

Brighton & Hove City Council

Meeting: Planning Committee

Date: 4 February 2009

Subject: Former Flexer Sacks building, Wellington Road, Portslade
BH2008/02479 – S106 Planning Obligation Agreement

Ward(s) affected: South Portslade

1. Purpose of the report

1.1 The purpose of this report is to seek the Planning Committee's agreement to the Heads of Terms of a s106 Planning Agreement.

2. Recommendation

2.1 That Members approve the proposed Heads of Terms for the s106 Agreement and agree the conditions as set out in this report.

2.2 And agree the conditions as set out in this report.

3. Background

3.1 On 14th November 2008 Planning Committee considered an application for the following development:-

Change of use of all floors to mixed use development comprising ground floor - leisure (D2) and music and rehearsal studios (B1) first and existing second floor - offices (B1). Additional second floor to south section comprising offices (B1) and vertical circulation core (B1) to serve ground to second floors with lift motor room at roof level. Also, external refurbishment and alterations to all elevations.

3.2 The Committee resolved to grant planning permission, contrary to Officer recommendation, subject to terms of the Section 106 Obligation and conditions being agreed by the Chairman, Deputy Chairman and Opposition Spokesperson. However, there has not been agreement with regards the required terms of the s106 obligation. A copy of the Committee report and minutes are attached at Appendix I.

3.3 Following this decision the Local Planning Authority has been advised by the applicant, City Gateway, that they are *'not in a position to make any contribution towards traffic, arts or any other cause. Any such contribution would make the project totally unviable.'*

3.4 No information on the question of viability has been submitted.

- 3.5 In the absence of any additional information from the applicant to assist with any negotiation of the contributions
- 4. S106 Planning Obligation**
- 4.1 The recommended Heads of Terms are:-
- a contribution of £115,674 towards local sustainable transport measures prior to first occupation of the development;
 - public art works to the value of £30,000; and
 - the refurbishment and extension of the B1 office accommodation to shell and core standard prior to the first occupation of the ground floor premises.
- 4.2 Transport: on the basis of the information submitted and in the absence of a satisfactory Transport Assessment, the sum identified is considered appropriate. Head of Transport Strategy and Projects has advised that they would have been open to negotiation on this sum with the further submission of information. The development will result in a significant increase in trips to and from the site. Notwithstanding the presence of on-site parking the additional trips have implications for the use of public transport, cycle routes and pedestrian links in the vicinity of the application site.
- 4.3 The Transport Planning Team have advised the contribution would enable:-
- the provision of improved toucan pedestrian crossings at the Wellington Road / Kingsway / Station Road junctions;
 - the use of Basin Road South as a two-way link connecting National Cycle Route 2 to Portslade: this route will link Dover in Kent with St Austell in Cornwall once complete; and
 - improvements to bus stops in St Andrews Road and Wellington Road.
- 4.4 A full explanation of the rationale behind the recommended level of transport contribution is outlined in Appendix II.
- 4.5 Public Art: the recommended level of public art contribution was reached after the internal gross area of the development (approximately 5,669 sq m) was multiplied by a baseline value per square meter of construction arrived at from past records of public art contributions for this type of development. This includes average construction values taking into account relative infrastructure costs.

- 4.6 B1 office accommodation: it is necessary to secure the refurbishment and extension of B1 office accommodation on the site, as indicated on the proposed plans, to shell and core standard in accordance with policy EM1 of the Brighton & Hove Local Plan which identifies the site for employment and business use with Class B1 and B2. An agreement is required to ensure this provision is made before the other uses permitted are occupied. Without such a clause, the applicant would be able to implement the permission in part only, without providing the critical levels of employment floorspace required.

5. Proposed conditions

The recommended conditions to be attached to the permission are as follows:-

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission. **Reason:** To comply with Section 91 of the Town and Country Planning Act 1990.
2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order or any subsequent similar re-enactment the ground floor leisure uses hereby permitted, as indicated on drawing no. 766 105, shall be for a health and fitness club and music / media venue and no other purpose, including any other uses within Class D2 (Assembly and Leisure) of the Schedule to the Order. **Reason:** To retain control of the use of the premises, in the interests of the amenities of users of the Class B1 units, and the surrounding industrial estate, in compliance with policy QD27 of the Brighton & Hove Local Plan.
3. No development shall take place until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in full as approved prior to occupation and the refuse and recycling storage facilities shall thereafter be retained for use at all times. **Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policies SU2 and QD27 of the Brighton & Hove Local Plan.
4. No development shall take place until samples of the materials (including colour of render, paintwork or colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. **Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD1 of the Brighton & Hove Local Plan.
5. The development hereby permitted shall not be commenced until details of secure cycle parking facilities to SPG4 standards have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times. **Reason:** To ensure that satisfactory facilities for the parking of cycles

are provided and to encourage travel by means other than the private car and to comply with policy TR14 of the Brighton & Hove Local Plan.

6. A Travel Plan shall be submitted to the Local Planning Authority prior to first occupation of the premises. The Travel Plan shall be agreed in writing by the Local Planning Authority and include a package of measures, proportionate to the scale of the approved development, aimed at promoting sustainable travel choices and reducing reliance on the car. The measures shall include an assessment of the viability and need of establishing a car club and an evaluation of the provision of changing and shower facilities for cyclists. The measures shall be implemented within a time frame as agreed with the Local Planning Authority and be subject to annual review. **Reason:** In order to promote sustainable choices and to reduce reliance on the private car to comply with policies SU2, TR1 and TR4 of the Brighton and Hove Local Plan.
7. The premises shall not be occupied until details of the first floor car park layout, which shall allow for disabled parking provision, has been submitted to and approved in writing by the Local Planning Authority. The car park shall be used in accordance with the agreed layout and be maintained as such thereafter. **Reason:** To ensure that satisfactory facilities for the parking of vehicles are provided and to comply with policies TR1, TR4 and TR18 of the Brighton & Hove Local Plan.
8. The first floor vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved. **Reason:** To ensure that adequate parking provision is retained and to comply with policy TR19 of the Brighton & Hove Local Plan.
9. No works pursuant to this permission shall commence, unless otherwise agreed in writing by the Local Planning Authority, until there have been submitted to and approved in writing by the Local Planning Authority:
 - a) A desk top study documenting all the previous and existing land uses of the site and adjacent land;
 - b) A site investigation report assessing the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study; and
 - c) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

The development hereby permitted shall not be occupied or brought into use until verification has been submitted to the Local Planning Authority by the agreed competent person that any remediation scheme has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:

PLANS LIST – 4TH FEBRUARY 2009

- a) As built drawings of the implemented scheme;
- b) Photographs of the remediation works in progress; and
- c) Certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the approved remediation scheme. **Reason:** Previous activities associated with this site may have caused, or had the potential to cause, land contamination and to ensure that the proposed site investigations and remediation will not cause pollution and in accordance with policy SU11 of the Brighton & Hove Local Plan.

- 10. No development shall commence until a scheme for the soundproofing of the building has been submitted to and approved in writing by the Local Planning Authority. The scheme shall outline the precise nature of the proposed soundproofing measures and the resulting noise attenuation benefits. The development shall be carried out in accordance with the agreed details and shall be maintained as such thereafter. **Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 11. No development shall take place until a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration is submitted to and agreed in writing by the Local Planning Authority. The use of the premises shall not commence until all specified works have been carried out in accordance with the agreed details and thereafter be retained to the satisfaction of the Local Planning Authority. **Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 12. No development shall take place until a scheme for the fitting of odour control equipment to the building has been submitted to and agreed in writing by the Local Planning Authority. The use of the premises shall not commence until all odour control equipment works have been carried out in accordance with the approved details and thereafter be retained to the satisfaction of the Local Planning Authority. **Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 13. No development shall take place until a scheme for sound insulation of odour control equipment referred to in the condition set out above shall be submitted to and agreed in writing by the Local Planning Authority. The use of the premises shall not commence until all sound insulation works have been carried out in accordance with the agreed details and thereafter be retained to the satisfaction of the Local Planning Authority. **Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 14. No development shall take place until details of the external lighting of the site has been submitted to and approved in writing by the Local Planning Authority. The lighting installation shall comply with the recommendations of

the Institution of Lighting Engineers (ILE) “Guidance Notes for the Reduction of Light Pollution” (dated 2005) for zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person shall be submitted with the details. The approved installation shall be maintained and operated in accordance with the approved details and thereafter be retained to the satisfaction of the Local Planning Authority. **Reason:** To protect residential amenity and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

15. The development hereby permitted shall not be commenced until details of sustainability measures have been submitted to and approved in writing by the Local Planning Authority. These details shall demonstrate how the development would be efficient in the use of energy, water and materials. The development shall be carried out in strict accordance with the approved details. **Reason:** To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development, in accordance with policy SU2 of the Brighton & Hove Local Plan.
16. No development shall take place until a written statement consisting of a Site Waste Management Plan, confirming how demolition and construction waste will be recovered and reused on site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details. **Reason:** To ensure that the development would include the re-use of limited resources, to ensure that the amount of waste for landfill is reduced, to comply with policy W10 of the East Sussex and Brighton & Hove Structure Plan, WLP11 of the East Sussex and Brighton & Hove Waste Local Plan, policy SU13 of the Brighton & Hove Local Plan and Supplementary Planning Document 03 Construction and Demolition Waste.

6. Consultations

- 6.1 Officers from the appropriate internal teams have been consulted on the recommended Heads of Terms.
- 6.2 Consultation has also taken place with as agreed by Planning Committee with the Chair, Vice Chair and Opposition spokesperson. Feedback from that process sought clarification over the levels of contribution for the Transport Head of Term.

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

APPENDIX I

<u>No:</u>	BH2008/02479	<u>Ward:</u>	SOUTH PORTSLADE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Former Flexer Sacks building, Wellington Road		
<u>Proposal:</u>	Change of use of all floors to mixed use development comprising ground floor - leisure (D2) and music and rehearsal studios (B1) first and existing second floor - offices (B1). Additional second floor to south section comprising offices (B1) and vertical circulation core (B1) to serve ground to second floors with lift motor room at roof level. Also, external refurbishment and alterations to all elevations.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Received Date:</u>	01 August 2008
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	26 November 2008
<u>Agent:</u>	Barry Field Architects, 7 Queen Square, Brighton		
<u>Applicant:</u>	City Gateway Developments Ltd, 121-123 Davigdor Road, Hove		

1 SUMMARY

The application relates to the eastern half of the former Flexer Sacks factory which occupies a prominent site within the South Portslade Industrial Estate fronting Wellington Road. The building has been vacant since 2000.

The application proposes a mixed use development comprising ground floor health club, music venue and rehearsal studios, with new and refurbished office accommodation at first and second floor levels. The existing first floor off-street parking will be retained and all elevations will be refurbished. The main issues of consideration in the determination of this application are the departure from policy EM1; the nature and balance of the proposed uses; their impact on neighbouring amenity and transport; and design and sustainability issues.

The application is considered acceptable on design, amenity and sustainability grounds. However, the proposal entails the loss of approximately 1700sq metres of employment floorspace on an identified employment site. There is inadequate information to support the type, amount and mix of non-employment (D2) uses proposed on the site, and demonstrate that it is necessary to enable the regeneration of the building and delivery of employment uses on the site. Furthermore it has not been demonstrated that the proposal will not have an unacceptable impact on transport; particularly with regards the potential trip generations and traffic impact resulting from the development; the quality and need, or otherwise, for improvement in the local provision of buses, taxis and cycles; and an assessment of the off-street parking provision in relation to the proposed uses. The application is therefore recommended for refusal.

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

2 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons set out in this report and resolves to **Refuse** planning permission for the reasons set out below:

1. The application site is located within the South Portslade Industrial Estate which is allocated by policy EM1 of the Brighton & Hove Local Plan as an employment site for industrial and business use under Use Classes B1 and B2. The proposal entails the loss of employment floorspace on an identified employment site. There is inadequate information to support the type, amount and mix of non-employment (D2) uses proposed on the site, and demonstrate that it is necessary to enable the regeneration of the building and delivery of employment uses on the site. The application is therefore contrary to the aims of the adopted Brighton & Hove Local Plan policy EM1.
2. The application, and submitted Transport Assessment, fails to demonstrate that the proposal will not have an unacceptable impact on transport; particularly with regards the potential trip generations and traffic impact resulting from the development; the quality and need, or otherwise, for improvement in the local provision of buses, taxis and cycles; and an assessment of the off-street parking provision in relation to the proposed uses. The proposal is therefore considered contrary to the adopted Brighton & Hove Local Plan policies TR1, TR4, TR14, TR18, TR19 and SU15.

Informatives:

- 1) This decision is based on drawing no. 766 99 submitted 1st August 2008; a Planning Statement, Design & Access Statement, Transport Assessment, Noise Impact Assessment, Site Waste Management Plan, Biodiversity Indicators, and drawing nos. 766 100, 101, 102, 103, 104, 105, 106, 107, 108, 109 & 110 submitted 27th August 2008.

3 THE SITE

This application relates to the eastern portion of the former Flexer Sacks building on the northern side of Wellington Road bounded by Middle Street to the west, North Street to the north and Camden Street to the east. The building is currently vacant, and has been since 2000. The previous use was primarily within Use Class B2 (general industry) with ancillary elements of B1 (office) and B8 (storage) uses. The site comprises a three-storey office building, first floor roof-top car park, and single and two-storey production / distribution areas.

The eastern part of the site, fronting Camden Street, comprises a hand car wash

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

use and public house; neither of which are included as part of this application. The western unit is currently occupied as an vehicle repair centre, with adjoining uses fronting North Street including a storage and distribution and first floor dance centre.

The site is located within the South Portslade Industrial Area and surrounded by predominantly B1 and B2 uses. On the southern side of Wellington Road is Shoreham Harbour.

4 RELEVANT HISTORY

Planning Permission was refused in 2002 for the use of the adjoining eastern half of the building (the site now under consideration) for self storage (ref: **BH2001/02406**). The application was refused on the grounds that the site was allocated for employment uses, and there was inadequate information to demonstrate that the number of jobs to be created would be similar to the former use. A subsequent appeal against this decision was dismissed. When dismissing the appeal the Inspector considered that the site was well located for B1 and B2 uses and there was nothing to indicate that the building could not be brought back into such use.

Planning permission was granted for the change of unit 3 (abutting the application site to the west) from B1/B2 uses to storage in 2003 (ref: **BH2003/01207/FP**). This permission took into account that the premises were unsuitable for B1 or B2 use, and the remainder of a much larger section of the Flexer Sacks building had been successfully let for B1/B2 use.

Outline Planning permission was granted by Planning Applications Sub-Committee in September 2003 for 'redevelopment of factory site to create a mix of B1 (office / light industrial) with ancillary showroom use and D2 (leisure) including new floor space and additional 3 storeys, parking provision for approximately 100 cars' (ref: **BH2003/02334/OA**). This balance of uses was considered acceptable, replacing general industrial floorspace with a mix of light industrial and offices uses, with the proposed D2 (gym) use occupying the harder-to-let areas and ancillary to the overall use. This permission was not commenced within 5-years of the approval and has now expired.

A certificate of lawfulness for the proposed use of part of the site (now subject of this application) as a cash and carry operation was refused in 2006 as the change of use exceeded the floor area permitted by the General Permitted Development Order 1995 (ref: **BH2006/01691**).

Planning permission was refused in November 2006 for a change of use from general industrial (B2) to motorcycle workshops and showrooms (Sui Generis)

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

with changes to front elevation (Wellington Road) & roof line (ref: **BH2006/03339**). The reasons for refusal related to the loss of B1 and B2 floorspace which had not been justified as an exception to policy; inadequate information demonstrating how the proposal complied with maximum car parking standards and would maximise the use of walking or cycling; highway safety hazards resulting from a proposed lay-by on Wellington Road; and inadequate waste management measures.

A three-year temporary permission was granted in September 2006 for a change of use from B1 (light industrial use) to D1 Dance School (at first floor level within the western building, abutting the application site) (ref: **BH2006/02298**). A two-year temporary permission was granted in February 2008 for use of a warehouse building fronting Camden Street (abutting the application site) as hand car wash and valet surface (ref: **BH2008/00654**). Temporary permissions were considered acceptable as they allow the respective uses to continue until the premises were used once more for industrial purposes and long-term employment.

5 THE APPLICATION

The application seeks consent for a change of use of the existing B2 building to a mixed use development. The building will incorporate a self-contained health club with swimming pool, music venue, and recording / rehearsal studio at ground floor level; refurbished office accommodation at first floor level; with further refurbished office accommodation at second floor level. An extension at second floor level fronting Wellington Road is also proposed to provide additional office accommodation.

Access to the proposed uses would be from the northern side of the building fronting North Road and extended entrance lobbies. The existing first floor parking deck, with spaces for 82 vehicles, will be retained as will the access ramp off North Road.

6 CONSULTATIONS

External:

Neighbours: no comments have been received.

East Sussex Fire & Rescue Service: unless documentation is provided demonstrating compliance with section B5 of Approved Document B of the Building Regulations 2000, the Fire Service object to the proposals.

EDF Energy: no objection provided rights regarding access and maintenance to cables within the area are maintained.

Southern Gas Networks: no mechanical excavations should take place above or

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

within 0.5m of low and medium pressure system or within 3m of the intermediate pressure system in the proximity of the site.

Southern Water: no comment.

Sussex Police: the site is within a medium crime risk area but do not identify any major concerns with the proposals. Comments are provided to reduce the opportunities of crime and fear of crime as part of the development.

Internal:

Economic Development: the site has been vacant since the demise of Flexer Sacks in 2000. The site had been actively marketed since the applicant took ownership and various letting proposals have been offered to try to attract tenants to the building. However, due to the condition and layout of the building this has not been conducive to attracting modern business requirements. As well as advertising through the applicants appointed commercial agents the site has also been advertised on the Council's commercial property database since November 2004.

The proposal will include refurbished offices on the existing site together with an additional storey of offices which is welcomed. The B1 element of the proposal will provide space for over 130 jobs which is significantly more than the whole of the former Flexer Sacks site (this application covers approximately half of the former site) which is welcomed and supported. Additional employment opportunities will also be provided in the leisure and performing space provided in the proposal which again is welcomed.

The proposal will bring back into operational use a building that has lain vacant for some considerable time and will provide a development of modern appearance in an area that requires investment to upgrade the image of the area along one of the main access routes into the city from the west.

Environmental Health: there are a number of areas where information is lacking or insufficient and particularly with regards to noise. These relate to plant and machinery for air handling or air conditioning for the offices, plant and equipment for the lift rooms, swimming pool heating, mitigation for the soundproofing of the recording studios and also extraction equipment such as flues from the ground floor level café.

Furthermore there is a lack of a desktop survey or references to former potential contamination on the site.

Planning Policy: the proposal is contrary to policy EM1 in the Brighton & Hove Local Plan as it allows non employment uses within a designated employment

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

site. Since the previous scheme was allowed in 2004 the Employment Study (2006) has been completed and indicates the need to protect existing B1 and B2 employment sites.

If the applicant is seeking approval of this scheme as an exception to policy they need to make a very robust case that the non employment uses are required to enable the refurbishment of the building. On this basis they will need to submit or consider the following:-

1. the employment use should remain the primary use on the site and with a ground floor location.
2. that there is no loss of employment (B1/2) floorspace. The current scheme appears to show a 1700sqm shortfall.
3. financial evidence is submitted to support the type, amount and mix of enabling uses proposed on the site.

Traffic: the submitted TA does not address the following areas:-

1. the potential trip generations by any mode or traffic impact.
2. an audit of the quality of provision for buses, taxis and cycles locally and the need or otherwise for improvement.
3. a comparison of the proposed parking levels with SPG4.
4. a car park layout.

7 PLANNING POLICIES

Brighton and Hove Local Plan:

- TR1 Development and the demand for travel
- TR4 Travel Plans
- TR7 Safe Development
- TR14 Cycle access and parking
- TR18 Parking for people with a mobility related disability
- TR19 Parking standards
- SU2 Efficiency of development in the use of energy, water and materials
- SU10 Noise nuisance
- SU11 Polluted land and buildings
- SU14 Waste management
- SU15 Infrastructure
- 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
- QD6 Public art
- QD14 Extensions and alterations
- QD15 Landscape design

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

QD27 Protection of amenity
QD28 Planning Obligations
EM1 Identified employment sites (industry and business)
EM12 Shoreham Harbour - mixed uses

8 CONSIDERATIONS

The main issues of consideration in the determination of this application are the departure from local plan policy EM1; the nature and balance of the proposed uses; their impact on neighbouring amenity and transport; and design and sustainability issues.

Proposed change(s) of use

The application site is located within the South Portslade Industrial Estate which local plan policy EM1 identifies for industrial and business use within Use Classes B1 (businesses) and B2 (general industrial): on such sites there should be no overall loss of employment floorspace and sites. The Employment Land Study (2006) supports this approach and indicates that to ensure there are sufficient employment sites existing B1 and B2 sites should be retained.

The application, despite the additional office accommodation at second floor level, entails a loss of approximately 1700m² of employment (B1/B2) floorspace as a result of the proposed ground floor health club and music venue (D2). As such there is a conflict with the aims of the above policy.

The application site has been vacant for a prolonged period of time following the closure of the Flexer Sacks factory in 2000. The applicant has advised that since 2003 the premises has been actively marketed and this has included the sale, long-term leasing and short-term flexible leasing of the whole site and its potential sub-division to maximise the number of potential tenants. The application also includes letters from the marketing agents, Oakley Commercial, stating that 'the property has been fully exposed to the open market ensuring all potential tenants are aware of the available accommodation but unfortunately the property is proving difficult to let despite offering flexible lease terms'.

The applicant therefore considers that enabling development / uses are necessary for the proposals to be viable and to bring the site into commercial use, and this view is shared by the site's marketing agents.

The Council's Economic Development team support the application and confirm that the site has been actively marketed but the condition and layout of the building is not conducive to meeting modern business requirements. Economic Development therefore consider that the proposal will bring back into operational use a building that has lain vacant for some considerable time whilst providing

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

space for significantly more jobs than the whole of the former Flexer Sacks operation.

The proposal has the potential to regenerate a building that has been vacant for a prolonged period of time, which is neglected in appearance and has a detrimental impact on the immediately surrounding area. To secure the refurbishment and upgrade of the building for employment uses it is recognised that non-B1/B2 uses may need to be introduced to the site. This was accepted as part of an earlier outline approval on the site (ref: BH2003/02334/OA) which considered a proposed gymnasium to be an acceptable enabling element complementing the proposed main (B1/B2) use; however, this permission was not implemented and has now lapsed.

As part of this application the submitted Planning Statement states that enabling development is necessary for the proposals viability. However, no evidence has been submitted to demonstrate this or justify the net loss of employment floorspace on an identified employment site and there is concern that the ground floor health club and music venue uses could fragment an important and prominent industrial estate. The enabling uses should be the minimum required to bring the employment site back into viable use. To demonstrate this, and justify an exception from local plan policy, evidence would be expected to support the type, amount and mix of enabling uses proposed on the site.

As part of this application there is inadequate information to demonstrate that the proposed enabling uses are necessary, and how they will facilitate the regeneration of the building and delivery of employment uses on the site. Whilst the supporting statements indicate a breakdown of employment levels that would be generated by the proposals this does not address the above policy conflict.

Notwithstanding the above there are elements of the proposal which are welcomed and supported. For example, the office floorspace at first and second floor levels has been designed to be capable of use by small serviced, incubator units or larger office suites and conference rooms, allowing maximum flexibility in the use of these spaces; and the proposed recording studio which occupies an area of the building particularly unsuitable for modern industrial uses due to extremely poor natural lighting. Furthermore, despite the policy conflict outlined above, a health centre and music venue would not conflict with, or prejudice the future of, the surrounding employment uses.

Transport

Local plan policy TR1 requires that development proposals provide for the demand for travel they create and maximise the use of public transport, walking and cycling. The application is accompanied by a TA which concludes that ‘the

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

proposed development is highly accessible to all modes of transport and that there will be no significant impact on the existing highway network’.

The Transport Manager has assessed the submitted TA and identifies problems relating to the lack of consideration of potential trip generations or traffic impact resulting from the proposal; an inadequate audit of the quality of provision for buses, taxis and cycles locally, and the need or otherwise for improvement; no comparison of the proposed parking levels with regards supplementary planning guidance note 4 (parking standards); and the absence of a car park layout. It is also noted there is potential for conflict between different uses on the site, particularly with regards vehicle access arrangements and on-site parking provision.

For the above reasons there is insufficient information to demonstrate that the proposal will not have an unacceptable impact on transport. The proposal is therefore considered contrary to local plan policies TR1, TR4, TR14, TR18 and TR19.

Design and appearance

The premises has been vacant since 2000 and this is reflected in the neglected appearance of the building. The application proposes extensive refurbishment works with new window openings, rendered elevations and sun louvers to all elevations. There are concerns that the roof form and fenestration of the additional storey relate poorly to the remainder of the building and that the Wellington Road frontage is unduly dominated by bulky sun louvers. However, these concerns are outweighed by the overall improvements that will create a modern appearance to the building and also improve the appearance of the immediately surrounding area.

The proposal incorporates a change of use in excess of 1000 sq metres and as a major development would require the provision of public art. However, as the application is not considered acceptable in its current form this requirement has not been progressed.

Impact on neighbouring amenity

Impact of the proposed uses

The application is accompanied by a Noise Impact Assessment which recommends a number of soundproofing measures be incorporated in the construction and adaptation of the existing and new buildings on the site. The assessment advises that the outlined measures would ensure noise generated by the development does not exceed acceptable standards. There are no reasons to disagree with these findings.

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

Environmental Health have commented on the application and consider that insufficient information has been submitted with regards noise from plant and machinery for air handling or air conditioning of the offices, plant and equipment for the lift rooms, swimming pool heating, mitigation for soundproofing of the recording studios and music venue, and also extraction equipment from the ground floor café.

It is considered that there are no apparent reasons why adequate noise attenuation measures could not be incorporated within the development to protect neighbouring amenity. In principle having regard to the location of the application site the proposal would therefore not result in disturbance to adjoining users of the Industrial Estate, which includes a mix of B1, B2 and B8 uses, or future occupants of the currently vacant public house adjoining the site. On this basis, despite the absence of specific information relating to noise attenuation, if necessary appropriately worded conditions could require further details of sound insulation measures, the implementation of the outlined measures, and control noise emissions outside the site.

Impact of the proposed extension

The proposed second floor extension by virtue of its location at the front of the site, fronting Wellington Road, and nature of adjoining development, will not result in harmful loss of light or overshadowing. It is noted that the western part of the Flexer Sacks building, adjoining the application site, has south facing window openings which will abut the proposed extension. However, given the dominant use of this premises as a vehicle repair centre and the remaining outlook to the south and west the proposed extension will not harm the amenity or viability of this unit.

Sustainability

Local Plan policy SU2 requires proposals demonstrate a high standard of efficiency in the use of energy, water and materials. The Design & Access Statement advises solar panels and photovoltaic cells are under consideration for the large areas of flat roof on the site, and the incorporation of such measures would potentially assist in reducing energy consumption for proposed uses within the building. Further measures include water consumption reducing measures and sun louvers to control solar gain. It is considered that if necessary further details of measures to reduce the use of energy, water and materials could be required by condition.

Policy SU13 and Supplementary Planning Document 03 on Construction and Demolition Waste seek to reduce construction waste and require, as best practice, a Site Waste Management Plan demonstrating how elements of sustainable waste management have been incorporated into the scheme. Whilst

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

the submitted information is relatively brief there are no apparent reasons why waste could not be minimised in an effective manner and if necessary further details could be required by condition.

Future development on the site

The Design & Access Statement advises that at a later date two additional floors could be added over the existing rear block; as previously approved in outline form under ref: BH2003/02334/OA. If the extension were used to provide additional employment floorspace this would assist in overcoming the conflict with policy EM1 identified above. However, this extension is not proposed as part of the current application and only limited weight can therefore be attached to this possibility.

Conclusion

It is accepted that enabling development may be required to bring the employment site back into viable use. However, the proposal entails the unjustified loss of employment space and it has not been demonstrated how the type, amount and mix of proposed enabling uses will facilitate the regeneration of the building and delivery of employment uses. The proposed loss of employment floorspace and proposed health club (D2) use are therefore contrary to the aims of local plan policy EM1, which seeks to retain allocated sites, such as the South Portslade Industrial Area, for industrial and business uses within Use Classes B1 and B2.

In addition the submitted Transport Assessment fails to demonstrate that the proposed uses will not have an unacceptable impact on transport and the demand for travel, contrary to policies TR1, TR4, TR14, TR18 and TR19.

9 EQUALITIES IMPLICATIONS

All uses within the building are accessed through double doors on the North Road frontage, a lift shaft will provide access to all levels of the development. No car park layout has been submitted and it is not apparent what provision has been made for disabled parking, or how access from the first floor car park to ground floor uses would be facilitated.

PLANS LIST – 4TH FEBRUARY 2009

**COPY OF REPORT OF APPLICATION BH2008/02479 REPORTED TO COMMITTEE
ON 14TH NOVEMBER 2008**

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00PM 12 NOVEMBER 2008

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Hyde (Chairman), Wells (Deputy Chairman), Barnett, Carden (Opposition Spokesperson), Davey, Hamilton, Kennedy, McCaffery, K Norman, Smart, Steedman and C Theobald

Co-opted Members: Mr J Small (CAG Representative) and Mr R Pennington (Brighton & Hove Federation of Disabled People)

- 134.24 **Application BH2008/02479, Former Flexer Sacks Building, Wellington Road, Portslade** - Change of use of all floors to mixed use development comprising ground floor - leisure (D2) and music rehearsal studios (B1) first and existing second floor – offices (1). Additional second floor to south section comprising offices (B1) and vertical circulation core (B1) to serve ground to second floors with lift motor room at roof level. Also, external refurbishment and alterations to all elevations.
- 134.25 The area Planning Manager (West) gave a detailed presentation relative to the proposed development.
- 134.26 Mr Field spoke on behalf of the applicant in support of their application. He stated that negotiations had reached an advanced stage with potential end users. Although the percentage of uses with the site would be different than previously it would result in increased employment overall and would return the site to use. Councillor Harmer–Strange spoke in his capacity as a Local Ward Councillor expressing his support for the scheme which would return the site to use and would generate employment opportunities within the locality.
- 134.27 Councillor McCaffery sought confirmation regarding servicing arrangements in respect of the site and in respect of the number of parking spaces proposed. The Traffic manager explained that although no detailed layout had been given and the number of spaces could not therefore be confirmed the applicant had indicated that 82 spaces would be provided. Councillor Smart sought clarification regarding the level of employment provided and whether this would represent any increase to that previously associated with the site. The Area Planning Manager (West) explained that B1 and B2 uses were sought, this did not include a provision for leisure use. The balance for that use was different.

PLANS LIST – 4TH FEBRUARY 2009

Councillor Carden stated that further clarification of the comments received from the East Sussex Fire and Rescue Service would have been helpful. In answer to further questions, the Solicitor to the Committee explained that matters relative to fire safety would need to be met under building control legislation.

- 134.28 Councillors Davey and Steedman were of the view that a number of matters remained to be resolved and that it was difficult to determine the application in the absence of detailed impact and other assessments.
- 134.29 Councillor Hamilton concurred with the views expressed by Councillor Harmer–Strange. He considered that the proposal was acceptable and would return the site to use whilst generating employment. Councillors Barnett, Carden Wells concurred in that view. Councillor Carden stated that the amount of time the site had lain vacant indicated that it there was no longer a demand for its original use at that location. Councillor Mrs Theobald agreed stating the proposal would improve the appearance of the site considerably.
- 134.30 A vote was taken and on a vote of 9 to 1 with 1 abstention Minded to grant planning permission was granted on the grounds set out below. 11 Members were present when the vote was taken.
- 134.31 **RESOLVED** - That the Committee has taken into consideration the reasons for the recommendation set out but is Minded to grant planning permission on the grounds that the proposed development would not be contrary to or compromise the policy objectives of EM1 of the Brighton & Hove Local Plan. The scheme would provide employment and bring a vacant site back into operational use. Conditions of the Section 106 Obligation to be agreed. Prior to a decision being issued being issued the Chairman, Deputy Chairman and Opposition Spokesperson is consulted relative to details of the proposed conditions.

[**Note 1:** A vote was taken and on a vote of 9 to 1 with 1 abstention minded to grant planning permission was granted in the terms set out above].

[**Note 2:** Councillor Hamilton proposed that planning permission be granted. This was seconded by Councillor Barnett. A recorded vote was then taken. Councillors Barnett, Carden, Hamilton, Hyde (Chairman), McCaffery, K Norman, Smart, Mrs Theobald and Wells voted that planning permission be granted. Councillor Steedman voted that planning permission be refused. Councillor Davey abstained. Councillor Kennedy was not present when the vote was taken. Therefore on a vote of 9 to 1 with 1 abstention minded to grant planning permission was granted].

APPENDIX II

METHOD OF CALCULATION OF FINANCIAL CONTRIBUTION IN RESPECT OF TRANSPORT

To comply with policies TR1 and QD28 of the Brighton & Hove Local Plan the Applicant is expected to make a financial contribution in-line with the scale of the development to help finance off-site highway improvement schemes, in particular for sustainable modes of transport. The level of this contribution is set at £200 per person-trip. The requirement for a financial contribution is no longer linked to the provision of car parking spaces. This linkage is no longer valid as it had the adverse affect of encouraging developers to provide unnecessary car parking to avoid making contributions toward providing for the wider accumulative transport impacts of smaller developments. Therefore the Highway Authority has adopted an alternative approach to securing contributions, on longer linked to the provision of car parking. The following narrative sets out the policy background and methodology employed to justify this new approach to securing developer transport contributions.

The Department for Communities and Local Government's Planning Policy Guidance 13 – Transport (PPG13) set out the Governments national objectives for transport policy with respect to the planning system. Point 7 of paragraph 6 notes that *“in order to deliver the objectives of this guidance ... when considering planning applications local authorities should ... use parking policies, alongside other planning and transport measures, to promote sustainable transport choices and reduce reliance on the car for work and other journeys”*. Paragraph 84 notes that *“Planning obligations may be used to achieve improvements to public transport, walking and cycling, where such measures would be likely to influence travel patterns to the site involved, either in their own or as part of a package of measures”*.

In line with the requirement of Transport Act 2000 “A New Deal for Transport” Brighton and Hove City Council acting as Local Transport Authority has produced a Local Transport Plan (LTP) setting out the Council's local objectives and measures to promote sustainable transport choices in the city. To fund and implement these measures Local Transport Authority's are required to secure contributions from both the private and public sector. A majority of the required funding is secured via a settlement for central government. The difference between this settlement and the total LTP funding requirement, sometimes referred to as the shortfall or funding gap, is to be secured from other public sector bodies and private sector organizations, including developers.

TR1 notes that development proposals should provide for the demand for travel they create and maximise the use of public transport, walking, and cycling. The narrative supporting this policy notes that it has strong links with other policies in the local plan and makes particular reference to policy, among others, QD28. QD28 states that the achievement of public transport infrastructure enhancements, contributions towards pedestrian and cycle route infrastructure, and off-site highway improvements/traffic

calming schemes will be sought by means of planning obligations when planning permission is granted.

The contribution required satisfies the requirement for the Appellant to provide “*details of a scheme to provide sustainable transport infrastructure to support the demand for travel generated by the development*”. It is reasonable to require Applicants to make a contribution based upon the scale of the respective transport impact or change in transport characteristics to ensure that the accumulative impact of all small-scale developments can contribute towards “*sustainable transport choices and reduce reliance on the car for work and other journeys*”.

The scale of contribution is based on the predicted level of the funding shortfall in current LTP and the person-trip generation of the housing and business allocations set out in the Council’s adopted Local Plan. By dividing the funding shortfall by the total person trip generation it is possible to establish a reasonable level of contribution per person-trip. This figure is currently set at £200 per person-trip. Therefore, as a basis for negotiations, development proposals will be required to make a financial contribution of £200 per additional person-trip. The person-trip rate of proposals is based upon the latest version of the TRICS database.

The basic level of the contribution is then multiplied by a factor to reduce the overall level of the contribution to reflect the sustainability of site location in transport terms. The reduction factor is based on Figure 9.4 of the current LTP. Sites that are located within the 5 and 10minute peak hour bus journey times zones will receive a 50% reduction to reflect the high level of access to sustainable transport. Sites in the 10 to 30 zones will receive a 25% reduction and sites outside the 30minute zone will be expected to make the full contribution.

It is therefore possible to establish a simple formula to establish a reasonable level of contribution towards improving sustainable modes of transport;

$$\begin{aligned} &\text{Number of residential units (or GFA/100m}^2\text{ of business space)} \\ &\quad * \text{ person trip rate} * \text{£200.00} * \text{reduction factor} = \text{contribution} \end{aligned}$$

For this proposal the contribution is calculated as follows:-

Existing Use

Office 634m² - 18 person trips per 100m² = 114.12 person trips

General Office 3651m² - 14 person trips per 100m² = 511.14 person trips

Storage 616m² - 2 person trips per 100m² = 12.32 person trips

Total person trips for existing use = 667.58.

Proposed Use

Office 2608m² - 18 person trips per 100m² = 469.44 person trips

PLANS LIST – 4TH FEBRUARY 2009

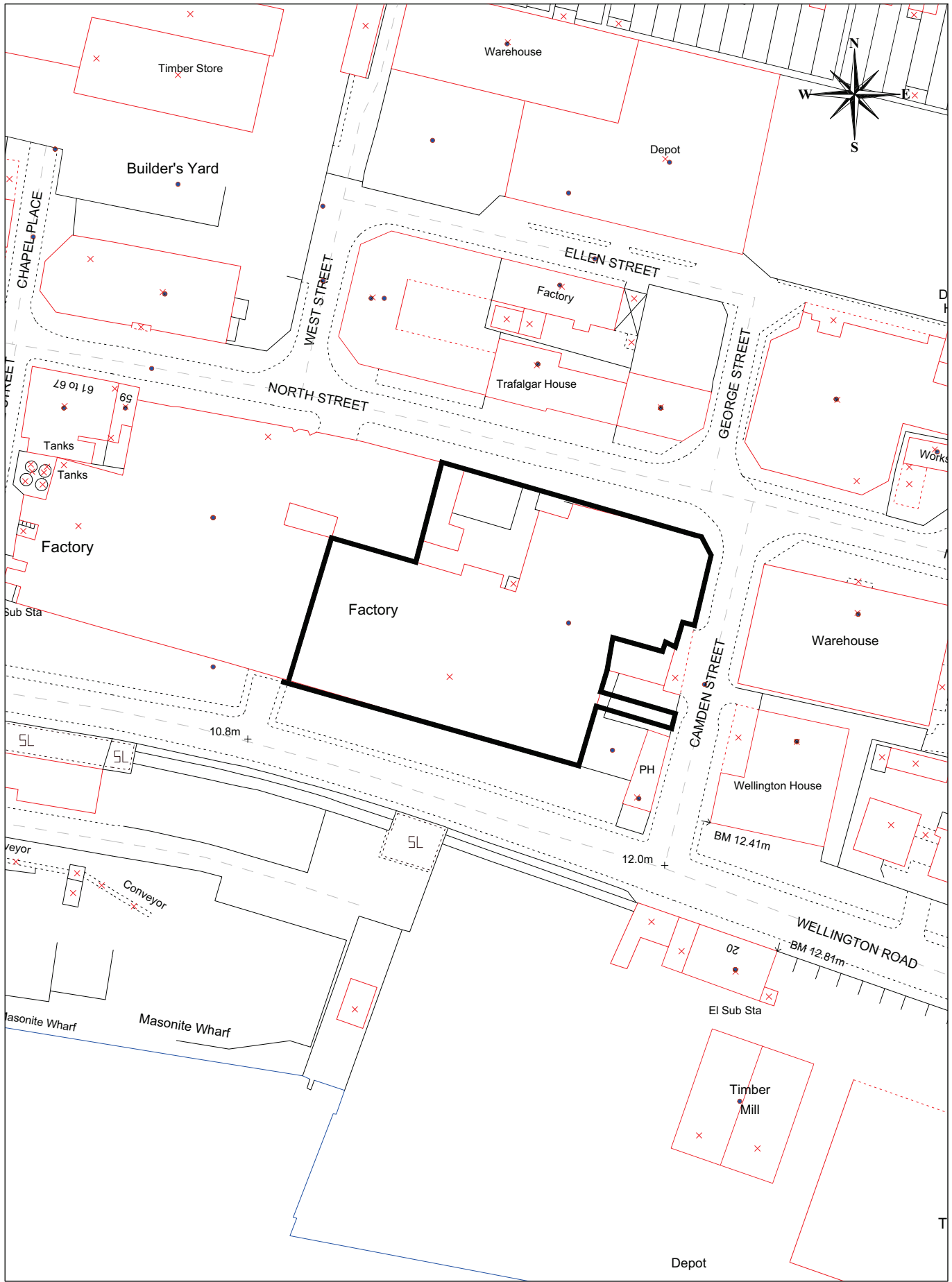
D2 2324m² - 36 person trips per 100m² = 836.64 person trips

B1 737m² - 18 person trips per 100m² = 132.66 person trips

Total person trips for approved use = 1438.74

Contribution Calculation

771.16 (i.e. proposed trips – existing trips) * £200 * 75% = £115,674.



BH2008/02479

SCALE 1:1250

Former Flexer Sacks Building, Wellington Road

530



Note: Any shaded or outlined areas are indicative only and should not be scaled.

Reproduced from the Ordnance Survey mapping with the permission of the Controller of H.M. Stationery Office. © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or Civil Proceedings. Brighton & Hove City Council.