

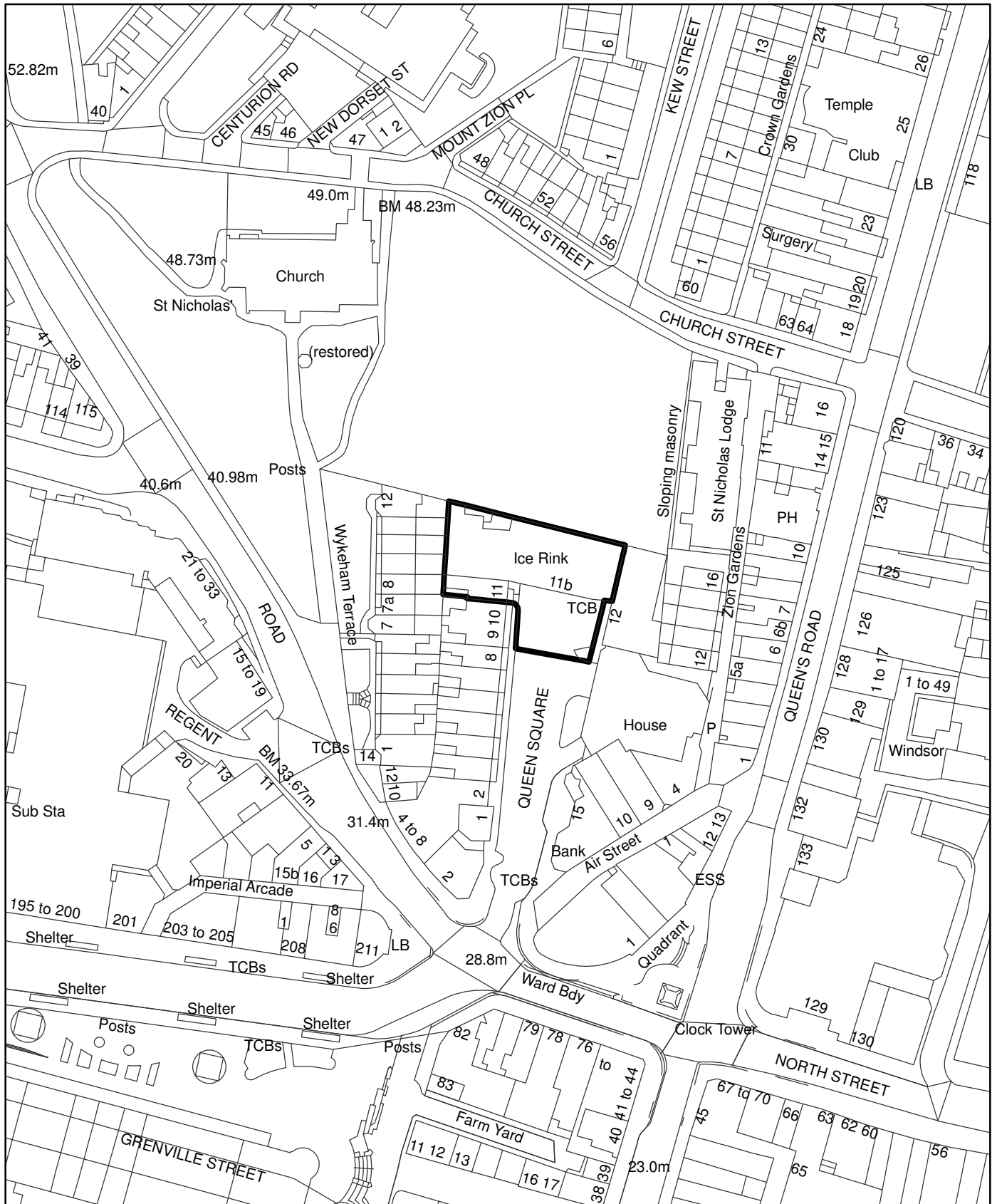
# **ITEM A**

**11B (Former Ice Rink) and 11 Queen Square,  
Brighton**

**BH2013/03793  
Full planning**

**08 OCTOBER 2014**

# BH2013/03793 11B (Former Ice Rink) and 11 Queen Square, Brighton.



**Brighton & Hove  
City Council**



Scale : 1:1,250

PLANNING COMMITTEE LIST- 8 OCTOBER 2014

<b><u>No:</u></b>	<b>BH2013/03793</b>	<b><u>Ward:</u></b>	<b>ST. PETER'S &amp; NORTH LAINE</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>11B (Former Ice Rink) and 11 Queen Square Brighton</b>		
<b><u>Proposal:</u></b>	<b>Demolition of former Ice Rink and number 11 Queen Square and erection of a 5no storey building providing 31no residential units (C3) and office use (B1 or A2) at lower ground floor level with associated works.</b>		
<b><u>Officer:</u></b>	<b>Sue Dubberley Tel 293817</b>	<b><u>Valid Date:</u></b>	<b>22 November 2013</b>
<b><u>Con Area:</u></b>	<b>Adjoining the Montpelier and Clifton Hill Conservation Areas</b>	<b><u>Expiry Date:</u></b>	<b>21 February 2014</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>		
<b><u>Agent:</u></b>	<b>Conran + Partners, 1st Floor, Hanover House, 118 Queens Road Brighton BN1 3XG</b>		
<b><u>Applicant:</u></b>	<b>Stonehurst Estates, Clive Lynton, C/O Conran + Partners 1st Floor, Hanover House, 118 Queens Road, Brighton BN1 3XG</b>		

**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 be **MINDED TO GRANT** planning permission subject to a S106 agreement and the Conditions and Informatives set out in section 11.

**2 SITE LOCATION & DESCRIPTION**

- 2.1 The application site is located at the far northern end of Queen Square and contains a single storey building which spans the length of the northern end of the square and a three storey office building No.11 Queen Square which adjoins the site and is located on the west side of the square. The single building has been vacant since 2003 having last been in used as an ice rink.
- 2.2 The site is situated outside of a conservation area but adjoins the Montpelier and Clifton Hill Conservation Area to the north and west of the site and is close to and visible from the West Hill Conservation Area.
- 2.3 To the rear of the site is a churchyard with St Nicholas Church, a Grade II\* listed building that dates from the late 14<sup>th</sup> century. The Churchyard also contains a number of historic tombs, several of which are listed.
- 2.4 Queen Square leads off a central junction of Dyke Road, Western Road, North Street and Air Street and is of 19<sup>th</sup> century origin. The 19<sup>th</sup> century buildings survive on the west side some of which remain in residential use. No. 12 in the north-east corner is a former 19<sup>th</sup> century chapel that has had its façade completely remodelled in classical style. It is an undesignated heritage asset of value. The east side is occupied by the modern office building, Queen Square House.

- 2.5 Adjoining the site to the west is Wykeham Terrace, a Grade II listed building constructed 1827-830 in a Tudor-Gothic Style. It has an embattled parapet interrupted by gabled windows in a mansard roof with pointed-arched windows. It has a taller turret at its south end. The roof is enlivened by tall octagonal chimneys. It has projecting bays with corner buttresses terminating in pinnacles rising above roof level and presents an ornamented silhouette to Dyke Road. Wykeham Terrace site is cut back deeply into the hillside so that from the Churchyard it is set low in the ground and there are views onto the roofs of the houses.

### 3 RELEVANT HISTORY

The ice rink building was constructed in the early 20<sup>th</sup> century and was used as a drill hall by the Territorial Army until the 1960's. The use as an ice rink commenced during the 1970's until its closure in 2003. The building has been vacant since 2003.

The planning history for Drill Hall, 9, 10 and 11 Queen Square has the following entries:

**BH2012/00782** Demolition of former Ice Rink and number 11 Queen Square and erection of a 5no. storey 56 room serviced apartment hotel with a restaurant/café at lower ground floor level and associated ancillary facilities, incorporating creation of outside seating area, new service area, 3no. car parking spaces and cycle spaces. Approved 31/10/2012.

**BH2011/03227:** Demolition of former Ice Rink and number 11 Queen Square and erection of a 5no. storey serviced apartment hotel with a restaurant/café at ground floor level and associated ancillary facilities, incorporating creation of outside seating area, new service area, 3no. car parking spaces and cycle spaces. Withdrawn.

**70/1728:** Use for recreation and admin purposes (amended). Granted 29/09/1970.

**70/147:** Recreational and administrative purposes. Granted 17/02/1970.

### 4 THE APPLICATION

- 4.1 Planning permission is sought for the demolition of the former Ice Rink and number 11 Queen Square and erection of a 5no storey building providing 31no residential units (C3) and office use (B1 or A2) at lower ground floor level with associated works.

- 4.2 The accommodation would comprise of 31 units:

- 14 x 1 bed flats
- 15 x 2 bed flats
- 2 x 3 bed flats

On the ground floor there would be 213sqm of commercial space for use as either A2 or B1 office use.

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- 4.3 The design of the proposal is for a modern five storey building, at lower ground floor the building would be cut into the gradient as the land slopes upwards towards the application site. The upper floors on the front south elevation have been designed with a vertical emphasis with floor to ceiling glazed windows and balconies and doors with glazed balcony railings. The front elevation incorporates a visual break in the building at ground and first floor levels towards the western end, which allows a view through to the churchyard. A vertical feature photovoltaic panel spanning four floors is also proposed. The top storey is set back and has been designed as a glass pavilion with a frameless balustrade surrounding the roof terrace. The front elevation is shown as white painted render on the upper floors with brickwork and glazing to the ground floor office.
- 4.4 The rear north elevation which faces onto the churchyard has a more horizontal appearance with large windows that include the use of coloured glazed bricks which aim to reflect the stained glass windows of St Nicholas Church. The proposed materials are a dark grey textured brick.
- 4.5 The west elevation which faces onto the rear of Wykeham Terrace is in the form of a stepped elevation. The proposed materials are brickwork and aluminium windows.
- 4.6 The east elevation is a blank elevation with a mixture of brickwork and render proposed.

## 5 PUBLICITY & CONSULTATIONS

### External

- 5.1 **Neighbours: Thirteen (13)** letters of representation have been received from **7A, 8, 9, 10, 11 Wykeham Terrace, 2 St Nicholas Road, 8 (x2), 12, 15 Queen Square, 51, flat 18 St Nicholas Lodge, Church Street, and Worple Road, London (no number given)** objecting to the application for the following reasons:
- Height, scale and bulk have increased from the previous proposal.
  - Planning guidance issued in March 2009 stated that four storeys would be the maximum acceptable height for development on the site.
  - Building should only be four storeys in height.
  - Development is described as 5 storeys but should be described as 6 storeys. Top storey is shown as hardly visible on the drawings which is misleading.
  - Currently building line has a historical precedent with each building rising in proportions as they progress up the hill. The proposed structure is at odds with this historical design and surrounding environment.
  - No access should be allowed to the roof except for maintenance.

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- Loss of stepping at 3<sup>rd</sup> floor level will result in a sheer wall causing loss of light and extreme sense of enclosure to Wykeham Terrace.
- Loss of light loss of sunlight and vistas, reducing light and visible sky to Wykeham Terrace.
- Lack of any landscaping or gardens.
- The impact on the adjoining office building 12 Queen Square is not considered in the planning statement; the eastern wall will block daylight and overshadow exiting roof lights.
- East wall will cast rainwater onto the roof of No.12, with a risk of flooding and water ingress.
- Loss of privacy overshadowing of the front of 12 Queen Square from south facing windows and balconies.
- Loss of privacy, overlooking and overshadowing of residential properties in Queen Square.
- The Square is currently 40% residential and 60% offices, the privacy and quiet enjoyment residents between 17.00 and 09.00 and over the weekend will be lost.
- Loss of privacy to residents in St Nicholas Lodge and Church Street
- Offices in Queen Square House concerned that increased congestion in the square will impact on their business. Levelling of highway and public paving in front of the new building could reduce road service area adding to congestion.
- Queen Square House has underground car parking which is used by delivery vehicles. If the development goes ahead without underground parking the square will be heavily congested with delivery vehicles.
- Unclear if car parking spaces or motorcycle spaces are remaining.
- Unclear if 3 large fixed refuse bins are remaining in the square further adding to congestion.
- If the taxi rank remains the square will become even more congested with additional traffic from the development.
- Design is out of character with the area.
- Development is an overdevelopment and will lead to 'town cramming'.
- Building will dominate south-east aspect of the churchyard and cause extensive overshadowing.
- Will ruin views from the historic St Nicholas Church towards the sea.
- Overlooking and loss of privacy for residents in Wykeham Terrace, along with an increased sense of enclosure.
- No leisure use proposed to replace the ice rink. Ideal central location for a leisure facility.
- Question if existing Victorian sewer could cope with increased demand. Proposed excavation could disturb or rupture sewers outside properties in Queen Square.

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- Welcome that fact that a mixed residential scheme is now being sought rather than a hotel development.

### 5.2 **Regency Society: Object:**

- Welcomes the application which will provide 31 much needed new homes and is an improvement on the previous application for a hotel.
- Concerned that there is a degree of overlooking of properties to the west. Windows will overlook the gardens of Wykeham Terrace and seem superfluous and should be omitted. Also potential noise and disturbance from west facing terrace.
- Welcome the exterior design of the building which is modest self-effacing, and will fit well into a very heterogeneous context.
- Do not believe there will be a detrimental impact on the churchyard and believe the windows overlooking the churchyard have the potential to improve security.
- Regret the loss of the restaurant and proposals for enlivening Queens Square which were part of the original submission. Opportunity should be taken to investigate improvements to the square.

### 5.3 **Wykeham Terrace Residents Association: Object:**

- Development is too high for the surrounding area and should be one storey lower.
- The lower ground floor and upper ground floor will be too close and in parts abutting a Grade 2 listed boundary wall next to Wykeham Terrace. Concerns regarding future maintenance of the listed wall and west flank of the new build. Listed walls should remain intact and at the same height.
- Overlooking, loss of privacy to the rear of properties and gardens in Wykeham Terrace particularly the rear of no.8 and the garden of 7A, 7 Wykeham Terrace. Noise and disturbance from the proposed terraces.
- Loss of privacy from west facing windows at 2<sup>nd</sup> and 3<sup>rd</sup> floors.
- Provision for a large terrace at 4<sup>th</sup> floor albeit set back from Wykeham Terrace, this has the potential for noise and disturbance. Should be no access to flat roof areas.
- The building is too bulky, lacking in architectural merit and an overdevelopment of a small sensitive town centre site which borders a conservation area and its immediate open green spaces.

### 5.4 **Montpelier and Clifton Hill Association: Object:**

- Object to impact of the height and bulk on the Montpelier and Clifton Hill Conservation Area and the adjacent listed buildings. No objection in principle to a mixed office and residential development on the site.
- Development is at least one storey too high and will be an oppressive presence at the rear of the listed Wykeham Terrace. The terraces on the west elevation have potential to be very obtrusive.

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- Boundary wall should remain intact and be retained at the same height. (This was a condition of the previous planning application for a hotel on this site).
  - Height will cause an unacceptable impact on the views on and out of the conservation area such as sea views from across the churchyard and Dyke Road.
  - Concerned over the impact of the development on the mature Wych Elm tree (T04 on tree constraints plan).
  - No affordable housing.
  - Shaving half a metre off the building is not going to make it any less overbearing.
  - Use of glass, glazed brick and powder coated aluminium construction is out of keeping with the rest of the square.
  - Increase in traffic and noise and disturbance.
- 5.5 **CAG: Object:** The Group noted that they are supportive of the development of offices and flats; however feel the design of this proposal is poor and does not respect the architecture of nearby buildings. The Group believes that the building as proposed is too high and if the current design is considered acceptable, then the indented penthouse should be brought down a floor. Finally the need for the west facing windows, which overlook Wykeham Terrace was questioned.
- 5.6 **Brighton & Hove Archaeological Society: Comment:** It is possible that previous incursions into the landscape may have already terraced away archaeological deposits. However, the site is close to the location of a number of finds from the Bronze Age. The Brighton & Hove Archaeological Society would suggest that you contact the County Archaeologist for his recommendations.
- 5.7 **County Archaeologist: Comment:** The proposed development is situated within an Archaeological Notification Area defining both an area of prehistoric activity and the medieval church of St Nicholas. The site has a high potential for below ground archaeological remains and despite the likelihood that these may have been impacted by modern developments, it will be necessary to evaluate and mitigate any impacts through the application of an appropriate planning condition.
- 5.8 **District Valuation Office: Comment:** The District Valuer is of the opinion the scheme could provide 6 units (2x2 bed rent, 4x1 bed shared) this reflects 19.4% affordable housing by unit.
- 5.9 **UK Power Networks: No objection.**
- 5.10 **Environment Agency: No objection.**
- 5.11 **Southern Gas: Comment:** Information provided with map showing the location of the gas pipes in the area.



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5.12 **Southern Water:** Comment: Information provided with map showing the location of water mains and sewers in the area.

5.13 **East Sussex Fire and Rescue Service:** No objection.

### **Internal:**

5.14 **Aboriculturist:** No objection subject to suitable conditions being attached to any planning consent granted.

5.15 **Access Consultant:** Comment: The layouts appear to be satisfactory in terms of Lifetime Homes. There should be 2 wheelchair accessible units but none is currently shown. Wheelchair accessible units on any floor above or below entrance level must be served by two lifts to allow for periods of maintenance or breakdown but both cores on the proposed plans show only a single lift.

5.16 **Ecology:** Support: The existing nature conservation value of the site is negligible, there is lack of any significant new nature conservation features in the development apart from the 117sqm of Sedum green roof. Options to make up for the shortfall in nature points could include the installation of bird nest boxes into the walls of the building, green walls or a more ambitious habitat creation scheme for the green roof, which could be secured through conditions.

5.17 **Environmental Health:** Support Conditions have been recommended for potentially contaminated land; delivery and collection times and sound insulation.

5.18 **Education:** Support: Would seek a contribution towards the cost of providing educational infrastructure for the school age pupils this development would generate. In this instance a contribution of £40,298.40 in respect of primary and secondary education. The closest primary school to the development is St Pauls CE Primary School which currently has no surplus capacity. The next closest community primary schools are Middle Street Primary, St Mary Magdalene RC Primary School, St Bartholomews CE Primary School, Carlton Hill Primary, Davigdor Infant School and Queens Park Primary School. None of these schools have any surplus capacity either and it is anticipated this will be the case for the foreseeable future.

5.19 **Heritage:** Object:  
Original Plans

The principle of development on this site is welcomed and has the opportunity to enhance the appearance of Queen Square and to create a more fitting visual closure of the important view from the Dyke Road/Western Road junction. It also has the opportunity to create an active frontage, with physical links to the churchyard, and contribute towards a more coherent and attractive public realm and thereby help to create true square in place of the current cul-de-sac. The site is a very challenging for development in townscape terms as what is appropriate

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in scale in Queen Square could appear over-development and over dominant in relation to the churchyard setting of St Nicholas and the setting of Wykeham Terrace.

- 5.20 As a result of its height and massing the proposed development would cause very clear harm to the setting of the grade II listed buildings of Wykeham Terrace and to the setting of the Montpelier and Clifton Hill conservation area. It may also cause harm to the setting of the grade II\* listed St Nicholas Church but this cannot be properly assessed in the absence of winter views without trees in leaf. Indeed the proposals as a whole rely greatly and unduly on the screening provided by existing trees in summer. In accordance with paragraph 134 of the NPPF the identified harm to the heritage assets is considered to be less than substantial and must therefore be judged against the public benefits of the development. Whilst there are no compensating heritage benefits there are undoubted urban design benefits arising from the redevelopment of this site and the scale of the building would provide a much more fitting visual closure to Queens Square. In design terms the building is somewhat modest and a more informal and graded approach to the fenestration of the front elevation would have been welcomed, whilst the ground floor has a cluttered appearance and does not relate well to the floors above. There are also potential public realm benefits that could be achieved for Queen Square but none have been included with the application.
- 5.21 There may well be other, wider public benefits to the scheme that may be identified by the local planning authority to be weighed against the harm to the heritage assets and the previous approval for this site will be a material consideration.

### Amended plans

- 5.22 It is disappointing that that the proposals have not addressed any of the main concerns raised in the previous comments. The only revision appears to be to the ground floor of the south elevation where two narrow windows have been replaced by one larger window. This is considered to be a modest improvement. The revised tracking views have helped to clarify the changes to the scheme and the impact that those changes would have on key views and on the settings of the heritage assets. The line of proposed development on these views does now appear to correspond with the plans. The revised views clarify that, whilst the slight reduction in height is welcome, the overall bulk and massing of the development would be greater and it would have less of a stepped appearance at the western end and therefore a more abrupt visual relationship with Wykeham Terrace. The increased footprint of the 4<sup>th</sup> floor would result in a less elegant profile and greater massing when seen from the south looking towards Queen Square and would also result in a greater bulk and massing when seen from St Nicholas churchyard and from Church Street, within the conservation area. The effect would be that the 4<sup>th</sup> floor would appear more as a continuation of the third floor than as a discreet and subsidiary termination of the building.

- 5.23 **Housing:** Comment: No issues under the Housing Act
- 5.24 **Planning Policy:** Support: The principle of the proposed development and loss of the ice rink is acceptable in policy terms, however note should be taken of the conclusions from the District Valuer regarding the proposed level of affordable housing, as this currently raises a significant concern.
- 5.25 **Public Art:** Comment: The public art element for this application is to the value of £16,200.
- 5.26 **Sustainability:** Support: Approval is recommended with conditions.
- 5.27 **Sustainable Transport:** Support: The application is acceptable subject to a S106 contribution and conditions as described in the main comments.

## **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) is a material consideration.
- 6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.
- 6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.
- 6.6 All material considerations and any policy conflicts are identified in the "Considerations and Assessment" section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD4	Design – strategic impact
QD5	Design – Street frontages
QD7	Crime prevention through environmental design
QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of Amenity
HO2	Affordable housing – ‘windfall sites’
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO6	Provision of outdoor recreation space in housing schemes
HO7	Car free housing
HO13	Accessible housing and lifetime homes
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
EM5	Release of redundant office floorspace and conversions to other uses
EM6	Small industrial, business units and warehouse units
SR1	Loss of indoor recreation facilities

#### Supplementary Planning Guidance:

SPGBH4	Parking Standards
SPGBH15	Tall Buildings

#### Supplementary Planning Documents:

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

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

SS1	Presumption in Favour of Sustainable Development
CP17	Sports provision

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the principle of development, design and impact on adjoining Conservation Areas, and adjoining listed buildings, impact upon neighbouring amenity, transport and sustainability.

### **Principle of development on the site:**

- 8.2 The use of the site for residential development is considered acceptable in this location as there are existing residential units in Queen Square and in nearby Wykeham Terrace and the area is in mixed residential and commercial use. The proposed density and mix of unit sizes is considered to be appropriate for the city centre location and is an efficient use of the site, thereby conforming with Policy HO3 of the Local Plan.
- 8.3 At present, there is no agreed up-to-date housing provision target for the city against which to assess the five year housing land supply position. Until the City Plan Part 1 is adopted, with an agreed housing target, appeal Inspectors are likely to use the city's full objectively assessed need (OAN) for housing to 2030 (24,000 units) as the basis for the five year supply position. The Local Planning Authority is unable to demonstrate a five year supply against such a high requirement. As such, applications for new housing development need to be considered against paragraphs 14 and 49 of the NPPF. These paragraphs set out a general presumption in favour of sustainable development unless any adverse impacts of development would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
- 8.4 The proposed office use is compatible with existing office development on the site at 11 Queen Square and there are other existing offices within Queen Square such as Queen Square House. The application would conform with Policy EM4 of the Local Plan, relating to the provision of new business uses on unidentified sites. It is also considered to meet the requirements of Policies CP2 and CP3 of the Submission City Plan, by bringing forward new modern employment floorspace in a prime central Brighton location.
- 8.5 The principle of the redevelopment of the site has also been established by the extant planning permission on the site (BH2012/00782) for a 56 room serviced apartment hotel with a restaurant/café at lower ground floor level and associated ancillary facilities.
- 8.6 The existing building on the site is of no architectural merit and currently in a state of disrepair, and its replacement in principle with an appropriately well designed building is welcomed in urban design terms.

### **Loss of existing uses on the site ice rink (D2) and offices (B1) at no.11 Queen Square office**

Ice rink (Loss of Indoor Recreation Facilities D2)

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- 8.7 The previous established use of the site was as an indoor ice rink. Policy SR21 of the Local Plan relates to the loss of indoor recreation facilities. When considering a loss of indoor recreation or sporting facilities, to meet policy SR21 the applicant should demonstrate that a) there is an excess of provision within the catchment area of the facility; b) the facilities are to be replaced by improved facilities that meet the aims of the City Council's sport and recreation strategy and c) that replacement facilities are in a location as close as is practicable to existing and potential users and readily accessible by a choice of transport modes.
- 8.8 The principle of alternative uses on the site has been established through the approval of the previous application BH2012/00782 for a hotel on the site when it was argued that the proposal could also be considered against the City Council's plans to provide an ice rink at the Black Rock site adjacent to Brighton Marina. The Black Rock site is allocated for D2 use in the Local Plan (policy SR19), in the emerging City Plan (policy DA2) and is the subject of separate discussion. The ambition to provide a new ice rink at Black Rock is reiterated in the City Council's Sports Facilities Plan 2012. For these reasons when assessing the application for a hotel use on the site, it was considered that the requirements of policy SR21 were satisfactorily met and the loss of the D2 use was accepted. There have been no material changes that would change this view in the case of the current application.
- 8.9 Policy CP17 of the Submission City Plan is also relevant and states that planning permission can be granted for the loss of indoor sports facilities where the building has been demonstrated to be redundant for a sports use and marketed for at least 18 months at a price that reflects its condition and market value. The site has been closed for a period of approximately ten years, and despite being marketed over a number of years no viable proposals for it reopening to secure D2 use have been brought forward. The loss of the ice rink is therefore considered acceptable under Policy CP17.

### No. 11 Queen Square (Loss of office floorspace B1)

- 8.10 The planning use of No.11 Queen Square is a B1 office and the relevant Local Plan policies are EM5 and EM6 which allow for a change of use of office space providing that series of mitigating criteria are met relating to matters such as vacancy, marketing and whether the building or site is fit for purpose. In this case however the loss of 133 sqm office floor space is being replaced by 213sqm of office (B1 or A2) use at ground floor in the new development, so there will be a net increase in employment floor space. This aspect of the proposal is therefore compliant with policy.

### **Design, impact on adjoining Conservation Areas and impact on adjoining listed buildings:**

- 8.11 Local Plan policies QD1, QD2, QD4 and QD5 state that new development will be expected to demonstrate a high standard of design

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and should make a positive contribution to the environment and take into account local characteristics including the height, scale, bulk and design of existing buildings. Policies state that all new development should present an interesting and attractive frontage, particularly at street level. The site is not located within a conservation area but adjoins the Montpelier and Clifton Hill Conservation Area on the north and west boundaries of the site and is close to and visible from the West Hill Conservation Area. To the rear of the site is St Nicholas Church which is Listed Grade II\* and to the west Wykeham Terrace which are Grade II listed buildings.

- 8.12 The Heritage Officer has commented that the principle of demolition and development on this site is welcomed and has the opportunity to enhance the appearance of Queen Square and to create a more fitting visual closure of the important view from the Dyke Road/Western Road junction. It also has the opportunity to create an active frontage, with physical links to the churchyard, and contribute towards a more coherent and attractive public realm and thereby help to create true square in place of the current cul-de-sac.
- 8.13 It is also recognised by the Heritage Officer that the site is a very challenging for development in townscape terms, because what is appropriate in scale in Queen Square could appear over-development and over dominant in relation to the churchyard setting of St Nicholas and the setting of Wykeham Terrace.
- 8.14 In comparison with the approved hotel application the Heritage Officer has noted that the current proposal is 0.5m lower; however the fourth floor extends further westwards and northwards than the approved scheme. There is less bulk at second floor level but greater extent at third floor. The front elevation now incorporates a visual break in the building at ground and first floor levels towards the western end, which allows a view through to the churchyard.
- 8.15 The Heritage Officer initially expressed concern that the office use proposed at ground floor level, despite the large glazed frontage, would be unlikely to provide the same street level interest or contribution to the urban realm as the approved café use. It was further considered that the proposed ground floor had a rather cluttered, informal appearance that related comparatively poorly to the upper floors. To address the concerns of the Heritage Officer, amended plans have been received and two narrow windows have been replaced by one larger window which the Heritage Officer considers to be a modest improvement. While it is noted that the ground floor may not have an active frontage in comparison with the approved scheme, the office use replaces the loss of office space at No.11 and the use is in keeping with other uses in the Square.
- 8.16 It is acknowledged that the proposed building would be seen to a greater or lesser extent from a number of viewpoints in Church Street, Dyke Road and the churchyard. These viewpoints are all within the

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Montpelier & Clifton Hill conservation area and a number of the viewpoints include the listed St Nicholas Church and the listed buildings of Wykeham Terrace. The application includes a Visual Impact Assessment and initially the Heritage Officer had some concerns regarding the accuracy of the views and the changes in relation to the approved scheme. Further views have been submitted which outline both the approved and current scheme. The Heritage Officer has commented that the revised tracking views have helped to clarify the changes to the scheme and the impact that those changes would have on key views and on the settings of the heritage assets.

- 8.17 The Heritage Officer is however concerned that there are a number of viewpoints from which the development would be visible against the sky behind the distinctive and currently uninterrupted roofline of Wykeham Terrace, or would appear as a bulky mass closely adjacent to or behind this listed terrace. It is further considered that the proposals would have a profound impact on views from within and across the churchyard, arising from the scale and bulk of the development in such close proximity to it. It is acknowledged that the harmful impact of some of these views would be mitigated by the screening of unattractive modern buildings such as Queen Square House or would be partly screened by the trees. However, it is also noted that the proposals rely unduly on the screening effect of the trees and there are no winter views provided to enable an accurate assessment of this impact.
- 8.18 There are also concerns about the potential impact on the setting of the grade II\* listed St Nicholas church itself and the setting of the Montpelier & Clifton Hill conservation area. It is noted that in some views it is only the screening effect of trees in leaf that prevents it having an impact on the outline of the church.
- 8.19 The Heritage Officer has acknowledged that the existing buildings on the site are relatively low and any significantly larger building on the site will inevitably be significantly more prominent in views from the surrounding area. Some harmful impacts are clearly unavoidable if a better development of the site is to occur. A taller building would have positive impacts on the views up Queen Square which could partially offset the harm to other views. Where the building obscures Queen Square House this could be regarded as a positive enhancement of views, provided that the building itself is sympathetically and attractively designed.
- 8.20 The revised views clarify that, in comparison with the approved scheme, whilst the slight reduction in height is welcome, the overall bulk and massing of the development would be greater and it would have less of a stepped appearance at the western end and therefore a more abrupt visual relationship with Wykeham Terrace. The increased footprint of the fourth floor would result in a less elegant profile and greater massing when seen from the south looking towards Queen Square and would also result in a greater bulk and massing when seen from St Nicholas churchyard and from Church Street, within the conservation area. The effect would be that the fourth floor would appear more as a continuation



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of the third floor than as a discreet and subsidiary termination of the building.

- 8.21 Overall the Heritage Officer considers that any harm to the setting of heritage assets, notably the grade II listed buildings of Wykeham Terrace, grade II\* listed St Nicholas church and the Montpelier and Clifton Hill conservation area, would only be slightly greater than under the previously approved scheme but would remain less than substantial under the terms of the NPPF. Thus the greater degree of harm needs to be set against any public benefits that the application provides.
- 8.22 In conclusion, it is acknowledged that there are Heritage concerns regarding the impact on the setting of the listed Wykeham Terrace, St Nicholas church and the Montpelier and Clifton Hill conservation area and that similar views were expressed in assessing the hotel application. It is however considered that the application offers significant urban design benefits for the enhancement and improvement of Queen Square. The existing building on the site is of little merit and currently in a state of disrepair, and it is considered that a replacement well designed building facing onto Queen's Square and the use of traditional materials facing the Churchyard, would outweigh any adverse impacts. This was also a significant consideration in the assessment of the approved hotel application on the site. In addition the current scheme also offers much needed housing including almost 20% affordable housing and these are considered to be of sufficient benefit to outweigh any Heritage concerns.

### **Provision of Affordable Housing**

- 8.23 Policy HO2 of the Local Plan states the City Council will negotiate to secure a 40% element of affordable housing where proposals are made for residential development of over 10 units. The application initially did not propose any affordable housing in the scheme and a viability report was submitted to demonstrate that the scheme would not be viable if affordable units were include in the application. The report was referred to the District Valuation Office for an independent assessment. The District Valuation Office did not concur with the conclusions of the viability report and concluded that the development could provide 6 affordable units at code for Sustainable Homes level 3 units which equates to just under 20% affordable (19.4%) before the scheme would become unviable. Following negotiations the applicant has now agreed to provide 6 affordable units and these could be secured through a condition. This aspect of the scheme is now considered to be policy compliant.

### **Public Art**

- 8.24 Policy QD6 of the Brighton & Hove Local Plan requires that the proposed development makes a contribution towards the provision of public art. This provision for public art can be made through a S106 financial contribution, or through the incorporation of public art into the design of the building. In this case, public art to the value of £16,200 is appropriate.

**Education**

- 8.25 The development would generate an increase in demand for school places in the City. The closest primary school to the development is St Pauls CE Primary School which currently has no surplus capacity. The next closest community primary schools are Middle Street Primary, St Mary Magdalene RC Primary School, St Bartholomews CE Primary School, Carlton Hill Primary, Davigdor Infant School and Queens Park Primary School. None of these schools have any surplus capacity either and the Education Officer has commented that it is anticipated that this will be the case for the foreseeable future. Given that the development would increase the pressure on school places in the City and it is recommended that the S106 includes a contribution towards the cost of providing educational infrastructure for school age pupils of £40,298 in respect of both primary and secondary education.

**Impact on Amenity:**

Overlooking, loss of privacy, noise disturbance

- 8.26 In terms of the difference between the approved hotel scheme and the current application there would remain a distance of between 6m and 8m between the rear of properties in Wykeham Terrace and the development. Overall the height of the building is 0.5m lower than the approved application. The existing rear boundary wall is 5.4m high then steps up to 10m and this is set 2m further back and would be retained. The height of the new building on the west boundary facing Wykeham Terrace would start at 7m and step up 9.4m and then the building would step back to a distance of 10.3m and a height of 12.9m.
- 8.27 At third floor level the proposed building would be mostly in line with the approved scheme and set back a distance of 13.2m. However at third floor level the current scheme now includes a section which is 8.9m in length and forms part of a rear flat, which would be set 2.4m closer than that approved scheme. Nevertheless there would still retain a 10m distance from the rear of Wykeham Terrace properties, which is considered acceptable.
- 8.28 The top floor differs slightly from the approved scheme with the building now set closer to Wykeham Terrace by between 1.2 and 3.4m, however there would still be 25.8m between the rear of the nearest property in Wykeham Terrace and the top floor of the building.
- 8.29 A roof terrace is proposed on the top floor on the west side which is set some 22.4m away from the rear of Wykeham Terrace properties with small terraces on the south side. Two private terraces remain on the ground floor facing Wykeham Terrace and two other terraces are proposed at the rear ground floor level. However the west facing terraces would be screened by a 1.5m boundary wall.
- 8.30 The height and proximity of the development to properties in Wykeham Terrace is considered acceptable, given that the application relates to a

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gap site in a city centre location, there is an extant permission for a building of similar height and mass, the existing boundary treatment and considering the similar scale of adjoining development in the Square.

- 8.31 In regard to windows on the west elevation facing Wykeham Terrace the application represents an improvement over the approved hotel application as it proposes 6 fewer windows at second and third floors. As with the hotel application a condition forms part of the recommendation to ensure that the windows are obscure glazed and non-opening, unless the part of the windows which can be opened are more than 1.7m above the floor of the room in which the windows are installed.
- 8.32 Although there are balconies proposed on the front south elevation and this may result in some oblique overlooking of residential properties in the Square, it would not be so significant as to justify a refusal on these grounds.

### **Amenity for future occupants**

#### Standard of accommodation

- 8.33 The application would provide 14 x 1 bed flats, 15 x 2 bed flats and 2 x 3 bed flats. It is considered that the units of residential accommodation meet an acceptable standard of living accommodation. All habitable rooms are of an adequate size with sufficient outlook, natural light and ventilation. Each unit has access to private amenity space in the form of a balcony or terrace in compliance with Policy HO5.
- 8.34 The proposed density and mix of unit sizes is considered to be appropriate for the city centre location and is an efficient use of the site, thereby conforming with Policy HO3 of the Local Plan.
- 8.35 No outdoor recreation space is provided as part of the development. In line with Local Plan Policy HO6, a contribution of £80,895, including £12,838 towards indoor sport is acceptable and this forms part of the S106 agreement.
- 8.36 In regard to Policy HO13 the Access Consultant has commented that the layouts appear to be satisfactory in terms of Lifetime Homes.

#### Other issues

- 8.37 Environmental Health have commented that as there is a proposed commercial unit below and adjacent to residential premises, delivery and waste collection times need to be considered as noise from such activities could result in complaints. A condition to control the times of delivery and waste collection is recommended.
- 8.38 It is also noted that there is a combined heat and power room beneath and adjacent to bedrooms. Additionally, offices are situated beneath flats and a bike store that also shares a party wall with a bedroom. In

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order to prevent noise and vibration from the non residential units affecting residential units, a soundproofing condition is recommended.

### Potentially Contaminated Land

- 8.39 Environmental Health are also concerned that the application involves the demolition of a hall that has been used as a drill hall, TA centre and an ice rink and it is also adjacent to a disused graveyard. Therefore, there is some potential that localised contamination may have occurred on this site (for example, generators leaking) and a contaminated land discovery condition is recommended.

### **Sustainable Transport:**

- 8.40 Local Plan policies TR1 and TR7 aim to ensure that proposals cater for the demand in traffic they create, and do not increase the danger to users of adjacent pavements, cycle routes and roads. Policies TR14 and TR19 relate to the provision of cycle and vehicular parking respectively.

### Parking

- 8.41 No parking is proposed within the site. This is considered acceptable as the sustainable modes provision around the site is very good, and in addition it is considered that problems of displaced parking would not arise as the site is at the heart of the CPZ and the development could be made car free. There is no scope for disabled parking within the site but the S106 would include a contribution to shopmobility of £5000.

- 8.42 The number of cycle parking places proposed for the residential use is considered acceptable and further details would be required by condition. The office use could require at least 2/3 cycle parking places which are not provided on site and Sheffield stands would also be provided as part of the highway works in Queen Square described below.

- 8.43 The application also includes minor highway alterations in the north of Queen Square in front of the development. The main alterations are carriageway and footway resurfacing, levelling off the north west corner of the square, provision of a retaining wall to the west of the square and realignment of the existing parking bays. The Transport Officer has commented that the proposals are acceptable in principle and the applicants would be required to enter into a S278 agreement. A S106 contribution of £27,285 for further improvement works for walking, cycling, lighting and the environment in Queen Square also forms part of the recommendation.

- 8.44 The application submission also includes a framework travel plan which is considered acceptable and a condition requiring a full travel plan forms part of the recommendation.

- 8.45 In regard to the impact on the highway the Sustainable Transport Team has raised no objections as it is considered that the number of extra

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vehicular trips generated would be negligible and no additional congestion would be expected to arise resulting from the development.

### **Ecology/Nature Conservation:**

- 8.46 Local Plan policy QD17 states that new development should also provide new nature conservation.
- 8.47 While the Council's Ecologist agrees with the Biodiversity Checklist submitted in support of the application that the existing nature conservation value of the site is negligible, there is a lack of any significant new nature conservation features in the development apart from the 117sqm of Sedum green roof.
- 8.48 Options to make up for the shortfall in nature points could include the installation of bird nest boxes into the walls of the building, green walls or a more ambitious habitat creation scheme for the green roof, which could be secured through conditions. A condition to this effect therefore forms part of the recommendation.

### **Arboriculture:**

- 8.49 While there are no trees on the development site itself, there are several in the church yard to the rear (north) of the site, including Elm trees, that may be affected by the development and should therefore be given due consideration. A number of objectors have referred to the Elm trees in the churchyard and possible detrimental effect from the development overshadowing these. The Arboriculturist has visited the site and has commented that there is one tree, a mature Wych Elm, growing particularly close to the boundary, about one metre away. It is recommended that an Arboricultural Method Statement should be submitted prior to any development commencing regarding the protection of trees in the church yard in the vicinity of the proposed development. This is to protect their root plates and prevent the storage of any building materials in the church yard. The Wych Elm mentioned above would also need to be pruned to facilitate the development. The applicant would have the common law right to cut back to their boundary, however, the Arboricultural Section have requested an informative that this operation is carried out after discussions have taken place with them.
- 8.50 In conclusion, the Arboricultural Section has no objection to this proposal subject to suitable conditions being attached to any consent granted.

### **Sustainability:**

- 8.51 Policy SU2 requires efficiency of development in the use of energy, water and materials to meet this requirement SPD08 sets guidance. The commercial aspect of the scheme should achieve BREEAM 'excellent'. The applicant has submitted a Renewable Energy Feasibility Report along with a completed sustainability check list which indicates that it is their intention to meet BREEAM 'excellent'. Sustainable

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features incorporated into the design include solar photovoltaic and solar hot water panels; inclusion of efficient communal combined heat and power plant (CHP); water efficiency measures; a commitment to undertake a rainwater harvesting feasibility study; green sedum roof, use of sustainable materials; some passive design measures.

8.52 In regard to the residential element of the scheme, the applicant was proposing CSH level 4. However in this case the overriding need for affordable housing in the City is considered to outweigh the sustainability issues. Therefore in order to enable the provision of 6 affordable housing units on the site and at the same time provide a viable scheme on the site, Code Level 3 is considered acceptable.

8.53 The sustainability aspect of the scheme is therefore considered acceptable and conditions to ensure that BREEAM 'excellent' and CSH level 3 are achieved forms part of the recommendation.

### **Waste Management:**

8.54 A Waste Management Statement has been submitted which is considered satisfactory.

### **Archaeology**

8.55 The proposed development is situated within an Archaeological Notification Area defining both an area of prehistoric activity and the medieval church of St Nicholas. The prehistoric activity includes human burials, a possible stone circle and finds of artefacts. Queen Square formed in the mid 19<sup>th</sup> century and buildings are recorded within the proposed development site on 19<sup>th</sup> century maps. The County Archaeologist considers that site has a high potential for below ground archaeological remains and it would be necessary to evaluate and mitigate any impacts through the application of an appropriate planning condition requiring a programme of archaeological works to be undertaken before any demolition or works commence on the site and an appropriate condition is included in the recommendation.

### **Other considerations**

8.56 A number of objections have been received which state that the five storey building as proposed does not comply with Council policies which state that the height should not exceed four storeys. During the marketing of the site an informal planning note was prepared in 2008 to accompany the marketing details. The note included informal design guidance and four storeys was suggested as the appropriate height for the development at its highest point. The note was prepared in order to provide some informal planning guidance to assist in the disposal and development of the site and does not constitute formal council policy, which is stated in the introduction to the Note.

8.57 It is also noted that the building would also not constitute a 'tall building' as defined in the Tall Buildings SPG15. Tall buildings in SPG15 are defined as being buildings of 18m, or taller, (approximately 6 storeys),

above existing ground level. In this case the building would be 5 storeys and the height would be 16.6m from ground level.

## 9 CONCLUSION

- 9.1 There is an extant planning permission for the redevelopment of the site. The proposed redevelopment of the site would provide a modern building of an acceptable scale, mass and design. The proposed mixed residential and office use is considered to be appropriate for the location. The residential units, including 6 affordable units, would provide a much needed addition to the housing stock. The detrimental impact on some views of the listed terrace, church and adjoining conservation area is considered to be acceptable when balanced against the advantages of an appropriate, well designed scheme, while the taller parts of the building may be seen from some sensitive locations these viewpoints have already been compromised by other tall buildings such that any additional harm caused would be incremental.
- 9.2 The amenity impact of the increase in scale and mass on adjoining residential properties of the infill development is considered to be acceptable within the context of the form of neighbouring development and surrounding architecture. The traffic impact of the development is acceptable. The office element building would meet BREEAM 'excellent' and the residential units CSH Level 3.

## 10 EQUALITIES

- 10.1 The Access Consultant has confirmed that the layouts appear to be satisfactory in terms of Lifetime Homes and that there should be 2 wheelchair accessible units but none is currently shown. A condition therefore forms part of the recommendation requiring details of two wheelchair accessible units.
- 10.2 The S106 agreement would include a contribution to shopmobility.

## 11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

### 11.1 S106 Heads of Terms

- **Sustainable transport enhancements**, a contribution of £27,285 for highway works in Queen Square and £5000 for shopmobility.
- **Education**, a contribution of £40,298.
- **Public Art**, a contribution of £16,200.
- **Local training and employment strategy** to include a commitment to employing 20% of construction workforce from the local area.
- **Local Employment Scheme** a contribution of £15,000 towards the Local Employment Scheme.
- **Open Space** , a contribution of £80,895.
- **S278 agreement** for alterations to the highway.

### 11.2 Regulatory Conditions:

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- 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 plan/block plan	PL-001		07/11/13
Survey plan	PL-002		07/11/13
Existing north and south elevations	PL-003		07/11/13
Existing sections AA/BB	PL-004		07/11/13
Existing section XX	PL-005		07/11/13
Proposed site plan	PL-011		07/11/13
Proposed lower ground floor	PL-012	B	25/02/14
Proposed upper ground floor	PL-013		07/11/13
Proposed 1 <sup>st</sup> floor	PL-014		07/11/13
Proposed 2 <sup>nd</sup> floor	PL-015		07/11/13
Proposed 3 <sup>rd</sup> floor	PL-016		07/11/14
Proposed 4 <sup>th</sup> floor	PL-017		07/11/13
Proposed roof plan	PL-018		13/12/13
Proposed north and south elevation	PL-019		07/11/13
Proposed east and west elevation	PL-020		07/11/13
Proposed sections AA and BB	PL-021		07/11/13
Proposed section XX	PL-022		07/11/13
Wykeham Terrace section studies	PL-023		15/11/13
Proposed north elevation	PL-024		15/11/13
Proposed south elevation	PL-025	A	25/02/14
Proposed east elevation	PL-026		07/11/13
Proposed west elevation	PL-027		07/11/13
Tree constraints drawing	LLD372/01	00	07/11/13

- 3) No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies QD1 and QD27 Brighton & Hove Local Plan
- 4) All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which



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within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development is occupied.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

- 5) The existing boundary walls to the north and west sides of the site shall be retained and no development shall take place until a survey report and a method statement setting out how the existing boundary walls are to be protected, maintained, repaired and stabilised during and after demolition and construction works, including details of any temporary support and structural strengthening or underpinning works have been submitted to and approved by the local planning authority in writing. The demolition and construction works shall be carried out and completed full in accordance with the approved method statement.

**Reason** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies QD1 and QD27 Brighton & Hove Local Plan

- 6) No deliveries or waste collections shall occur at the premises except between the hours of 09:00 and 18:00 on Mondays to Fridays and 09:00 and 18:00 on Saturdays and not at anytime on Sundays, Bank or Public Holidays.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

- 7) Notwithstanding the details on the approved drawings, the windows on the west elevation at first, second and third floors shall be obscure glazed and non-opening unless the part of the windows which can be opened are more than 1.7m above the floor of the room in which the windows are installed with bottom hung hinges and thereafter permanently retained as such.

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

- 8) The glass balustrade around the roof terrace shall be retained as such.

**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies QD1, HE3 and HE6 of the Brighton & Hove Local Plan.

- 9) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for a method statement to identify, risk assess and address the unidentified contaminants.

**Reason:** Previous activities within close proximity of 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

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pollution and in accordance with policy SU11 of the Brighton & Hove Local Plan.

- 10) The new dwellings hereby permitted shall be constructed to Lifetime Homes standards prior to their first occupation and shall be retained as such thereafter.

**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

### 11.3 Pre-Commencement Conditions:

- 11) No development shall take place until samples of the materials (including colour of render, paintwork and 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 policy QD1 of the Brighton & Hove Local Plan.

- 12) Unless otherwise agreed in writing by the Local Planning Authority, no non-residential development shall commence until a BRE issued Interim/Design Stage Certificate demonstrating that the development has achieved a minimum BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all non-residential development has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

- 13) Unless otherwise agreed in writing by the Local Planning Authority, no residential development shall commence until a Design Stage/Interim Code for Sustainable Homes Certificate demonstrating that the development achieves a Code for Sustainable Homes rating of Code level 3 as a minimum for all residential units has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

- 14) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan showing two of the residential units hereby approved constructed to wheelchair accessible standards. The identified units shall be completed in full prior to the occupation of the development hereby approved.

**Reason:** To ensure satisfactory provision of homes for people with disabilities and to comply with policy HO13 of the Brighton & Hove Local Plan.

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- 15) The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved 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 private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
- 16) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping, which shall include hard surfacing, means of enclosure, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.  
**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.
- 17) No development shall commence until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the occupation of the development hereby approved.  
**Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy QD17 of the Brighton & Hove Local Plan.
- 18) No development shall take place within the application site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.  
**Reason:** In order to provide a reasonable opportunity to record the history of the site and to comply with policy HE12 of the Brighton & Hove Local Plan.
- 19) No development shall commence until an Arboricultural Method Statement has been submitted to and agreed in writing by the Local Planning Authority regarding the protection of trees in the church yard in the vicinity of the proposed development.  
**Reason:** To protect the trees which are in the vicinity of the proposed development in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.
- 20) The proposed development shall not commence until a scheme for the details of the provision of 6 units of affordable housing, as part of the development, has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme which shall include:
- i) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

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- ii) the tenure, mix and location of the affordable units;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider;
- iv) the arrangements to ensure that the affordable housing remains as affordable housing for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria.

For the purposes of this condition 'affordable housing' has the meaning ascribed to it by the National Planning Policy Framework.

**Reason:** To ensure the provision and retention of an appropriate amount of affordable housing in accordance with policy HO2 of the Brighton & Hove Local Plan.

### 11.4 Pre-Occupation Conditions:

- 21). The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 22) The floors and party walls between all non-residential units, including: the plant room, the office and the bike store, and any residential units shall be designed to achieve an airborne sound insulation value of 5dB greater than that specified in Approved Document E of the Building Regulations. Pre-completion testing of the shared floors and party walls prior to the occupation of the development shall be undertaken to ensure that the measures are in accordance with the condition.  
**Reason:** To safeguard the amenities of the future occupiers and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 23) The residential units hereby permitted shall not be occupied until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.  
**Reason:** To ensure that the development is car-free and to comply with policy HO7 of the Brighton & Hove Local Plan.
- 24) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved shall not be occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the development built has achieved a minimum BREEAM rating of 60% in energy and water sections of relevant BREEAM assessment within overall 'Very Good' has been submitted to, and approved in writing by, the Local Planning Authority.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.
- 25) Unless otherwise agreed in writing by the Local Planning Authority, none of the residential units hereby approved shall be occupied until a

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Final/Post Construction Code Certificate issued by an accreditation body confirming that each residential unit built has achieved a Code for Sustainable Homes rating of Code level 3 as a minimum has been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

- 26) Prior to first occupation of the development a Travel Plan (a document setting out a package of measures tailored to the needs of the site and aimed at promoting sustainable travel choices and reduce reliance on the car) for the development shall be submitted to the Local Planning Authority. The Travel Plan shall be approved in writing prior to first occupation of the development and shall be implemented as approved thereafter. The Travel Plan shall include a process of annual monitoring and reports to quantify if the specified targets are being met, and the council shall be able to require proportionate and reasonable additional measures for the promotion of sustainable modes if it is show that monitoring targets are not being met.

**Reason:** To seek to reduce traffic generation by encouraging alternative means of transport to private motor vehicles in accordance with policy TR4 of the Brighton & Hove Local Plan.

### 11.5 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:-

There is an extant planning permission for the redevelopment of the site. The proposed redevelopment of the site would provide a modern building of an acceptable scale, mass and design. The proposed mixed residential and office use is considered to be appropriate for the location. The residential units, including 6 affordable units, would provide a much needed addition to the housing stock. The detrimental impact on some views of the listed terrace, church and adjoining conservation area is considered to be acceptable when balanced

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against the advantages of an appropriate, well designed scheme, while the taller parts of the building may be seen from some sensitive locations these viewpoints have already been compromised by other tall buildings such that any additional harm caused would be incremental.

The amenity impact of the increase in scale and mass on adjoining residential properties of the infill development is considered to be acceptable within the context of the form of neighbouring development and surrounding architecture. The traffic impact of the development is acceptable. The office element building would meet BREEAM 'excellent' and the residential units CSH Level 3.

3. The applicant is advised that the scheme required to be submitted by Condition 20 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.

4. Potentially contaminated land: Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. The local planning authority has determined the application on the basis of the information made available to it. It is strongly recommended that in submitting details in accordance with the above/below conditions that the applicant has reference to CLR 11, Model Procedures for the management of land contamination. This is available online as a pdf document on both the DEFRA website ([www.defra.gov.uk](http://www.defra.gov.uk)) and the Environment Agency website ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)).

5. The applicant is requested to discuss the pruning of the Wych Elm in the churchyard with the Council's Arboricultural Section prior to any works commencing on the site.