

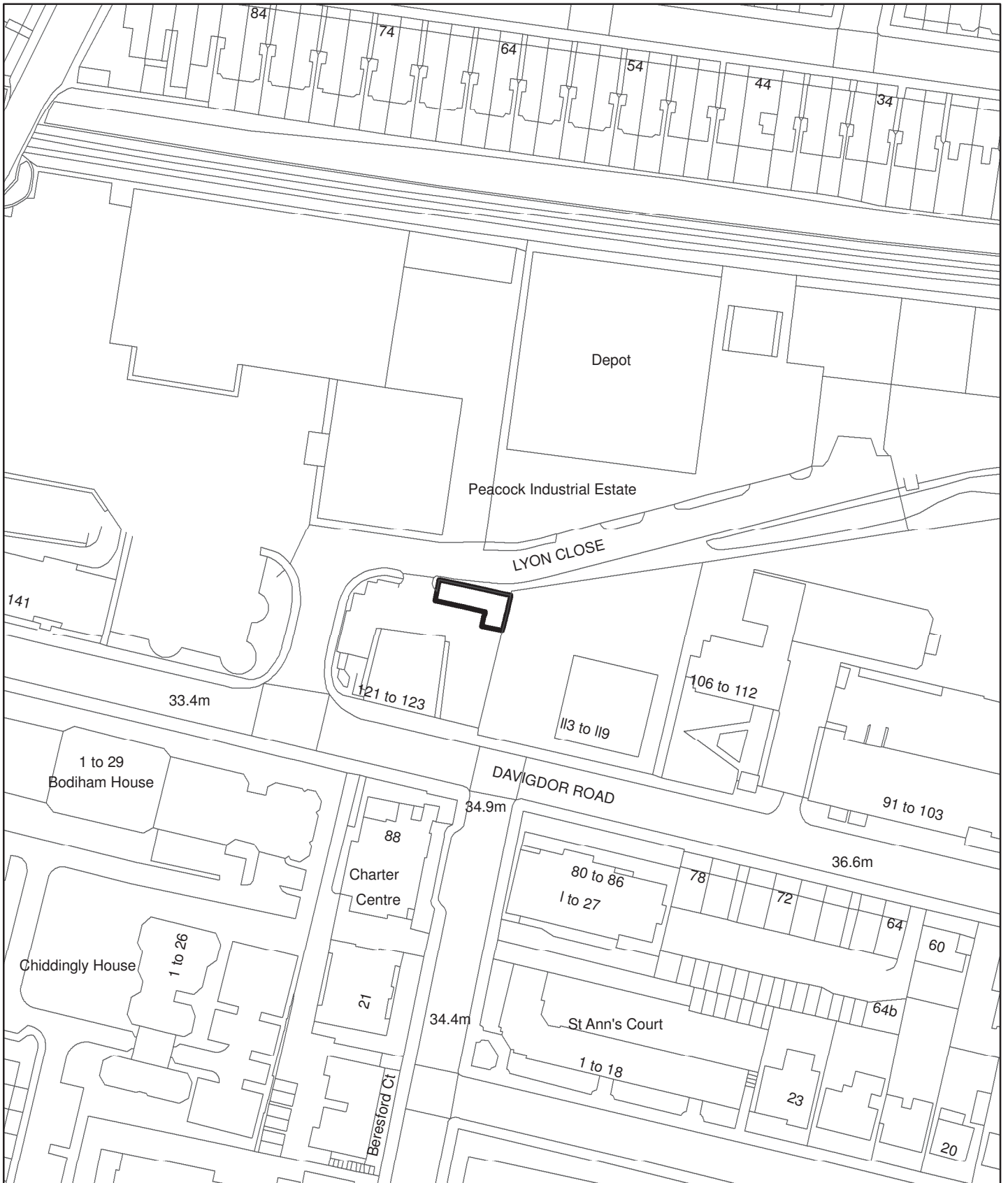
**PLANS LIST  
ITEM I**

**121-123 Davigdor Road, Hove**

**BH2012/04042  
Full planning consent**

**24 APRIL 2013**

# BH2012/04042 121 - 123 Davigdor Road, Hove.



Scale: 1:1,250

<b><u>No:</u></b>	<b>BH2012/04042</b>	<b><u>Ward:</u></b>	<b>GOLDSMID</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>121-123 Davigdor Road, Hove</b>		
<b><u>Proposal:</u></b>	<b>Change of Use of part of car park to hand car wash. (Retrospective) Temporary consent for a period of 3 years.</b>		
<b><u>Officer:</u></b>	Chris A. Wright Tel. 01273 292097	<b><u>Valid Date:</u></b>	03/01/2013
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	28/02/2013
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	Mr David Collins, Collins Planning Services Ltd, 4 Yeomans, Ringmer Lewes, East Sussex		
<b><u>Applicant:</u></b>	Mr Florenc Gjona, C/O Agent		

## 1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

## 2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is occupied by a 5-storey office block with surface car park at ground level accessed via Lyons Close off Davigdor Road. The car park has a single point of ingress and egress and is bounded by a low boundary wall. The building is in use for Class D1 and C2 purposes including supported living accommodation.
- 2.2 The application relates to 8 parking spaces in the north-eastern corner of the surface car park.
- 2.3 Lyons Close is a partly adopted highway which provides access to the site, as well as two large retail outlets and the Peacock Industrial Estate which comprises small trade outlets.
- 2.4 The site is not located in a conservation area and no part of the site is statutorily listed.

## 3 RELEVANT HISTORY

- BH2012/02630:** Display of non illuminated window vinyls. Refused 27 November 2012.
- BH2012/01054:** Change of use of lower ground and ground floors from offices (B1) to community centre (D1). Change of use of first and second floors from community centre (D1) and offices (B1) to residential accommodation for supported living (C2) incorporating 26 no. bedrooms. Approved 13 July 2012.
- BH2011/00521:** Change of use of first floor from offices (B1) to natural health treatment rooms (D1). Approved 18 May 2011.

**BH2012/00381:** Erection of canopy to existing car park (Retrospective) Refused 23 April 2012 and appeal dismissed.

**BH2011/00232:** Change of use of part of car park to hand car wash (Retrospective) Refused 12 May 2011. This application incorporated a metal storage container to store car washing equipment which was considered harmful to visual amenity and which has subsequently been removed from the site.

**BH2005/06340:** Non illuminated advertisement sign. Approved 18 January 2006.

#### **4 THE APPLICATION**

- 4.1 Planning permission is being sought retrospectively for the use of 8 of the surface car parking spaces within the curtilage of the office building as a hand car wash service (*Sui Generis*).
- 4.2 The applicant seeks a temporary consent lasting for three years.
- 4.3 The car wash has been operating on the site continuously since before the refusal of a previous retrospective planning application for the use on 12 May 2011 (ref. **BH2011/00232**). No appeal was lodged against that decision.
- 4.4 There is a white canopy over the car wash use which was refused planning permission retrospectively on 23 April 2012 (ref. **BH2012/00381**) and subsequently dismissed at appeal by decision letter dated 16 November 2012. The canopy remains in situ and is presently the subject of a Planning Enforcement Investigation.

#### **5 PUBLICITY & CONSULTATIONS**

##### **External**

- 5.1 **Neighbours: Fifteen (15)** letters of representation have been received from **111 Hare Lane Claygate (Freeholders of the Peacock Trading Estate); 125 Shaftesbury Avenue London WC2 (Managing Agents of Davigdor Road Retail Park); 87 Church Road; 88, 113-119 Davigdor Road; 13 Leylands Road Burgess Hill; 22 Montefiore Road; 14-19 Norfolk Terrace; 12 Osborne Villas; 21 Sycamore Close; 50 Thompson Road; 14 Vale Avenue; 62 Westlands Rustington; 'Manuka' West Hill High Salvington; 146 Woodland Drive, objecting** to the application for the following reasons:
  - No washroom/restroom facilities for the car wash and employees use other local buildings or urinate on the walls of neighbouring buildings.
  - More than 8 parking bays are being used. 12-15 spaces are used.
  - Traffic and congestion blocks the road to Graham's, The Tool Station and Howdens.
  - Blocks access to retail service yards.
  - Emergency vehicles may not be able to enter the industrial estate quickly.
  - Increased traffic flow.
  - Compromises users of the industrial estate leading to loss of trade.
  - Traders no longer use the trading estate due to congestion caused by the car wash.

- Cars waiting to be washed leave their engines running which is bad for the environment.
- The car wash is unsightly.
- There is no need for an additional car wash in Hove.
- Not a suitable location.
- The site is too small for a car wash use.
- The retail park entrance is not suitable for this type of activity.
- Incongruous with mostly residential area.
- Visible from surrounding streets.
- Despite refusal and loss at appeal the canopy remains in situ.
- Insufficient drainage within the site.
- Frozen water on the highway could pose a danger.
- Contaminated waste water.

5.2 A letter has been received from **Mike Weatherley MP**, objecting to the application on the grounds that the activity of the car wash is having a significant impact on the traffic flow on Davigdor Road, which compromises safety in the area and is detrimental to the local environment.

5.3 **Thirteen (13)** letters of representation have been received from **Charter Medical Centre 88 Davigdor Road; '4 Hollybank' Bromley Road; 1 Charlotte Street; 15 Preston Ville Court 134 Dyke Road Avenue; Flat 5 Ewart House, Church House Close, Southwick; 51 Hova Villas; 20 Juniper Close; 47 Ladies Mile Road; 35 Old Steine; 'Romany' Second Avenue; Unit 2 Planet House 1 The Drive; 19 Preston Grange; and 68 Harmsworth Crescent**, supporting the application for the following reasons:

- Very good service.
- The staff are polite and honest.
- Patients of the medical centre find the car wash useful and can drop in for visits without worrying about parking.
- Customers can shop in the industrial/retail park while their vehicles are being washed.
- Good location with easy access.
- Much needed.

5.4 **Southern Water:** No objection. Areas used for vehicle washing should only be connected to the foul sewer after consultation with Southern Water. The applicant is advised to discuss the matter further with Southern Water's Trade Effluent Inspectors.

**Internal:**

5.5 **Environmental Health:** No objection. It is noted the application is retrospective and the car wash has been operating for about two and a half years with no complaints about noise.

5.6 **Sustainable Transport:** No objection. There appears to be a significant number of parking spaces on the site where vehicles can wait to be washed.

The majority of car parking spaces are not associated with the adjacent building's planning consent and, furthermore, there is an agreement with the owner of the land and the car wash that these car parking spaces can be used.

- 5.7 In the submitted supporting statement complaints are referred to regarding disruption of the highway caused by the above car wash and it is acknowledged that the applicant has stated there are systems in place to prevent motorists using the car wash from causing any disruption on the highway.
- 5.8 To ensure the systems in place are robust, the Highway Authority recommends that an operational plan is conditioned and submitted to the Planning Authority for approval that clearly demonstrates how the business will operate regarding the management of vehicles. This should include: a management plan of measures to ensure vehicles do not back onto the public highway (that may include a ticketing system); and details of where vehicles are stored pre and post washing.
- 5.9 The Highway Authority is aware of complaints made by residents and businesses of vehicles waiting to be washed on Lyons Close causing disruption, however this is a Civil Enforcement or Police matter.

## **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) March 2012

#### Brighton & Hove Local Plan 2005:

TR1	Development and the demand for travel
TR7	Safe development
TR8	Pedestrian routes
TR19	Parking standards
SU4	Surface water run-off and flood risk
QD27	Protection of Amenity
EM3	Retaining the best sites for industry
EM5	Release of redundant office floorspace and conversions to other uses

#### Supplementary Planning Guidance:

SPGBH4 Parking Standards

#### Brighton & Hove City Plan Part One (submission document)

## 8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the acceptability of the change of use of the land in principle; the impact on transport; and the impact on neighbour amenity.
- 8.2 Aside from the white canopy on the site, which is required to be removed following the dismissal of a planning appeal against refusal of planning permission, there are no permanent structures on the site. As such, design and appearance are not principal considerations. It is noted that the proposed use can successfully operate with the removal of the canopy which is currently being considered as part of the enforcement investigation. Also, the metal storage container which formed the basis of Reason 1 for the refusal of application BH2011/00232 has been removed from the site and the car wash has been able to continue to operate without it.

#### **Principle:**

- 8.3 There are 24 parking spaces within the walled car park around the office block, 121-123 Davigdor Road. At the time the previous application was being considered (ref. **BH2011/00232**), the office block was vacant, and this issue contributed to the second reason for refusal of that application:  
*The occupation by the development of 8 of the 24 car parking spaces connected with the office building (121-123 Davigdor Road) together with the consequent creation of a separate planning unit, could prejudice the future occupation and viability of the office building which could result in the loss of valuable employment space in the city. Thereby, in principle, the development conflicts with policy EM3 of the Brighton & Hove Local Plan.*



- 8.4 Since the time of that decision, planning approvals have been granted for the change of use of the office building from office space (B1) to a mixture of community and health uses (D1) and residential accommodation for supported living (C2), refs. **BH2012/01054** and **BH2011/00521**.
- 8.5 The area proposed for the car wash use was incorporated within the red edge of these applications.
- 8.6 Condition 8 of application **BH2012/01054** requires details of a revised on-site car parking layout, the details of which have been submitted for approval under application **BH2012/04091**. Whilst this application is undetermined, the plans submitted exclude the area of car park to the east side of the building and propose 2 car parking spaces and 2 disabled parking spaces to the western side of the building.
- 8.7 If approved, this would mean that the area of car park on which the car wash is situated is no longer required for parking allied to the use of the adjacent building and it has been demonstrated that the full occupation of the former office building has not been compromised by the car wash use within the car park. The former office building is now occupied in accordance with the planning approval **BH2012/01054**.
- 8.8 In this regard the proposal does not conflict with policies EM3 or EM5 of the Local Plan.
- 8.9 For these reasons, the second reason for the refusal of application **BH2011/00232** is no longer considered valid, and subject to amenity and transport considerations, the car wash use is acceptable in principle.

**Sustainable Transport:**

- 8.10 SPGBH4: Parking Standards provides no maximum level of parking for car wash uses and refers only to car wash uses ancillary to petrol stations. These represent a different scenario to the proposed hand car wash because normally only one vehicle will be in a petrol station car wash at a time and an interior/valeting service with dedicated staff is not normally provided.
- 8.11 The Sui Generis categorisation of the car wash use means it does not fit neatly into the classification of any particular Use Classes as these generally group together similar uses and a car washes raise a certain set of considerations. The Sui Generis categorisation also means that any intensification of the use may be considered material and require further planning consent in future.
- 8.12 The previous application, BH2011/00232, was not refused for transport reasons. However, it is plausible that the car wash use has increased and become more intensive over the last two years and the potential impact in respect of parking and congestion may have materially worsened.
- 8.13 The letters of objection from users and neighbours to the trading estate are acknowledged as to how congestion affects their businesses and potentially the continued viability of the trading estate. Similarly, letters in support of the



proposal are acknowledged, including those stating customers leave their vehicles at the car wash while they visit the retail park or the nearby doctors' surgery.

- 8.14 The applicant has submitted a written statement putting the case that congestion is caused also by the burger van operating out of the car park of 121-123 Davigdor Road, and that they have put up signs requesting customers not to leave their vehicles on the highway before they are washed. The applicant states customer cars can be kept within the site both before and after washing.
- 8.15 The Sustainable Transport team raises no objection to the application and would not support a decision to refuse planning permission. The Sustainable Transport team considers an appropriately worded planning condition could be imposed requiring details of a plan for managing car wash customer vehicles without causing congestion on the Lyons Close access road. The application seeks retrospective consent. Accordingly such a condition would need to include a time frame for submitting those details. The operation of the car wash could then be monitored and any breaches of that condition could be enforced.
- 8.16 Notwithstanding that the applicant has applied for temporary consent for a period of 3 years, this is considered excessive if the car wash use continues to cause congestion and traffic disruption.
- 8.17 A temporary consent for a period of 1 year is therefore recommended. This will allow for monitoring of the parking/traffic management issues after which time the local planning authority will be able to review the situation.

**Amenity:**

- 8.18 Policy QD27 of the Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health. Policy QD27 does not only apply to residential neighbours, but other users and occupiers of adjoining land also.
- 8.19 The car wash use could generate noise and disturbance that could be detrimental to the amenity of adjoining users and occupiers, for example those working in offices, visiting the adjacent office building or residents of the C2 Use occupying its upper floors. However, Environmental Health has reported that there have been no complaints received since the car wash has been operating over the last two and a half years. As such it is considered the car wash has been operating without causing a significant adverse impact on neighbour amenity.
- 8.20 As discussed above, any future intensification of the use of the car wash could be held to be material, and in the event the amenity impact consideration can be revisited under a subsequent planning application.

8.21 However, as proposed the car wash use is not considered contrary to the aims of policy QD27 of the Local Plan.

**Sustainability:**

8.22 In addition to the applicant entering into a separate agreement with Southern Water for permission to discharge waste water into the foul sewer, waste water should be satisfactorily drained within the site without discharging to the highway, and appropriate measures put in place to prevent contaminated water from entering the infrastructure. This is necessary to comply with policy SU4 of the Local Plan.

8.23 No information has been submitted and the applicant states that, notwithstanding the car wash is operating, that the method of sewage disposal is unknown.

8.24 A condition should be imposed requiring details of waste water drainage and interceptors of contaminated waters to prevent their being discharged into the sewage system.

**9 CONCLUSION**

9.1 The use of the land edged in red as a hand car wash is considered acceptable in principle in this location and has not compromised the viability of the adjacent office building or the implementation of its consented D1/C2 Use approved under application BH2012/01054. The concerns in respect of traffic congestion can be controlled by imposing a planning condition and it is recommended temporary consent is granted for a period of 1 year to allow the traffic situation to be monitored and reviewed.

**10 EQUALITIES**

N/A

**11 CONDITIONS / INFORMATIVES**

**11.1 Regulatory Conditions:**

1) The use hereby permitted shall be discontinued and the land restored to its condition immediately prior to the use commencing on or before a period of 12 months from the date of this decision, in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

**Reason:** In order to allow the Local Planning Authority to monitor and review the impact of the use on transport and amenity and to comply with policies TR1, TR7, TR19 and QD27 of the Brighton & Hove Local Plan.

2) The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

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

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Plan Type	Reference	Revision	Date Received
Location Plan			3 Jan 2013
Block Plan			3 Jan 2013

- 3) Within 1 calendar month from the date of this decision, full details of the waste water drainage systems and measures to prevent contaminated water from being discharged onto the highway or into the foul sewage system shall be submitted to the Local Planning Authority. The measures approved in writing by the Local Planning Authority shall be retained for as long as the use operates on the land.

**Reason:** To ensure waste water resulting from the car wash use is drained within the site and ensure pollutants are not discharged into the foul sewage system and to comply with policies SU4 and TR7 of the Brighton & Hove Local Plan 2005.

- 4) Within 1 calendar month from the date of this decision, an Operational Management Plan providing details of how the car wash use functions, shall be submitted to the Local Planning Authority. The submitted plan must clearly demonstrate how the car wash will function including how at peak times queues will be managed to prevent vehicles queuing back onto the public highway and how and where vehicles will be parking before and after washing. The car wash use shall operate in accordance with the details approved in writing by the Local Planning Authority.

**Reason:** To ensure safe development that can provide for the demand for travel the use generates, to address congestion and to comply with policies TR1 and TR7 of the Brighton & Hove Local Plan 2005.

11.2 Informatives:

1. 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 use of the land as a hand car wash is considered acceptable in principle in this location and has not compromised the viability of the adjacent office building. The concerns in respect of traffic congestion can be controlled by imposing a planning condition and it is recommended temporary consent is granted for a period of 1 year to allow the traffic situation to be monitored and reviewed.
2. 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.

