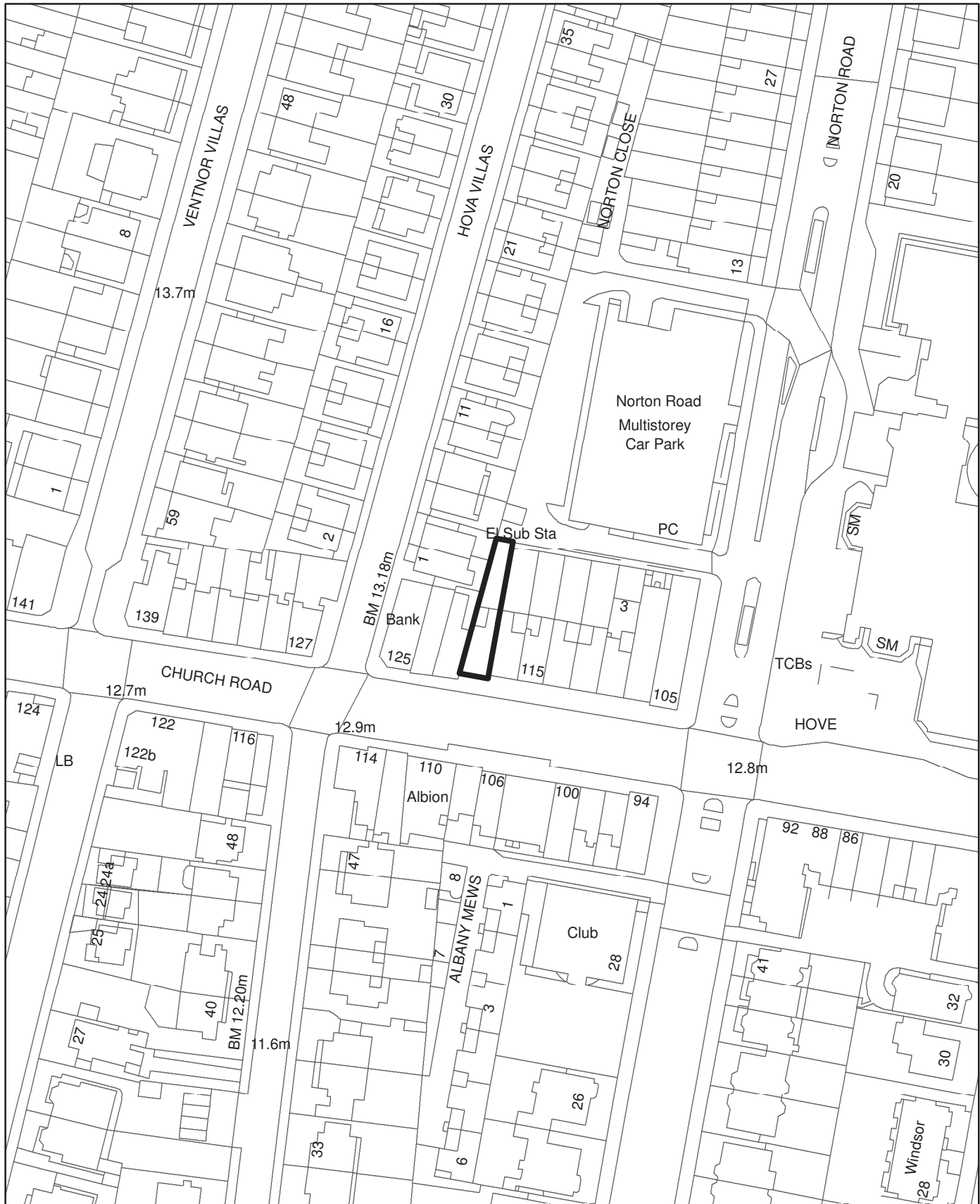


# **ITEM G**

**119 Church Road, Hove, BN3 2AF**

**BH2013/02074**  
**Full Planning**

# BH2013/02074 119 Church Road, Hove



**Brighton & Hove  
City Council**



Scale : 1:1,250

<b><u>No:</u></b>	<b>BH2013/02074</b>	<b><u>Ward:</u></b>	<b>CENTRAL HOVE</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>119 Church Road Hove</b>		
<b><u>Proposal:</u></b>	<b>Erection of single storey rear extension.</b>		
<b><u>Officer:</u></b>	Helen Hobbs Tel 293335	<b><u>Valid Date:</u></b>	08/07/2013
<b><u>Con Area:</u></b>	The Avenues	<b><u>Expiry Date:</u></b>	02 September 2013
<b><u>Listed Building Grade:</u> Grade II</b>			
<b><u>Agent:</u></b>	Mark Hills Architectural Services, Flat 7 8 Eaton Gardens Hove BN3 3TP		
<b><u>Applicant:</u></b>	Mr Elvis Kiri, Flat 4 26 Hove Park Villas Hove BN3 6HG		

## 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 relates to a mid-terrace building located on the north side of Church Road, Hove. The building is Grade II listed and located within The Avenues Conservation Area. The existing use of the site is a wine bar (A4) / Restaurant (A3). The rear elevation of the property retains most of its original external form.

## 3 RELEVANT HISTORY

**BH2013/02075** LBC Erection of single storey rear extension. Under Consideration.

**BH2013/00428** Application for variation of conditions 1 & 2 of BH2010/01342 (Change of Use from Restaurant and Cafe (A3) to a Drinking Establishment (A4) and associated external alterations (Part Retrospective)) that the use will be open to customers and garden be open to customers and staff between the hours of 12.00 - 02.00 (the following day) Monday to Saturday and 12.00 - 01.00 (the following day) on Sunday. Refused 29/04/2013.

**BH2012/03725** Erection of single storey rear extension. Refused 23/01/2013.

**BH2010/01343:** LBC for the replacement of a basement window, railings and wall to external basement stairs, and internal alterations to facilitate new seating areas and TV brackets (Part Retrospective). Approved 23/07/2010.

**BH2010/01342** Change of Use from Restaurant and Cafe (A3) to a Drinking Establishment (A4) and associated external alterations (Part Retrospective). Approved 23/07/2010.

**BH2010/00429:** Change of use from restaurant (A3) to public bar (A4). Withdrawn.

**BH2005/05636:** LBC for the provision of new garden room at ground floor and extension of basement into lightwell. Replacement of first floor window with timber sash. Approved 08/11/2005.

**BH2005/05637:** Provision of new garden room at ground floor and extension of kitchen by covering lightwell with flat roof. Replacement window at first floor rear. Approved 28/11/2005.

**BH2005/01212/FP:** Construction of a single storey extension (to replace existing structure). (Resubmission of Refused application BH2004/00627/FP). Refused 14/06/2005.

**BH2004/00627/FP:** Provision of new toilets, kitchen and winter garden room to replace existing unauthorised toilets and garden room. Refused 20/04/2004.

**BH2000/03117/LB:** Listed building consent for works associated with change of use from shop to restaurant. Approved 11/01/2001.

**BH2000/02913/FP:** Change of use from shop (A1) to Restaurant (A3). Approved 11

#### **4 THE APPLICATION**

- 4.1 Planning permission is sought for the erection of a rear extension. The proposed extension would be built inline with the rear wall of the outrigger and would have a glazed roof and minimal solid walls in the north elevation.

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

##### **External**

- 5.1 **Neighbours: Eleven (11)** letters of representation have been received from **1 Hove Villas, 3 Hove Villas, 4a Hova Villas, 7 Hove Villas, 9 Hova Villas, 9A Hova Villas, 11 Hova Villas, Flat 2 – 13 Hova Villas, 15A Hova Villas and 39 Langdale Road** objecting the application for the following reasons:

- extended opening hours resulting in noise, disturbance and antisocial behaviour
- the glazed roof would not be soundproofed.
- the number of existing toilets would not be sufficient to service the additional floorspace.

- 5.2 A letter of representation has been received from **Councillor Graham Cox** objecting to this application. This letter is attached to this report.

##### **Internal:**

- 5.3 **Heritage: Comment**

This application follows a number of inappropriate proposals for this property which did not respect the traditional form of terrace development typical of 19<sup>th</sup> century housing and along with unsympathetic rear extensions of neighbouring properties (built prior to listing) would have further eroded the outrigger arrangement which is characteristic feature that should not be lost.

- 5.4 This proposal is to build in line with the back wall of the outrigger, however the use of glazing for the roof, and minimal solid walls in the north elevation, along with a very slight set back and the single storey height will retain the prominence of the original building allowing the new element to be read as a light weight addition that will not detract from the historic form.
- 5.5 The loss of the sliding sash window is regrettable, however the use of this ground floor is severely limited by the position of the toilets and it is considered that the harm caused is acceptable in this instance.

5.4 **Arboriculture:** Comment

There is one tree on site, a Prunus spp, that is in close proximity to the proposed development and may be affected by the development. The tree is situated at the top of a flight of steps and is surrounded by concrete, flint walls etc. The roots of the tree will be under concrete etc and therefore no Root Protection Zone is required during the course of the development, however, the Arboricultural Section would ask for the main stem of the tree to be protected during the course of the development by means of a wooden framework clad in marine ply etc. Overall the Arboricultural Section has no objection to the proposals in this application subject to a suitable condition regarding protection of the tree during the course of the development being attached to any planning consent granted.

**Sustainable Transport:** Comment

- 5.5. The proposals are not considered to have a transport impact and therefore the Highway Authority has no objections to this application.

**Environmental Health:** Comment

- 5.6 119 Church Road was once a coal and coke merchants and also at one point a printers. These uses could have resulted in localised land contamination, so 119 Church Rd has been identified as potentially contaminated land under Part IIA of the Environmental Protection Act 1990.
- 5.7 The plans show that a small single storey rear extension is proposed at the rear of the premises. Due to the size of the development and that it is to extend the commercial use that already exists at the premises, it is recommended that a contaminated land discovery strategy is included as an informative to this proposal. This simply means that if during the development of the extension, any previously unsuspected contamination is found, work should stop and the potential contaminants should be risk assessed and dealt with as appropriate.

**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:

- QD1 Design – quality of development and design statements
- QD2 Design – key principles for neighbourhoods
- QD16 Trees and hedgerows
- QD27 Protection of Amenity
- HE1 Listed Buildings
- HE3 Development affecting the setting of a listed building
- HE4 Reinstatement of original features on listed buildings
- HE6 Development within or affecting the setting of conservation areas

#### Supplementary Planning Guidance:

- SPGBH11 Listed Building Interiors
- SPGBH13 Listed Buildings- General Advice

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

- SS1 Presumption in the favour of Sustainable development

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations material to this application are the impacts of the proposed extension upon the amenities of adjacent occupiers, as well as the impact on the character and appearance of the conservation area and Grade II Listed Building.

**8.2 Planning Policy:**

Policy QD14 of the Brighton & Hove Local Plan states that planning permission for extensions or alterations to existing buildings, including the formation of rooms in the roof, will only be granted if the proposed development:

- a) is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area;
- b) would not result in significant noise disturbance or loss of privacy, outlook, daylight/sunlight or amenity to neighbouring properties;
- c) takes account of the existing space around buildings and the character of the area and an appropriate gap is retained between the extension and the joint boundary to prevent a terracing effect where this would be detrimental to the character of the area; and
- d) uses materials sympathetic to the parent building.

8.3 In considering whether to grant planning permission for extensions to residential and commercial properties, account will be taken of sunlight and daylight factors, together with orientation, slope, overall height relationships, existing boundary treatment and how overbearing the proposal will be.

8.4 Policy HE6 of the Brighton and Hove Local Plan states that proposals within or affecting the setting of a conservation area should preserve or enhance the character or appearance of the area.

8.5 Policy HE1 states that proposals involving the alterations, extension, or change of use of a listed building will only be permitted where:

- a) the proposal would not have any adverse effect on the architectural and historic character or appearance of the interior or exterior of the building or its setting; and
- b) the proposal respects the scale, design, materials and finishes of the existing building(s), and preserves its historic fabric.

8.5 Policy QD27 states that planning permission for any development 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.

**8.6 Design:**

The application seeks consent for a rear extension, to infill the area between the outrigger and the side boundary. The proposed extension would project a maximum of 2.5m and would have a slight set back from the rear building line of the existing outrigger. It would have an eaves height of 2.4m with a sloping glazed roof with a maximum height of 3.9m. The rear elevation of the extension would mainly contain glazing on account of the proposed double doors which would be the full width of the extension. The small amount of exterior walls would be painted render to match the main building.

8.7 This listed property has lost some of its internal character, however retains most of its external form which other properties within this terrace have lost. The rear of the property is highly visible from the neighbouring properties, including the

residential properties which adjoin the west boundary, and is also highly visible from the Norton Road Car Park to the north of the site.

- 8.8 It is acknowledged that some of the properties within this terrace have had substantial extensions. A number of these do not have recent planning permission and may well have been constructed before this terrace was listed in 1992. There has been a more recent extension, which was granted permission in 2004 (BH2004/03301/LB & BH2004/03390/FP) at No.109 Church Road. This application was for a first floor rear extension above an existing ground floor addition, for which there is no planning history. This application was granted on the grounds that it was considered to make improvements to this ground floor extension. It appears that in this case the original elevation of this property had already been compromised by the ground floor extension which is not true of the application site, which still has its original plan form in tact.
- 8.9 There have been a number of inappropriate proposals for a rear extension at this site which have recently been refused. The previous proposals involved a footprint that would wraparound the outrigger and as such would have failed to respect the traditional form of the terrace development and would have eroded the original arrangement. The character of the outrigger is a feature that should not be lost.
- 8.9 The Heritage Officer has stated that the proposed extension proposes to build in line with the back wall of the outrigger, however with the use of glazing for the roof, and minimal solid walls to in the north elevation, along with the slight set back, will retain the prominence of the original building allowing the new element to be read as a light weight addition that will not detract from the historic form.
- 8.10 The proposal would result in the loss of a traditional sliding sash window on the rear elevation which is regrettable, however the Heritage Officer states that the use of this ground floor is severely limited by the position of the toilets and it is considered that the harm caused is acceptable in this instance.
- 8.11 The rear of this property currently has a basement lightwell with steps leading up to the garden level. A fence surrounds the steps which partitions off this area from the main garden and creates a storage space. The proposed extension would result in the lightwell being enclosed and the steps being removed. This area as existing appears overly cluttered and the fencing is an incongruous feature. The proposed extension would therefore improve the appearance of this corner and the enclosing of the basement level is considered acceptable.
- 8.12 No large scale details of the proposed doors or the roof frame have been submitted with the application and therefore these will be required by condition, to ensure the satisfactory appearance of the development.
- 8.13 The proposed extension is considered to be a sympathetic addition that would not harm the historic character and appearance of the Grade II listed property or the surrounding conservation area.



**Impact on Amenity:**

- 8.14 The application site adjoins commercial properties at ground floor level to the east and west, with a mix of residential and office uses above. To the north west corner the site adjoins the rear of the residential properties fronting Hova Villas. The bulk of the extension would be at ground and basement levels. The extension would be built on the common boundary with No. 121 Church Road, a Chinese restaurant at ground floor. The boundary fence would screen the majority of the extension, with only the glazed roof protruding above the boundary. Given the use of the ground floor of No. 121 and the boundary treatment, the bulk of the extension would not have a significantly detrimental impact. To the west of the site, is No. 117 a retail unit at ground floor. The development would not be visible from this property on account of the extension not projecting forward of the outrigger. There would be no issues of loss of privacy or overlooking from the rear doors as they would provide similar outlook to the existing windows. Given the position of the glazed roof, again this would not cause overlooking or loss of privacy.
- 8.15 A number of the residential properties fronting Hova Villas have objected to the application. A number of these representations state that no objection is raised regarding the rear extension, however concerns lie with the opening hours of the premises, which if extended could result in significant noise and disturbance. This application does not include a change to the opening hours of the venue or the garden. The applicant has stated the correct opening hours on the application form and these are inline with condition attached to the change of use application in 2010, ref: BH2010/01342. This previous application also conditioned that the use of the garden was only open to customers between the hours of 10.00 and 22.00 daily. These conditions still apply to the site. Whilst the applicant has stated within the Design and Access statement that the 'benefit of the proposed layout would be to encourage customers to see and use the rear garden' this application does not allow the garden to be used after its current closure time of 22.00. Any change in opening hours would require a further planning application. To further safeguard the amenity of the adjoining properties, conditions will be attached to ensure that the opening hours of the venue and the garden area remain inline with the previous consent and to ensure that the new access into the garden is closed at 22.00.
- 8.16 Concerns are also raised that the glazed roof would not be as sound proof as the a solid structure. In line with the condition to be attached it will be required that the doors are shut at 22.00. There is no evidence to suggest that the proposed roof would not be as sound proof as a solid roof. Furthermore Environmental Health have raised no objections on these grounds.

**Other Considerations:**

**Environmental Health:**

- 8.17 The application site was once a coal and coke merchants and also at one point a printers. These uses could have resulted in localised land contamination, and therefore the site has been identified as potentially contaminated land under Part 11A of the Environmental Protection Act 1990.
- 8.18 The plans show that a small single storey rear extension is proposed at the rear of the premises. Due to the size of the development and that it is to extend the

commercial use that already exists at the premises, it is recommended that a contaminated land discovery strangely is included as an informative to this proposal. Therefore during the development of the extension, any previously unsuspected contamination is found, work should stop and the potential contaminants should be risk assessed and dealt with as appropriate.

**Arboriculture:**

- 8.19 There is one tree on site, a Prunus spp, that is in close proximity to the proposed development and may be affected by the development.
- 8.20 The tree is situated at the top of a flight of steps and is surrounded by concrete, flint walls etc.
- 8.21 The roots of the tree will be under concrete etc and therefore no Root Protection Zone is required during the course of the development, however, the Arboricultural Section has states that the main stem of the tree should be protected during the course of the development by means of a wooden framework clad in marine ply etc. This will be addressed by condition.

**9 CONCLUSION**

- 9.1 The proposed extension would not significantly harm the historic character and appearance of the Grade II Listed building or the surrounding conservation area. Furthermore the amenity of the neighbouring properties will not be harmed.

**10 EQUALITIES**

- 10.1 None identified.

**11 CONDITIONS / INFORMATIVES**

Regulatory Conditions:

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 2) The development hereby permitted shall be carried out in accordance with the approved drawings listed below.  
**Reason:** For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location/ordnance plans	1211-01		19th June 2013
Existing floor plans	1211 02		19th June 2013
Proposed floor plans	1211 03		19th June 2013
Rear (north) elevation as existing	1211 04		19th June 2013
Rear (north) elevation as proposed	1211 05		19th June 2013

PLANNING COMMITTEE LIST – 18/09/13

East and west elevations as existing	1211 06		19th June 2013
East and west elevations as proposed	1211 07		19th June 2013
Proposed extension	1211 08		19th June 2013
Existing north elevation	1211 09		19th June 2013
Proposed north elevation	1211 10		19th June 2013

3) The external finishes of the external wall hereby permitted shall match in material, colour, and texture those of the existing building.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.

4) The proposed extension hereby permitted shall be used in conjunction with the opening hours of the main building and shall not be open to customers except between the hours of 10.00 and 23.30 on Mondays to Saturdays and between 12.00 and 23.00 on Sundays and Bank or Public Holidays.

**Reason:** To safeguard the amenities of the locality and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

5) The use of the garden area shall not be open to customers or staff except between the hours of 10.00 and 22.00 daily and all external activity shall cease at this time.

**Reason:** To safeguard the amenities of the locality and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

6) The doors within the north elevation of the extension shall be closed and not used by staff or customers (except in emergencies) between the hours of 22.00 and 10.00 the following day.

**Reason:** To safeguard the amenities of the locality and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

Pre-Commencement Conditions:

7) No development shall commence until fences for the protection of trees to be retained have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences shall be erected in accordance with BS5837 (2012) and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

**Reason:** To protect the trees which are to be retained on the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.

8) No works shall take place until full details of the proposed works including 1:20 scale sample elevations and 1:1 scale joinery profiles of the doors and roof frame have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

**Reason:** As insufficient information has been submitted, to ensure the satisfactory preservation of this listed building and to comply with policies HE1 and HE6 of the Brighton & Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & 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 and Supplementary Planning Documents:  
(Please see section 7 of the report for the full list); and
  - (ii) for the following reasons:-

The proposed extension would not significantly harm the historic character and appearance of the Grade II Listed building or the surrounding conservation area. Furthermore the amenity of the neighbouring properties will not be harmed.
3. The applicant is advised that it has been identified that the land is potentially contaminated. If, during development, contamination not previously identified is found to be present at the site then no further development should be carried out until the developer contacted the Council's Environmental Health Department for advice. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

**Sent:** 29 July 2013 07:51

**To:** Helen Hobbs

**Subject:** RE: 119 Church Road Hove, Application reference BH2013/02074 and 02075

Helen Hobbs  
Planning Department  
Brighton and Hove City Council  
Hove Town Hall  
Norton Road  
Hove  
BN3 3BQ

Helen

I am emailing in connection with this application as a local resident (of 53 Hova Villas) rather than as a Councillor.

I have no objection to the proposed physical extension to the building.

I do though note there is another attempt to extend the opening hours of the bar. This would have a detrimental impact on nearby residents, including noise and disturbance. The opening hours should remain as per what was approved in 2010 (BH2010/01342). Any extension to the hours would be unreasonable.

I ask that the current opening hours of the 119 Church Road are not extended and in addition that the Council ensures the currently approved hours are complied with.

Many thanks

Graham

Graham Cox  
Councillor for Westbourne Ward

