

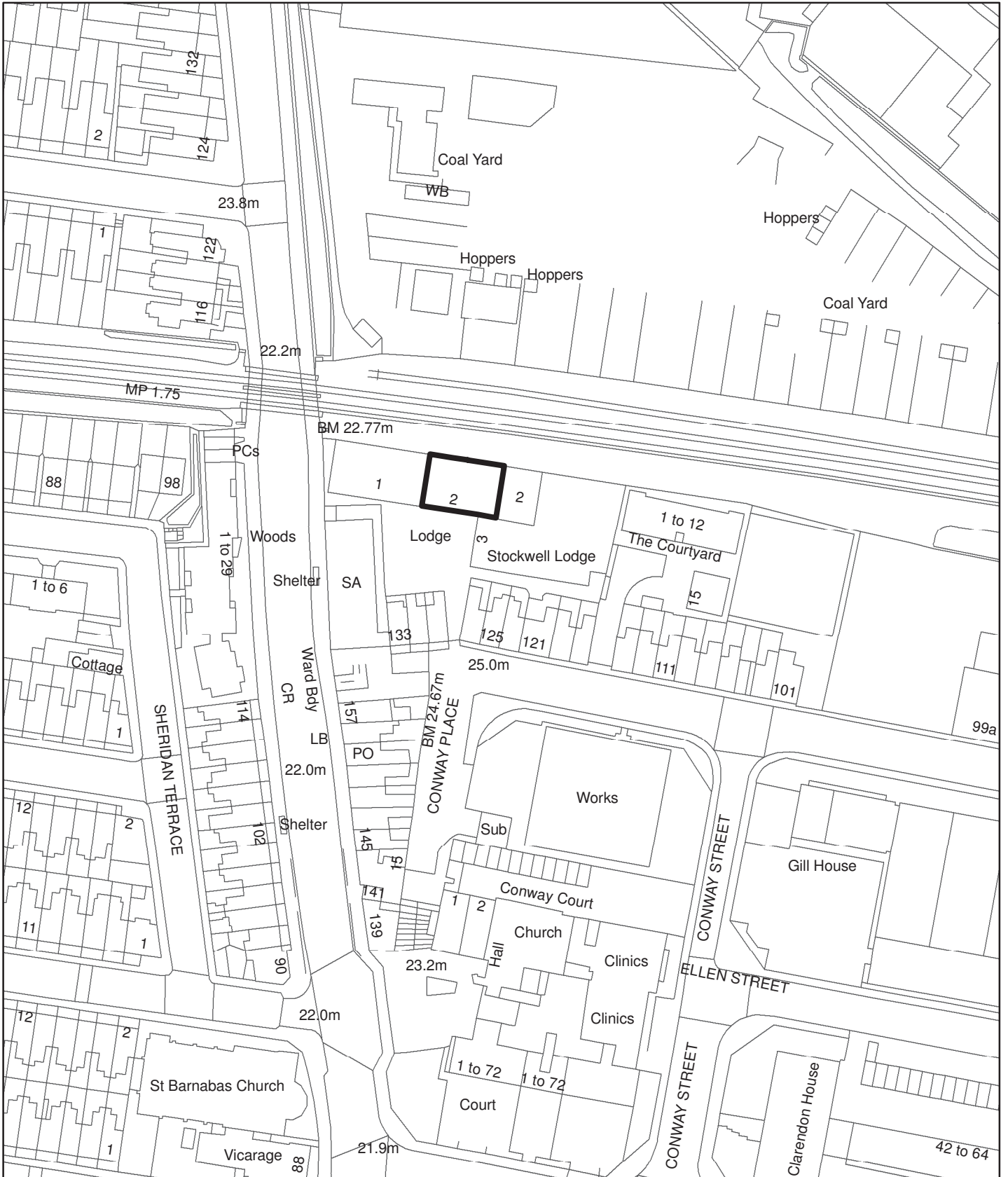
**PLANS LIST
ITEM G**

Unit 2, rear of 121 - 131 Conway Street, Hove

**BH2012/03987
Full planning**

05 JUNE 2013

BH2012/03987 Unit 2, 121-131 Conway Street, Hove.



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2012/03987	<u>Ward:</u>	GOLDSMID
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Unit 2 121 - 131 Conway Street, Hove		
<u>Proposal:</u>	Change of use from Light Industrial (B1) to Stroke Care Facility (D1) and Martial Arts Facility (D2) (Retrospective).		
<u>Officer:</u>	Guy Everest Tel: 293334	<u>Valid Date:</u>	18/12/2012
<u>Con Area:</u>	Goldsmid	<u>Expiry Date:</u>	12/02/2013
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Lewis and Co Planning SE Ltd, Paxton Business Centre, Portland Road, Hove		
<u>Applicant:</u>	Ms Nikki Penny, The Clinic, Cart Lodge, Danworth Lane, Hurstpierpoint		

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 located on the north side of Conway Street close to its junction with Conway Place. The site is situated behind two-storey residential terraced properties fronting Conway Street and is accessed via a gap between nos. 127 and 129 (Conway Street). The application premises are within a single storey building containing light industrial uses which, together with an adjoining building in similar use, form an L-shape around a courtyard used for car parking / servicing.
- 2.2 To the north of the site are railway lines, to the west is a Salvation Army building and to the south two-storey residential buildings.

3 RELEVANT HISTORY

BH2013/00979: Application for variation of condition 4 of application 3/87/0895 (Change of use to 3no business class B1 units from existing builders depot) that the use hereby authorised shall be limited to the hours of 0700 to 2000 Monday to Friday , 1100 to 1700 Saturdays and Bank Holidays, no working on Sundays. Under consideration and included elsewhere on this agenda.

BH2012/03988: Application for variation of condition 4 of 3/87/0895 (Change of use to 3no Class B1 Units from existing Builders Depot) that the use hereby authorised shall be limited to the hours of 0700 to 2100 Monday to Saturday, and 1100 to 1500 hours on Sundays and Bank Holidays. Refused 20/03/2013.

BH2012/01778: Change of use of zone 'A' unit 2 from Light Industrial (B1) to Stroke and Neurological Physiotherapy clinic (D1). Refused 14/08/2012 for the following reason:-

1. *There is insufficient evidence to demonstrate that the premises have been actively marketed over a sustained period time or that the marketing strategy adopted was appropriate to the condition and commercial value of the building. It has therefore not been demonstrated that the premises is genuinely redundant. The application is therefore contrary to policy EM6 of the Brighton and Hove Local Plan.*

3/87/0895: Change of use to 4 Business Class B1 units from existing builder's depot. Approved 15/01/1988.

M/13709/68: Proposed builder's depot with loading and unloading bays and parking for 19 cars. Approved 02/09/1968.

4 THE APPLICATION

- 4.1 This application relates to Unit 2 only. Planning permission is sought for a change of use within Unit 2 from a Class B1 use to a Class D1 Stroke and Neurological Physiotherapy clinic (within 'Zone A') and a Class D2 martial arts training facility (within 'Zones B & C'). The application relates to a total floor area of approximately 232 sq metres. The changes of use have already taken place and the application is therefore retrospective.
- 4.2 As part of the application process the applicant and agent have submitted 5 letters from existing tenants of the site; 38 letters from customers of existing tenants of the site; 28 letters from employees based on the site; and 9 letters from business providing services to existing tenants of the site outlining the need for increased operating hours. A petition of 125 signatures raising no objections to the proposals has also been provided.

5 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours: 69** letters have been received from the addresses set out in Table A (attached to the rear of this report) supporting the application for the following reasons:-
 - the proposal entails a community use with minimal / no impact on the residents nearby;
 - the premises when marketed under B1 use attracted no interest;
 - health and fitness benefit;
 - neurological physiotherapy requires ground floor access without steps;
 - the uses are not open to the general public and are by appointment only;
 - provides services that the NHS can not provide;
 - no other local provision;
 - positive health contribution;
 - no disturbance to residents and local location means that less travel to the benefit of patients.
- 5.2 A **petition of 25 signatures** objecting to the application on the grounds of '*unacceptable noise from traffic and human traffic*'.

- 5.3 **4** letters have been received from **13 Clarendon House, Clarendon Road**; and **125, 127 & 129 Conway Street** objecting to the application for the following reasons:-
- unsuitable premises (due to accessibility) to treat stroke patients;
 - disturbance from cars and people coming and going from the premises;
 - the access is a narrow driveway, some sessions start at 6am and seven days a week until 10pm;
 - 10-22 cars are parked at any one time;
 - consultation has given residents only a limited opportunity to respond
 - and inappropriate for residential location especially on evenings, Sundays and Bank Holidays.
- 5.4 **2** letters have been received from **119 Conway Street** and **116 Sackville Road** requiring clarification of the proposed use and whether on-line gambling is operating from the premises.

Internal:

- 5.5 **Environmental Health:** Express concerns relating to whether a rehabilitation centre and martial arts facility and mutually compatible uses; martial arts centres can cause noise disturbance; and potential impact from the adjoining railway line.
- 5.6 **Economic Development:** No objection. The applicant has submitted detailed marketing information for a reasonable period with rental levels very reasonable. The unit was also refurbished in an attempt to attract tenants. The issues cited in the supporting information in letting the premises are accepted.
- 5.7 **Planning Policy:** Outlines that care is needed to ensure that the principle of policy EM6 is taken into account (maintaining employment premises to satisfy the needs of the city) and a suitable marketing period applied before permanent loss is accepted. The proposed use provides social benefits and according with local plan policies HO19 and SR17.
- 5.8 **Sustainable Transport:** No objection. The development is not forecast to generate significant additional trips above what is already permitted. The proposed level of parking accords with maximum standards outlined in SPGBH4. Recommend conditions to secure details of cycle parking and of a disabled car parking space.

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 and Hove Local Plan 2005 (saved policies post 2007);
 - East Sussex, South Downs and Brighton and Hove Waste and Minerals Plan (Adopted February 2013);

- East Sussex and Brighton and Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton and Hove;
 - East Sussex and Brighton and 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 and 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 and Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU10	Noise nuisance
QD27	Protection of amenity
EM6	Small industrial, business units and warehouse units

Supplementary Planning Guidance:

SPGBH4	Parking Standards
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Brighton and Hove City Plan Part One (submission document)

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The proposal does not raise any significant issues in terms of parking provision or highway safety. The main consideration in the determination of this application therefore relate to the principle of the proposed change of use of unit 2 and the impact on amenity for neighbouring residential occupiers.

Proposed uses - Principle

- 8.2 The application site comprises a single storey unit (unit 2) that was formerly in light industrial Class B1 use. The application seeks retrospective consent for a

change of use from Class B1 to a stroke care facility (Class D1) and a martial arts training facility (Class D2). Policy EM6 seeks to retain small industrial, business and warehouse premises for employment purposes unless, amongst other criteria, the premises have been assessed and are genuinely redundant.

- 8.3 The submitted Planning Statement includes marketing information from two separate commercial agents. The details indicate that marketing of the premises commenced in July 2011 and copies of press advertisements up until January 2012 have been provided. Further details have been provided for the period February 2012 to May 2012, including a press advertisement from 15th May 2012. It is understood that the response to this marketing was limited (with the most positive being from a physiotherapist) due to the limited amount of parking, constrained site access and problems with noise and early / late delivery and restricted working hours close to residential dwellings.
- 8.4 Whilst the submitted evidence is not entirely compelling it is apparent that the premises have been marketed for Class B1 use at a competitive rate for a reasonable period of time. Furthermore during the course of the application further details have been supplied of 17 other premises that are currently available elsewhere in the neighbourhood at a comparable rental level. The Council's Economic Development Team has commented that the rental levels sought by the applicant were very reasonable for the property and there are no adverse comments to the change of use.
- 8.5 The submitted marketing details also need to be balanced against other material planning considerations, including the social benefits of the proposed uses and the provision of 9 full time jobs and 2 part time jobs. The Stroke and Care Facility constitutes a new community facility which is supported by Local Plan policy HO19, and the Martial Arts Training constitutes a new sports and recreation facility which would be supported by Local Plan policy SR17.
- 8.6 The combination of submitted marketing information and the social and economic benefits provided by the uses is considered sufficient to fulfil the requirements of local plan policy EM6. The proposal would not therefore result in the unjustified loss of Class B1 accommodation in the City and the Planning Policy team do not object to the proposed change of use. A condition is however, recommended to require that the unit reverts back to Class B1 use upon cessation of the specific Class D1 / D2 uses.
- 8.7 It is noted that condition 3 of planning permission 3/87/0895 restricts use of the site to Class B1 use(s). This change of use proposed by this application would though supersede the restrictions of this condition.

Impact on Amenity:

- 8.8 Policy QD27 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 adjacent users, residents or occupiers, or where it is liable to be detrimental to human health. Policy SU10 requires that proposals minimise the impact of noise on the occupiers of neighbouring properties and the surrounding environment.

- 8.9 The current planning permission for the premises restricts operating hours to 7.00 to 18.00 Monday to Friday, 7.00 to 13.00 on Saturdays and at no time on Sundays or Bank Holidays (3/87/0895). This current change of use application proposes operating hours of 07:00 to 20:00 Monday to Friday, 11:00 to 17:00 Saturdays and Bank Holidays with no working on Sundays. This represents an increase of 2 hours Monday to Fridays.
- 8.10 The commercial unit is sited along the rear boundary of the site and noise breakout from within the unit is not considered to be an issue. On the basis of the representations received as part of the application it is instead noise and disturbance from access and egress to both the site itself and specific units which is the main cause of concern.
- 8.11 It is appreciated that the proposed hours of use has potential to cause intermittent noise from employees and visitors arriving at and leaving the site. The application site does though comprise relatively small commercial units with limited on-site parking available. It is considered that the impact outside of what could be considered normal working hours, and primarily early evening Monday to Friday and during the daytime on Saturdays, would not be so significant as to warrant refusal of the application. The Council's Environmental Health Team has commented on the application and has advised that although there is a history of noise complaints no statutory nuisance has been identified.

Transport:

- 8.12 The Sustainable Transport Team has advised that the development would not result in increased trips to and from the site. On this basis the proposal would not warrant improvements to sustainable transport infrastructure in the vicinity of the site and would not create a harmful demand for travel.
- 8.13 The existing level of on-site parking accords with maximum standards outlined in SPGBH4 and details of cycle parking and a disabled car parking space are required through condition.

9 CONCLUSION

- 9.1 It has been satisfactorily demonstrated that Class B1 accommodation is genuinely redundant within unit 2 and the proposals do not conflict with Local Plan Policy EMG. The development would provide two acceptable uses on the site and offer benefits to the local community. The development would not lead to significant harm, by way of noise or disturbance, for occupants of adjoining residential properties. The proposed hours strike a balance between safeguarding neighbouring amenity and continued meaningful use of the site by employment generating uses. If noise complaints are received in the future they could be investigated through separate, non-Planning, Environmental Health legislation.

10 EQUALITIES

10.1 The existing entrance, which appears to provide adequate access, is not being altered as part of the application and details of disabled parking are required through condition.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

11.1 Regulatory Conditions:

1) 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.

Plan Type	Reference	Version	Date Received
Location Plan	JP12/1020/1		14/12/2012
Site Plan	JP12/1020/2		14/12/2012
Floor Plan	JP12/1020/3		14/12/2012

2) The premises comprising Zone A, as identified on drawing no. JP12/1020/3, shall only be used as a stroke care facility and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policy QD27 of the Brighton and Hove Local Plan.

3) The premises comprising Zone B and Zone C, as identified on drawing no. JP12/1020/3, shall only be used as a martial arts facility and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policy QD27 of the Brighton and Hove Local Plan.

4) The uses hereby permitted shall not be operated except between the hours of 07:00 and 20:00 on Mondays to Fridays, and 11:00 and 17:00 on Saturdays and Bank Holidays and shall not be operated at anytime on Sundays (including Bank Holidays which fall on a Sunday).

Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.

5) The vehicle parking area shall be retained for the parking of motor vehicles belonging to the occupants of and visitors to the uses hereby approved.

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

6) Within 3 months of the date of this decision details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby

approved shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use within 3 months of such written approval and shall thereafter be retained for use at all times.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton and Hove Local Plan.

- 7) Within 3 months of the date of this decision details of 1 on-site disabled car parking space shall be submitted to and approved in writing by the Local Planning Authority. The disabled car parking space shall provided and made available for use within 3 months of such written approval and shall thereafter be retained for use at all times.

Reason: To ensure that satisfactory disabled parking spaces are provided and to comply with policies TR18 and TR19 of the Brighton and Hove Local Plan.

- 8) The premises, comprising Zones A, B and C of unit 2 as identified on drawing no. JP12/1020/3, shall revert to their former Class BI use upon cessation of the specific uses hereby permitted.

Reason: To protect and retain employment accommodation in accordance with policy EM6 of the Brighton and Hove Local Plan.

11.2 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton and Hove City Plan Part One (submission document) 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:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-
It has been satisfactorily demonstrated that Class B1 accommodation is genuinely redundant. The development would provide two acceptable alternative uses on the site and offer benefits to the local community. The development would not lead to significant harm, by way of noise or disturbance, for occupants of adjoining residential properties.

PLANS LIST – 05 JUNE 2013

TABLE A

Letters of Support have been received from the following addresses:-

Property Name / Number	Street
109	Arundel Road (Peacehaven)
Flat 3, 8	Bedford Square
12	Berkeley Road (London)
22	Borrowdale Close
46	Brentwood Crescent
Flat 10, 57-58	Brunswick Road
Flat 3b, 56	Brunswick Square
26	Caburn Heights
Flat 5	Cedarcroft
1	Chapel Terrace
38	Cheltenham Place
33	Cobton Drive
28	Coldean Lane
Unit 3 Stockwell Lodge	Conway Street
9	The Cottage
51	Dakin Close
107	Dean Court Road
29	Denmans Lane
59B	Ditchling Rise
17	Doddington Lane (Claypole)
4 King John Court	Emerald Quay (Shoreham)
Vicarage Farm House	Far Hill Lane
48	Fawn Rise
3A	First Avenue
176A	High Street (Lewes)
52	Highdown Road
24	Hill Brow
Flat 12 Jasmine Court	136 Holland Road
19	Juniper Close (Worthing)
Flat 10, 25	Lansdowne Road
73	Larkfield Way
17	Lennox Road
31	Lewes Road (Ditchling)
Church Cottage	Lewes Road (Westmeston)
82	Lincoln Road (Tuxford)
39	Lowther Road
136	Maypole Road
75	Main Street Claypole (Newark)
Flat 2	Meadsway
4	Meacham Meadow
5	Millyard Crescent
97	Nevil Avenue
30	New Swan Close (Lincoln)
119	Newick Road

PLANS LIST – 05 JUNE 2013

5	Norman Road
Flat 2	26 Norton Road
21	Oakapple Road
38	Perryfields
7	Purton Road (Horsham)
Malvern	Radford Road (Tinsley Green)
30	Regency Square
2	Shaftesbury Place
4	Shakespeare Road
Flat 5	Spital Hill (Retford)
1	St. Keyna Avenue
14 Gladstone House	70 Stroudley Road
182	Upper Shoreham Road
210	Victoria Drive
14	Waterloo Street
18	West Hill Place
46	Westfield Crescent
14	Withdean Crescent