating measures taken to insulate the units from the transmission of noise (such measures shall include the sound insulation of all units within the development, whether residential or non-residential, from noise transmitted between them) shall be submitted to and approved in writing by the Local Planning Authority before first occupation of any buildings constructed above the level of the basement car parking structures within each respective phase of the Phasing Plan agreed by condition 2. The approved scheme shall be implemented to the satisfaction of the Local Planning Authority before first occupation of the respective buildings.  
**Reason:** To safeguard the amenity of occupiers of the development from noise arising within and/or from the scheme, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan.
35. No plant or machinery associated with the development (not including during construction) shall be first brought into use until a scheme to insulate the plant/machinery against the transmission of sound/or vibration has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented to the satisfaction of the Local Planning Authority before any buildings within which the plant/machinery are proposed are first occupied. The mechanical plant associated with the development shall not give rise to an increase in noise levels above -5dB LAeq in respect of the background levels expressed as LA90 measured 1m from the facade of the nearest residential premises. Measurement periods and conditions are to be agreed with the Local Planning Authority.

- Reason:** To safeguard the amenity of occupiers of the development from noise arising within or from the scheme, to comply with policy QD27 and SU10 of the Brighton & Hove Local Plan.
36. A scheme for the fitting of odour control equipment to the non-residential buildings shall be submitted to and approved in writing by the Local Planning Authority where commercial kitchen facilities, or similar, are proposed. The agreed odour control works shall be implemented to the satisfaction of the Local Planning Authority before the premises it relates to is brought into use.
- Reason:** To safeguard the amenity of occupiers of the development from odours arising within or from the scheme, to comply with policy QD27 and SU9 of the Brighton & Hove Local Plan.
37. A scheme for the sound insulation of the odour control equipment referred to in the condition above (no.36) shall be submitted to and approved in writing by the Local Planning Authority before the premises it relates to are brought into use. The sound insulation works agreed shall be implemented to the satisfaction of the Local Planning Authority before the premises it relates to are brought into use.
- Reason:** To safeguard the amenity of occupiers of the development from noise arising within or from the scheme, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan.
38. Details of any changes to the proposed gas CHP with regard to future fuel use shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented.
- Reason:** To ensure the continuing protection of the environment and human health, to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan.
39. Amplified music or other entertainment noise within any of the non-residential units shall have its volume controlled by the installation of a tamper-proof noise limiting device of a type to be agreed with the Local Planning Authority and its level shall be set at a volume to be agreed with the Local Planning Authority before it is first brought into use.
- Reason:** To safeguard the amenities of the locality and the amenities of occupiers of nearby residential properties, to comply with policy QD27 of the Brighton & Hove Local Plan.
40. No development shall take place until details of the materials, construction methodology and maintenance of the basement parking structures hereby permitted have been submitted to and agreed in writing by the Local Planning Authority. The agreed details and measures shall be implemented.
- Reason:** To ensure that the development is of high quality and adequately maintained, in the interests of coastal management, safety, ecology and visual amenity, to comply with policies SU7, QD27, QD17 and QD1 of the Brighton & Hove Local Plan
41. No respective phase of the development (in accordance with the agreed Phasing Plan required by condition 2) above the level of the basement car parking structures including the proposed bridges, shall commence until details of the proposed materials to be used within the exterior of all

buildings and structures within that phase, have been submitted to and approved in writing by the Local Planning Authority. These details shall include large scale drawings and/or constructional details and samples if required, of the balustrading, roof parapet and eaves design, balcony design, surface cladding systems, windows, entrances, roof plant, wind screens, shop fronts and bridges. The development shall be carried out in accordance with these details.

**Reason:** To ensure a very high quality development, to comply with policies QD1, QD4, HE3 and HE6 of the Brighton & Hove Local Plan.

42. No respective phase of the development as agreed in the Phasing Plan required by condition 2 above the level of the basement car parking structures shall commence until details and samples of the proposed materials to be used for the hard landscaping, highways, street furniture and amenity and outdoor recreation areas of each respective phase of the development 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. The details will include the following:

- (i) paving and building materials, including details of colour and texture;
- (ii) boundary walls, gates, seating, fencing, refuse stores, steps, hand rails, raised planters, seating, pergolas and screens;
- (iii) street paving plans, to include size, direction and pattern of paving;
- (iv) siting and design of all external dishes, antennae, flues and utilities cabinets;
- (v) external lighting
- (vi) details showing how the materials are sustainable.
- (vii) Details of ventilation structures and car park intake grilles

**Reason:** To ensure the Local Planning Authority has sufficient detail to ensure that the resulting appearance of the development is of a high quality and is sustainable to comply with policies QD1, QD4, QD15, SU2, HE3 and HE6 of the Brighton & Hove Local Plan.

43. No respective phase of the development (as agreed by condition 2) shall take place until details have been submitted to and agreed in writing by the Local Planning Authority relating to a Management Plan for the long term maintenance and replacement of materials within the development, including basement car parking areas, platform decks, hard landscaping and both bridges hereby approved. The maintenance of the development shall thereafter be implemented in accordance with the details of the Management Plan.

**Reason:** To ensure the development retains the quality of its appearance in this exposed location, to comply with policies QD1, QD4, QD15, HE3 and HE6 of the Brighton & Hove Local Plan.

44. No respective phase of the development (agreed by condition 2), including car parks, bridges, outdoor recreation areas, public landscaped areas and highway areas, shall not be first occupied or brought into use until details of the external lighting within the relevant phase of the development have been submitted to and agreed in writing by the Local Planning Authority. This shall include the proposed number, type, siting, spacing and levels of

luminance and details of street lighting. The agreed details shall be implemented before first occupation/use.

**Reason:** To mitigate against the potential for light pollution within the development to safeguard the amenities of the locality and residents, and for ecological reasons, to comply with policies QD1, QD27, QD17 and QD25 of the Brighton & Hove Local Plan.

45. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any amendments thereto, no satellite dishes or aerials other than those shown on the submitted plans shall be installed unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To ensure a satisfactory appearance to the development to comply with policy QD1 of the Brighton & Hove Local Plan.

46. No buildings above the level of the basement car parking structures shall be first occupied until details of a Design Strategy for pedestrian, cycling and general informative signage throughout the site have been submitted to and approved in writing by the Local Planning Authority and have been implemented in accordance with each respective phase of the development (of the Phasing Plan agreed by condition 2). Any signage proposed within the site shall be in accordance with the broad principles contained in the agreed Strategy.

**Reason:** To ensure that the resulting appearance of the development will be acceptable and to ensure a cohesive appearance to the development, to comply with policy QD1 of the Brighton & Hove Local Plan.

47. Within 6 months of the commencement of each of buildings F1 and F2 above the level of the basement car park structures, a Design Strategy for shop frontages, including shop signage, shall be submitted to and approved in writing by the Local Planning Authority. The shopfronts and signage shall be implemented in accordance with the agreed details. Any shopfronts and signage proposed within the site shall be in accordance with the broad principles contained in the agreed Strategy.

**Reason:** To ensure that the resulting appearance of the development will be of high quality and acceptable, and to ensure a cohesive appearance to the development, to comply with policies QD1 and QD10 of the Brighton & Hove Local Plan.

48. No development of the buildings above the level of the basement car parking structures shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for soft landscaping and planting in the development. All planting, seeding or turfing agreed as part of the approved landscaping scheme shall be carried out in the first planting and seeding seasons following occupation of the buildings in the particular phase (of the Phasing Plan agreed as a requirement of condition 2) that the landscaping is located within. Any plants or trees that die or become seriously damaged between planting and up to 5 years after completion of the development, shall be replaced with others of a similar size and species unless otherwise agreed in writing with the Local Planning Authority. The landscaping scheme shall include plants to enhance biodiversity.



- Reason:** To enhance the appearance of the development, to comply with policies QD15, QD16 and QD17 of the Brighton & Hove Local Plan.
49. The development shall incorporate the measures within the Nature Conservation Plan (titled Mitigation/Enhancement Scheme and Ecology Management Plan July 2008 by EPAL) received on 9<sup>th</sup> July 2008 and agreed on 15<sup>th</sup> July 2008, including measures to enhance the bio-diversity of the site and prevent damage to existing habitats during construction and include provision of shingle roofs (see condition 50 below), introduction of appropriate planting in the amenity areas with interpretation boards, installation of interpretation boards on the Black Rock bridge and the installation of 35 nesting boxes within the site and 1 peregrine nesting box. The agreed measures shall be implemented on a pro-rata basis where relevant, based on each respective phase of the development (as agreed by condition 2), and shall be maintained in perpetuity.
- Reason:** To enhance and integrate nature conservation features within the site, in accordance with policy QD17 of the Brighton & Hove Local Plan.
50. The development of the buildings above the level above the basement car parking structures shall not commence until construction and maintenance details have been submitted to and approved in writing by the Local Planning Authority of the proposed shingle roofs and vegetated planters proposed within the relevant phase of the development (as agreed by condition 2) as shown on drawing nos. 353/P2/238 Rev P3, 353/P/550 Rev P3, 353/P/561 Rev P3, 353/P/561 rev P3, 353/P/909 Rev P4 and 4191 PL 103 Rev P1. The aim of the shingle roofs shall be to recreate coastal vegetated shingle habitat and shall incorporate appropriate native vegetated shingle communities. At least 75% (by area) of the planters shall be planted with native vegetated shingle communities, and the species to be used and cultivation details for the roofs and planters shall be agreed prior to commencement of buildings in the relevant phase of the development. The agreed scheme shall be implemented to the satisfaction of the Local Planning Authority by the first planting season following first occupation of the building upon which they are located (shingle roofs) and completion of the phase within which they are located (planters).
- Reason:** To enhance and integrate nature conservation features within the site, in accordance with policy QD17 of the Brighton & Hove Local Plan.
51. The secure fencing around all vegetated areas within the Black Rock Beach SNCI as detailed in the DP9 letter and enclosures received on 9<sup>th</sup> July shall be implemented during construction. No storage of plant or equipment shall be permitted at any time within any area within the SNCI during construction, and no other use shall take place within the SNCI area other than carrying out the construction of the Black Rock Bridge and the Black Rock enhancement works.
- Reason:** To ensure damage to the vegetated shingle is prevented, in accordance with policies NC4 and QD17 of the Brighton & Hove Local Plan.
52. The Black Rock Bridge shall not be constructed during the period 1st March - 31st July.



- Reason:** To avoid disturbing nesting birds in the SNCI to comply with policies NC4, QD17 and QD18 of the Brighton & Hove Local Plan.
53. All the new dwellings hereby approved shall be constructed to Lifetime Homes standards as referred to in Policy HO13 of the Brighton & Hove Local Plan to the satisfaction of the Local Planning Authority.
- 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.
54. A minimum of 50 of the residential units within the overall scheme shall be built to a wheelchair accessible standard. Included within the 50, 10% of the affordable housing units (equating to 35 units) shall be built to wheelchair accessible standard. Details, including plans, of how the units have been built to a wheelchair accessible standard on a pro-rata basis within each phase of the development agreed as part of the Phasing Plan (agreed by condition 2) shall be submitted to and approved in writing by the Local Planning Authority before 50% of the total units within a particular phase have been first occupied.
- Reason:** To ensure satisfactory provision of homes for people with disabilities to comply with policy HO13 of the Brighton & Hove Local Plan which seeks a 5% provision of wheelchair accessible units in schemes overall, including a 10% provision within the affordable element.
55. All the non-residential uses and car park lift lobbies hereby permitted shall incorporate measures to ensure they are fully accessible to the disabled, including the provision of flush entrance thresholds and sufficient clear space at the leading edge of lobby doors, details of which shall be submitted to and approved in writing by the Local Planning Authority. The agreed measures shall be implemented before first occupation/use of the respective phase of the development (as agreed by condition 2).
- Reason:** To satisfactory access for people with disabilities, to comply with policies HO19 and QD10 of the Brighton & Hove Local Plan.
56. Prior to the first occupation of buildings A, B, C, and D (as shown on drawing no. 353/P/238 Rev P3) a scheme for the provision of screening landscaping and/or a trellis structure to be installed over (and/or adjacent to) the access road into the residents' car park over the Spending Beach that runs along the northern boundary of the site and details of the proposed planting area between the residents access road and the northern boundary of the site shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented to the satisfaction of the Local Planning Authority by the first planting season following completion of the last of the aforementioned buildings within the Phasing Plan agreed as a requirement of condition 2. Any plants or trees that die or become seriously damaged between planting and up to 5 years after completion of the development, shall be replaced with others of a similar size and species unless otherwise agreed in writing with the Local Planning Authority.
- Reason:** To improve the outlook and living conditions enjoyed by residential properties immediately adjacent to the access road, to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan.

57. No buildings above the level of the basement car parking structures shall be first occupied until details of the windbreak/screens referred to in Section 10 of the Environmental Statement and identified on the plans contained in this Section and a scheme for the monitoring of the impact of the screens, have been submitted to and approved in writing by the Local Planning Authority. The wind breaks shall be provided in accordance with the approved details prior to the first occupation of, or public access is first provided to, the relevant phase of the development (of the Phasing Plan agreed as a requirement of condition 2). Wind tunnel modelling of the mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. If wind speeds in the pedestrian areas are expected, by the wind tunnel modelling, to exceed 10 m/s, or 5 m/s in areas with café seating (based on mean-hourly wind speeds which are not exceeded by more than 5% of each season), modifications will be required. Details of further or modified mitigation measures will need to be agreed in writing by the Local Planning Authority, and to be tested in the same way by wind tunnel modelling.  
**Reason:** To ensure a satisfactory micro-climate for users of the development, to comply with policy QD27 of the Brighton & Hove Local Plan and SPGBH15: Tall Buildings.
58. No development shall take place until the developer has secured the implementation of a programme of archaeological work, in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority.  
**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan.
59. The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 58 to the satisfaction of the Local Planning Authority.  
**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan.
60. No development shall take place details of a scheme of steel submarine netting or other suitable material to be installed between the protective piles of the development and linked mesh or other suitable material shall be installed around the outer piles of the development shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme implemented by completion of the basement car park structures. The scheme shall identify temporary openings within the nets.  
**Reason:** In order to enhance the protection provided against vessels that could potentially collide with the proposed development, in the interests of safety, to comply with policy QD27 of the Brighton & Hove Local Plan.
61. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water from parking areas and hardstandings

susceptible to oil contamination shall be passed through an oil separator designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor. Ongoing maintenance of the interceptor shall be provided in accordance with the manufacturer's instructions.

**Reason:** To prevent pollution of the water environment and in accordance with the policy SU3 of the Brighton & Hove Local Plan.

62. No development shall commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water. The approved details shall be implemented.

**Reason:** To prevent pollution of the water environment and in accordance with the policy SU3 of the Brighton & Hove Local Plan.

63. No development shall commence until a scheme of drainage controls and protective systems to prevent contamination (include saline pollution) and extensive vertical migration of groundwater has been submitted to and agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved measures.

**Reason:** To mitigate against the potential impact on groundwater in accordance with the policy SU3 of the Brighton & Hove Local Plan.

64. No respective phase of the development (in accordance with the agreed Phasing Plan required by condition 2) above the level of the basement car parking structures, shall commence until a feasibility study which identifies the most appropriate form of renewable energy generation for the development has been submitted to and approved in writing by the Local Planning Authority. Should renewable energy prove to be feasible and reasonable in all other respects, it shall be implemented within the development in accordance with the agreed details.

**Reason:** To ensure a sustainable development, to comply with policy SU2 of the Brighton & Hove Local Plan.

65. The sustainability measures contained in chapter 13 of the Environmental Statement shall be implemented within the development. The development shall achieve a Code for Sustainable Homes Level 3 to a minimum [*a minimum overall percentage rating will be inserted once agreed and will be updated on the Late List*] rating for residential buildings and the wheelchair accessible units within each respective phase of the scheme shall achieve a Code for Sustainable Homes Level 4 (equating to approximately 10% of units). The non-residential units shall achieve a 'very good' BREEAM rating with a minimum 50% rating in energy and water sections of relevant BREEAM assessment within overall 'Very Good'. Insulation used for all units shall be 15% better than part L of current Building Regulations.

- a. No respective phase of the development above the level of the basement car parking structures, shall commence until evidence of how these standards will be met and measures incorporated within the development has been submitted to and approved in writing by the Local Planning Authority. This shall include evidence that the development is registered with an accreditation body or Building

Research Establishment (BRE) under the Code for Sustainable Homes/BREEAM and a Design Stage/Interim Assessment Report submitted. A completed pre-assessment estimator will not be acceptable. The measures shall be implemented in strict accordance with the approved details.

- b. None of the residential and non-residential units within each respective phase shall be occupied until a Final/Post Construction Code/BREEAM Review Certificate issued by an accreditation body confirming that each unit built has achieved the agreed Code for Sustainable Homes/BREEAM 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.

66. No development shall take place above the level of the basement car parking structures until a Sustainable Energy Scheme which demonstrates that the development will achieve 20% carbon reduction in annual energy use from renewables and CHP within the development has been submitted to and agreed in writing by the Local Planning Authority. No building which would incorporate any of the measures set out in the Sustainable Energy Scheme shall be constructed until the Scheme has been approved in writing by the Local Planning Authority. The approved Scheme shall thereafter be implemented in accordance with its provisions, unless otherwise agreed in writing with 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.

67. No development shall take place above the level of the basement car parking structures until evidence that significant energy and carbon emission savings of a minimum of 5% improvement over compliance with current Building Regulations will be achieved has been submitted to and approved in writing by the Local Planning Authority. The development shall incorporate the measures required to achieve the savings agreed. Monitoring evidence shall be submitted to the Local Planning Authority for written approval once the development is operating within a timescale to be agreed with the Local Planning Authority to demonstrate that the agreed targets are being achieved. The assessment of initial targets, and subsequent details submitted if targets are not met, shall be carried out by a third party such as an independent consultant, employed at the applicants expense. Should the development fall below the agreed targets, details of further measures that will be introduced to meet the target shall be submitted to and approved in writing by the Local Planning Authority and the approved details shall be implemented.

**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.

68. No development of the basement car park ventilation system shall take place until details of the appearance (including structures on the West Quay promenade), noise and odour controls of the system have been submitted to and agreed in writing by the Local Planning Authority. The agreed ventilation system shall be implemented before the basement car parks are first brought into use.

**Reason:** In the interests of visual and general amenity, to comply with policies QD1, QD27, SU9, SU10 and SU11 of the Brighton & Hove Local Plan.

69. No development of the CHP and plant hereby approved shall take place until details of associated noise, odour and emission control and have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the plant is first brought into use.

**Reason:** In the interests of amenity, to comply with policies QD27, SU9, SU10 and SU11 of the Brighton & Hove Local Plan.

70. Within 6 months of the commencement of the basement car parks hereby approved, details of provision of electrical vehicle charging points and measures to connect the CHP to a district-wide sustainable energy system and how the CHP may be adapted to low and zero carbon energy in the future, shall be submitted to and approved in writing by the Local Planning Authority. The agreed electrical points, connections and measures shall be implemented prior to the car park floors are finished and the car parks first brought into use.

**Reason:** To enable the future use of alternative fuels, in the interests of air quality and sustainability, to comply with policy SU2 and SU9 of the Brighton & Hove Local Plan.

### 11.3 Informatives:

1. In accordance with the National Planning Policy Framework the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. This decision to grant Planning Permission has been taken:
  - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, 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 principle of a mixed use development with basement car parking of 491 spaces has been established by the original, extant, permission BH2006/01124. The proposed amended car parking layout would not have



any significant additional environmental impacts compared to the consented scheme in terms of transport, highway safety, ecology, security, amenity, visual impact, navigation, hydrodynamics, refuse/recycling and plant provision. The proposal would represent an improvement in terms of accessibility. The proposal would help the viability of the overall scheme.

3. This application is an amendment to an approved, and implemented, larger mixed use scheme (BH2006/01124) and cannot be carried in isolation to it. In addition, both original and revised car park layouts cannot be carried out together. This has been secured through a Deed of Variation to the original Section 106 Agreement attached to BH2006/01124.
4. The applicant is advised to contact East Sussex Fire and Rescue Service (01323462130 or [brightonandhove.firesafety@esfrs.org](mailto:brightonandhove.firesafety@esfrs.org)) for advice regarding the vertical shafts and bridgeheads required within the car park(s) for firefighting operations. The size, number, need for a lift and ventilation measures for smoke clearance will be based on the depth of the basement or the floor area they cover and will be based on the BS 9999 standard. ESFRS recommend the installation of sprinkler systems and can provide further information regarding this.
5. With regard to conditions 58 and 59 the applicant is advised to contact the County Archaeologist (03456080190 or [gregory.chuter@eastsussex.gov.uk](mailto:gregory.chuter@eastsussex.gov.uk)) who will be able to advise how the conditions can best be fulfilled and can provide a brief setting out the scope of the programme of works. It is expected that the written scheme of investigation will confirm the action to be taken and accord with the relevant portions of the East Sussex County Council document 'Recommended Standard Conditions for Archaeological Fieldwork, Recording and Post-excavation in East Sussex (Development Control) (2008) including Annex B.
6. The applicant is advised that the grant of planning permission does not override the need or otherwise to obtain a marina licence for the development under the Marine and Coastal Access Act (2009). The applicant is advised to contact the Marine Management Organisation for further details.
7. With regard to conditions 61, 62 and 63 above the applicant is advised to contact Southern Water for advice (Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH or Tel 01962 858688). SW confirm that no new soakaways should be located within 5 metres of a water mains, foul sewer and surface water sewer respectively; no development or new tree planting should be located within 3 metres either side of the centreline of the water mains; no development or new tree planting should be located within 3 metres either side of the centreline of the foul sewer and surface water sewer respectively; all existing



infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works. Should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

8. The applicant is advised to consider consulting a structural engineer to assess progressive collapse in the event of a Vehicle Borne Improvised Explosive Device (VBIED) in the basement car parks.
9. A time limit condition is not imposed to commence the development hereby approved, as it forms an amendment to an already commenced scheme (BH2006/01124).
10. For the avoidance of doubt nothing in this grant of planning permission constitutes consent or approval under the Brighton Marina Act 1968, for which a separate application will need to be made to Brighton & Hove City Council in accordance with that Act.
11. 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](http://www.planningportal.gov.uk)), on the Department for Communities and Local Government website ([www.communities.gov.uk](http://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](http://www.brighton-hove.gov.uk)). Accreditation bodies at March 2010 include BRE and STROMA; other bodies may become licensed in future.
12. IN05.06A Informative: BREEAM  
The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites ([www.breeam.org](http://www.breeam.org)). Details about BREEAM 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](http://www.brighton-hove.gov.uk)).
13. IN05.07A Informative - Site Waste Management Plans (3+ housing units (new build), 11+ housing units (conversion) or over 200sq m non-residential floorspace (new build))  
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](http://www.netregs.gov.uk/netregs/businesses/construction/62359.aspx) and  
[www.wrap.org.uk/construction/tools\\_and\\_guidance/site\\_waste\\_2.html](http://www.wrap.org.uk/construction/tools_and_guidance/site_waste_2.html).

14. The applicant is advised that there is a requirement for all structures over 300 feet high to be charted on aviation maps and the applicant is advised to contact the Defence Geographic Centre on 0208 8182708 for further information.
15. The applicant is reminded of their obligation (under the Wildlife and Countryside Act 1981) to ensure nesting birds are not disturbed by construction works.
16. The applicant is advised that this decision relates solely to planning permission. A separate licence, or variation to an existing licence may be required under the Licensing Act 2003 in respect of the non-residential units. Please contact the Council's Licensing Team for further information. The team's address is:- Environmental Health and Licensing, Brighton & Hove City Council, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (Telephone: 01273 294429, Email: [ehl.safety@brighton-hove.gov.uk](mailto:ehl.safety@brighton-hove.gov.uk), Website: [www.brighton-hove.gov.uk/licensing](http://www.brighton-hove.gov.uk/licensing)).
17. The applicant is reminded of the requirement to comply with the obligations within the Section 106 Legal Agreement associated with the original permission BH2006/01124.



**Brighton & Hove  
City Council**

PLANS LIST – 24 APRIL 2013

COUNCILLOR REPRESENTATION

Maria Scale  
Major Projects Development Officer  
Room 331 Hove Town Hall.  
Norton Road  
Hove.  
BN3 3BQ

03 APR 2013

Re Brunswick Planning Application BH2012/04048

As a ward councillor for Rottingdean Coastal, I am requesting that the above planning application is taken to the planning committee for decision, and not dealt with under delegated power.

The original approval for Brunswick planning application was given on the 30<sup>th</sup> June 2006 at a special planning meeting Subject to 33 106s obligations and 69 conditions set-out in the report.

Clearly a Major planning application. I have been concerned that a number of 106s agreements have been changed under delegated powers including affordable housing and the changes to the RNL accommodation.

I am also very concerned and cannot support the proposed changes which now show three levels of car parking under the tidal level. This was never in the original planning approval, so should come back to the planning committee for decision.

I request my letter is put before the planning committee and reserve my right to speak.

Kind regards.

Mary Mears.

Cc Jeanette Walsh.

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B/berry: 07795 336 001  
Email: [mary.mears@brighton-hove.gov.uk](mailto:mary.mears@brighton-hove.gov.uk)

Conservative Member for Rottingdean Coastal Ward  
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