

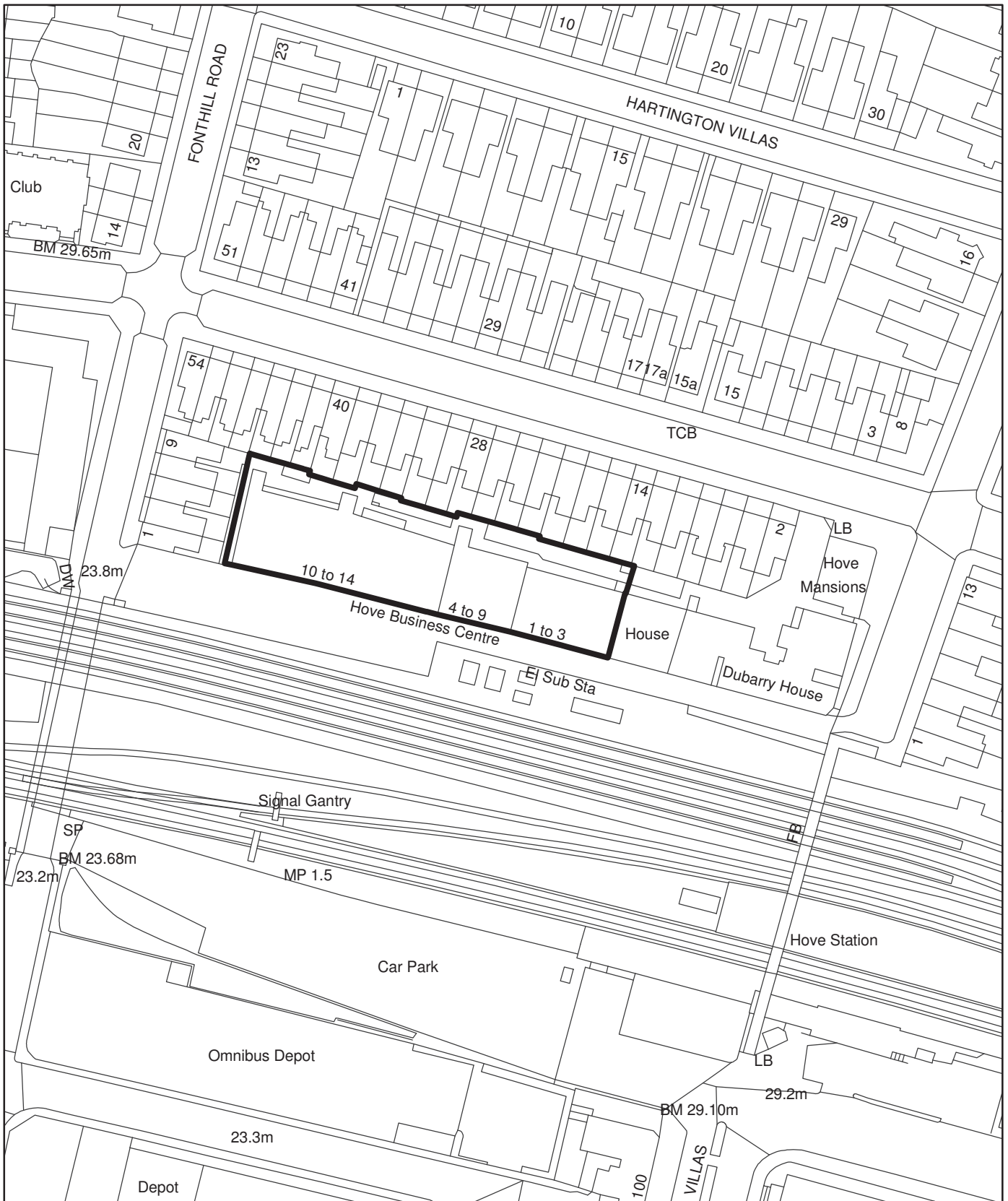
# **ITEM B**

**Hove Business Centre, Fonthill Road, Hove**

**BH2014/03742**  
**Full planning**

**18 FEBRUARY 2015**

# BH2014/03742 Hove Business Centre, Fonthill Road, Hove



<b><u>No:</u></b>	<b>BH2014/03742</b>	<b><u>Ward:</u></b>	<b>GOLDSMID</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Hove Business Centre Fonthill Road Hove</b>		
<b><u>Proposal:</u></b>	<b>Creation of 4no one bedroom flats, 4no two bedroom flats and 1no three bedroom flat on existing flat roof incorporating revised access and associated works.</b>		
<b><u>Officer:</u></b>	Adrian Smith Tel 290478	<b><u>Valid Date:</u></b>	06 November 2014
<b><u>Con Area:</u></b>	adjacent Hove Station	<b><u>Expiry Date:</u></b>	01 January 2015
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	Lewis McMillan Architects, 7 Queen Square, Brighton BN1 3FD		
<b><u>Applicant:</u></b>	Pearl & Coutts, c/o Lewis McMillan Architects, 7 Queen Square Brighton BN1 3FD		

This application was deferred from 28 January 2015 Committee in order for Members to carry out a site visit. The report has been updated to clarify the status of the building and noise issues

## 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 relates to the Hove Business Centre, a part three part four storey building comprising a mix of seventeen B1, B8, D1 and D2 units. The Business Centre forms part of the former Dubarry Perfumery complex and is attached to Microscape House to the east. Access and parking is via Fonthill Road to the west.
- 2.2 Residential properties abut the site to the north and west, with further business units within Microscape House to the west. The mainline railway fronts the site to the south with Hove Station and the Hove Station Conservation Area to the southeast. The former Dubarry Perfumery building, which also comprises Microscape House and Dubarry House to the east, has been nominated as a building of local interest and been placed on the draft list accordingly.

## 3 RELEVANT HISTORY

**BH2014/01981-** Creation of 4no one bedroom flats, 4no two bedroom flats and 1no three bedroom flat on existing flat roof incorporating revised access and associated works. Withdrawn

**BH2012/00021-** Change of use of Unit 2 from offices (B1) to performing arts college (D1). Refused 05/09/2012

**BH2003/02016/FP-** Change of use of Unit 9 (top floor) from B1 (business use) to yoga studio (D2). Approved 23/07/2003

**BH2000/02021/FP-** Change of use of Unit 1 from B8 (Storage/warehousing) to B1 (Information Centre/Offices) and form new disabled access door to front elevation. Block up window at rear and install new fire doors. Approved 12/09/2000

**BH1998/02008/FP-** Change of use of Unit 8 from B1/B8 to D2 (Health & Fitness Club). Retrospective application for change of use of units 7 and 7A from B1/B8 to D2. Approved 01/12/1998

#### **4 THE APPLICATION**

- 4.1 Planning permission is sought for the addition of nine residential flats at roof level, accessed via an internal walkway along the rear of the roof. The additional floor would be metal/zinc clad with balconies to the south side. No onsite parking is to be provided.

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

##### **5.1 External**

##### **Neighbours:**

**Twenty Eight (28)** letters of representation have been received from **6, 12, 16, 18, Ground floor flat 20, Ground floor flat 22 (x2) Upper Maisonette 22, 24, 32, 34 (x2), 36 (x2), 38b, 40, 44, 46 & 48 Newtown Road; savehove; and Unit 6 Hove Business Centre; 6 Wilbury Avenue; 22 Hove Park Villas; 10 Hartington Villas; 5 Burton Villas; savehove; and Unknown (x2), objecting** to the application for the following reasons:

- The Dubarry Perfume factory is an iconic building and should be protected. It is loved and admired by residents
- The building will lose its unique identity
- The development would not be in keeping with the distinctive historic building and its setting
- Flats and associated paraphernalia on the roof would spoil the iconic image of the building and its skyline
- The design of the flats is not in keeping with the Victorian houses and Dubarry building
- The existing extension above Microscape House is an eyesore, the development would be worse
- An application to list the building is under consideration
- Impact on setting of Hove Station Conservation Area and the Grade II listed Hove Station
- The building is now under consideration to be listed
- Cramming in a high density area
- Potential loss of businesses in the building to residential in the future
- Increased security risks to businesses and adjacent residents from use of the rear alleyway for cycle parking
- Businesses will look to leave the building

## PLANNING COMMITTEE LIST- 18 FEBRUARY 2015

- Loss of skylight will reduce quality of office accommodation in unit 6
- Sharing of access lifts between businesses and residents will be detrimental to business operations
- Loss of daylight and sunlight, particularly in winter, spring and autumn. The height of the existing building results in no sunlight for the majority of the year
- Overshadowing and overbearing impact. Gardens to Newtown Road are already overshadowed so any reduction in sunlight would have a significant impact. 20% loss of sunlight to 19 houses on Newtown Road and 4 on Fonthill Road is significant
- Most windows to Newtown Road do not currently meet the BRE daylight criteria. 35 houses would be affected.
- Gardens would become unusable and dangerous in winter months
- Overlooking
- Increased noise and disturbance to neighbouring residents
- Noise disturbance from rain falling on the metal roof
- Noise complaints will be received from residents against the dance studio within the building. Existing noise levels from the studio are very high and cause disturbance to residents. To suggest future residents will not be disturbed is absurd
- The noise surveys were carried out when the dance studio was on half term and therefore cannot be relied on
- Loss of views and sky views
- Light and noise pollution from use of the access walkway.
- Decreased quality of life
- 40-50 family homes on Newtown Road will suffer for the benefit of 9 flats
- The building is not currently used at weekends. Residential use will change its relationship with the properties adjacent
- The flats are ideal to be used for parties
- Insufficient detail of how the barriers to the front would appear and impact on the decorative parapets
- Loss of house value
- There is insufficient parking in the area to cater for new residents, especially in the evenings after 7pm
- A car-free development cannot be enforced
- Inaccurate plans
- Conflict between residential and business use of the lifts
- Construction noise and disturbance
- The lighting survey is not credible, with incorrect numbering, and incorrect plans including incorrect window positions
- The building may not be safe to add an additional storey to
- The only beneficiaries will be the developer
- Loss of light will have a detrimental impact on the quality of life of a deaf resident of Newtown Road
- The development is for money only
- The development will result in the building being steadily converted into flats

5.2 **One (1)** letter has been received on behalf of the occupiers of **10, 12, 18, 24, 34, 36, 38b, 40 and 42 Newtown Road, and Unit 6 of Hove Business Centre** objecting to the proposed development on the following grounds:

- The development would harm the character of the building, introducing a modern and incongruous form of development rising above the parapet line and highly visible from Hove Station.
- The rear fenestration pattern is unsympathetic to the symmetry of the fenestration to the building, and the metal cladding gives the proposal a modern and incongruous appearance
- The introduction of residential paraphernalia to the amenity areas would detract from the visual quality of the building
- The proposal would unbalance the building in views from the site entrance off Fonthill Road
- The proposal would fail to sustain or enhance the setting of the Hove Station Conservation Area
- Similar applications for development to the roof of the Dubarry building have been refused by the Council and then by the Inspectorate on two occasions, the most recent on the grounds that the penthouse would seriously and unacceptably harm the appearance of the building and its setting
- Loss of daylight, particularly on evenings and in winter months, to Newtown Road and Fonthill Road properties
- The daylight/sunlight report is confusing and inaccurate. It shows properties fail the BRE tests contrary to policy QD27
- The loss of the skylight and disturbance from building works and
- Use of the terraces would impact on working conditions within the businesses below
- The alterations to the ground floor would preclude delivery of large items to the businesses
- The development constitutes town cramming
- Insufficient parking

5.3 **Councillor Jarrett** has objected.

5.4 **Internal:**

**Environmental Health:** No objection

This application seeks to introduce residential into what is effectively a commercial environment within a building that is immediately adjacent to an active railway station with sidings used to stable Gatwick Express trains.

5.5 Having assessed the Acoustic Report by 7th Wave Acoustics (ref: R001.1039.001.NGA.2.0), dated the 16th June 2014 Environmental Health officers are confident that the noise levels from trains / transport, and the dance studio will meet the standards set out by WHO guidance and British Standard 8233.

5.6 However, while the noise levels from the dance studio may meet the standards set out by WHO guidance and British Standard 8233, this does not mean it will

not cause complaints and potentially be considered a statutory nuisance under the Environmental Protection Act 1990. Concern is raised over the level of noise that is likely to intrude into the proposed properties from the existing dance studio and the potential problems this could create for the dance studio should the application go ahead. Currently the hours for the studio are 9am – 8pm, Monday to Friday and 9am – 5pm on Saturdays, but with no restrictions on their times this could easily be extended.

- 5.7 The proposed residents are likely to be protected from the noise of the dance studio via their high standard of flooring, glazing, and ventilation, however there is nothing to prevent them from opening their windows and removing the level of protection provided to them. While ventilation has been considered as part of the application in order to prevent residents from having to open their windows, there is still the element of personal choice. During the summer months, both residents and the studio are likely to want their windows open.
- 5.8 The Environmental Protection Act 1990 allows for complainants to have their windows open, and would still require officers to investigate complaints relating to noise from the dance studio with the windows open, should complaints be received. There is no way to prevent future residents from opening their windows and potentially putting complaints in about noise from the dance studio.
- 5.9 If complaints were received by Environmental Health then there is every possibility that the noise from the dance studio could be considered a statutory noise; either with the windows open or closed. This would then place requirements on the dance studio to make alterations that may not have otherwise been necessary.
- 5.10 7th Wave Acoustics have subsequently assessed the readings that were taken from the roof of the building, over a week long period, and have submitted further information. 7th Wave Acoustics have listened to the recordings made by the two monitoring units, and has stated that each of the units has only identified three occasions where the noise from the dance studio was audible on the roof.
- 5.11 The readings are representative of the summer months when windows are most likely to be open, and noise escape from the dance studio at its highest. The information provided therefore strongly suggests that the level of impact from the current operation at the dance studio is only likely to have a minimal impact on proposed residents. It should also be noted that when the properties are built, the residents will have a much higher level of acoustic protection, and that even an open window will offer some level of noise reduction.
- 5.12 While the noise from the dance studio may be audible on occasions, the information provided suggests it unlikely to be at a level that would cause a nuisance in the proposed resident's homes.
- 5.13 Based on the current information available, the current application should be approved with conditions.
- 5.14 **Heritage:** No objection

This scheme will be visible from Hove Station but will not be seen from other vantage points in the setting of the station or of the conservation area, therefore these comments are provided having regard to the impact on the building itself which has been nominated for inclusion on the list of buildings of local interest.

- 5.15 The southern elevation of the proposed additional floor has been divided to reflect the window rhythm on the lower floors. The materials for these solid panels will need to be fully considered; it may be better that they reflect the brickwork below, however this will depend on the final choice of material for the panels, and the alternative dark cladding may be recessive enough behind the individual parapets.
- 5.16 The rear of this building is far more utilitarian than the front and has also been more affected by alterations and fire escapes. The additional height resulting from the proposed walkway roof lights gives top-heavy proportions in elevation, however the set-back will diminish this effect in reality. The largely unbroken frontage line and uniform material does not reflect the individual sections of this building and as a result could appear an over dominant, linear element of the building.
- 5.17 **Sustainable Transport:** No objection  
No objection subject to a contribution of £6,750 towards sustainable transport infrastructure and details of a scheme to provide a segregated footway within the car park for pedestrians to reach the residential access. Based on census data the development would likely generate additional parking demand for 5 vehicles. This should be mitigated by the inclusion of a Residential Travel Pack for occupiers that includes 2 years membership of the Car Club.
- 5.18 **Housing:** No objection
- 5.19 **Access:** No objection

## 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
- QD14 Extensions and alterations
- QD27 Protection of Amenity
- QD28 Planning obligations
- HO3 Dwelling type and size
- HO4 Dwelling densities
- HO5 Provision of private amenity space in residential development
- HO7 Car free development
- HO13 Accessible housing and lifetime homes
- HE3 Development affecting the setting of a listed building
- HE6 Development within of affecting the setting of conservation areas
- HE10 Buildings of local interest

#### Supplementary Planning Guidance:

- SPGBH4 Parking Standards

#### Supplementary Planning Documents:

- SPD03 Construction & Demolition Waste
- SPD08 Sustainable Building Design

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

SS1 Presumption in Favour of Sustainable Development  
DA6 Hove Station Area  
CP15 Heritage

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the principle of adding an additional floor comprising residential flats to the building, its impact on the appearance of the building and the setting of the adjacent Hove Station Conservation Area, its impact on neighbouring amenity, the standard of accommodation to be provided, and sustainability and transport issues. Also relevant is the potential impact of the residential accommodation on the existing business units within the building.
- 8.2 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 provision target, appeal Inspectors are likely to use the city's full objectively assessed need (OAN) for housing to 2030 (estimated to fall within the range 18,000 – 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. The merits of the proposal are considered below.
- 8.3 **Principle of Development:**  
The site is located outside the northern boundary of the Hove Station Area Development Area identified within policy DA6 of the emerging Submission City Plan Part One. Policy DA6 generally seeks to maintain and strengthen employment provision within the area as well as providing for residential uses. It is not considered that the proposal runs contrary to these aims.
- 8.4 Hove Business Centre is located within the former Dubarry Perfumery building and comprises a mix of B1, B8, D1 & D2 uses. The Perfumery was built in the 1920's and is formed of six linked buildings, with the Business Centre located in the four westernmost buildings. The remaining part of the Perfumery is formed of office units within Microscape House adjacent and by residential flats within Dubarry House beyond at the far east of the site. The building is notable for its ornate parapet roofline and original mosaic signage retained on the southern elevation. The building falls within the setting of the Hove Station Conservation Area to the southeast, and to the Grade II listed Hove Station buildings and footbridge which lie approximately 60m to the southeast across the railway line. Residents have identified that the building is under consideration to be listed however no application has been made to English Heritage. The building has been included on the draft list of buildings of local interest which is currently out to public consultation, however as consultation has not finished this carries limited weight.

- 8.5 The building is however considered a 'non-designated heritage asset' under paragraph 135 of the NPPF by virtue of its ornate southern elevation, history within the Hove Station Area, and its position on the draft list of buildings of local interest. Paragraph 135 of the NPPF requires Planning Authorities to take into account the effect of an application on the significance of a non-designated heritage asset, and reach a balanced judgement as to the scale of any harm or loss and the significance of the asset.
- 8.6 In this instance the significance of the building is most borne out by its southern elevation and parapet roofline. This is most visible from the station platforms opposite and from the footbridge overpass to the east of the site. The parapet roofline, which is different on each section of the building, is silhouetted against the sky when viewed from the station platforms, but is set more amongst rooftop clutter when viewed from the public footbridge to the east. The original roof form of the building has been eroded by the addition of an additional storey on Microscape House to the east which, although set back from the parapet, appears as a detracting piecemeal addition, and by stairwell, railing and rooflight upstands along the main roof.
- 8.7 The application proposes to continue the general scale and footprint of the Microscape House addition west across the entire roof to the building. This would serve to remove much of the rooftop clutter and provide a cleaner, more unifying form behind the parapet. On balance, and having regard the status of the local list, its consideration as a 'non-designated heritage asset', the extent of its public visibility, and the absence of a five year housing land supply, it is considered that a roof top addition in the manner proposed would not in principle be so harmful to the significance of the building as to justify withholding permission. Nor would it have a significantly harmful impact on the setting of the Hove Station Conservation Area, or the setting of the Grade II listed Hove Station buildings and footbridge given its subordinate scale and separation from these heritage assets. This view is subject to the acceptability of all other material planning considerations as set out below.
- 8.8 Objectors have identified that previous applications for additional storeys on Dubarry House have been refused on account of harm to the appearance of the building. Dubarry House is a largely residential building on the eastern side of the linked complex. It is four storeys in height with an ornate frontage to Hove Park Villas. The applications for an additional storey were refused as the proposals added to the tallest part of the site and failed to visually link to the elevations below. The current proposal is on the lower three storey section of the complex where an additional storey would relate more appropriately to the building below and be generally less disruptive to the overly scale of the complex. As such the refusals for development on top of the tallest building within the Dubarry complex do not automatically preclude appropriate additions elsewhere on the lower sections.
- 8.9 Design and Appearance:  
The additional storey would be inset between 2m and 2.7m from the front parapet roofline and be completed in a dark grey metal/zinc finish with windows of

matching appearance. This would give the additional a recessive appearance and assist in retaining the primacy of the existing elevations and parapets. The design of the additional storey links appropriately with the vertical division across the building, with suitable visual breaks between each building type and windows aligning with those below. The final details of materials and windows are secured by condition and, if appropriately treated, would serve to ensure that the additional storey forms a suitably unifying and subordinate crown to the building.

- 8.10 To the rear, the building is of lesser visual significance. The additional storey would be set variously between 2m and 3.1m from the rear elevation, and be completed in solid dark grey metal/zinc walls as per the front elevation. No windows would be in this rear elevation, with the massing regularly punctuated by insets aligning with the windows in the elevation below. Angled rooflights would project 0.5m above the rear part of the roof to provide natural light into the rear walkway access. The general position, scale and elevational treatment of the rear elevation is considered acceptable in design terms, providing a suitably articulated elevation inset appropriately from the main rear elevation such that it would appear a subordinate addition when viewed from the properties along Newtown Road to the rear. Subject to final details of materials, the proposed rooftop extension is considered an appropriately scaled and design addition that would unify the roof of the building without significantly harming its heritage significance, in accordance with policies QD1, QD2, QD14 & HE6 of the Brighton & Hove Local Plan.
- 8.11 To the front, a new curved entrance canopy to the residential lift and stairwell is proposed. This is a lightweight addition that would not detract from the appearance of the building.
- 8.12 **Standard of Accommodation:**  
The nine units would comprise four one-bedroom flats, four two-bedroom flats, and one two/three-bedroom flat. The general size and layout of each flat is acceptable, with each room having good access to natural light and ventilation. Each unit would have a private south facing balcony to comply with policy HO5, whilst a condition is attached to ensure the development meets lifetime homes standards in accordance with policy HO13.
- 8.13 A noise survey has been submitted which calculates that noise disturbance from the railway line can be suitably mitigated through the use of measures such as standard double glazing and alternative ventilation means for all front facing rooms. Such measures are secured by condition.
- 8.14 **Impact on Amenity:**  
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.15 The main concern is the impact of the development on the amenities of adjacent occupiers, particularly those to the rear along Newtown Road. Also of concern is the potential impact of noise from the business uses within the building on the

amenities of future occupiers, and the risk such noise may result in noise complaints from future residents.

8.16 Residential amenity

As existing, Hove Business Centre is set between 11m and 13.5m from the properties on Newtown Road, and approximately 6m from their rear gardens. The building is three storeys in height with a basement level to the west side, and has large windows facing towards the Newtown Road properties. The scale and proximity of the building dominates the outlook to these properties, whilst the facing windows result in night-time light pollution and a strong sense of overlooking. This impact is somewhat alleviated by the business use of the building, with little or no weekend activity.

8.17 Residents of Newtown Road have raised significant concerns over the impact of the additional storey and its residential occupancy. The bulk and massing of the additional storey would be set between 2m and 3.1m from the rear elevation of the building and would undoubtedly have some impact on light and outlook to these properties, with section drawings through the building indicating that the main body of the extension would be visible above the existing roofline from the rear ground floor doors to the properties along Newtown Road. From the site visit it was clear that the additional storey would indeed be visible from the ground floor windows and gardens to properties on both Newtown Road and Fonthill Road.

8.18 However, given the 2m-3.1m inset of the additional storey, and its separation of between 14m and 16.4m from the properties along Newtown Road, its degree of visibility from ground level would be somewhat limited. As such it is not considered that it would have a significantly oppressive impact or result in a significant loss of light or outlook. Whilst its visibility would be considerably greater from upper floor windows and terraces, this would be set against broader sky views such that it would not be significantly oppressive or harmful to light or outlook.

8.19 A daylight/sunlight assessment has been submitted however it contains many inaccuracies in its assessment of the numbering, form and fenestration of the properties along Newtown Road, therefore full weight cannot be attached to it. Notwithstanding these inaccuracies the assessment identifies that all adjacent properties would experience some loss of daylight, however no window would fail the BRE guidance tests. The degree of lost light would be variously between 1% and 9.5%, significantly below the 20% drop that the BRE guidance suggests would be appreciable and potentially harmful. This modest loss of light adds weight to the conclusion that loss of daylight would not be so significant as to warrant the withholding of permission.

8.20 In terms of sunlight, the report identifies that three ground floor windows at 22, 24 & 30 Newtown Road would fail 2 of the 3 criteria for assessing sunlight within the BRE guidance. The other 112 windows identified in the report would be largely unaffected. It is clear from the site visit that an additional storey would increase the massing of the building and result in some loss of winter sunlight reaching ground floor windows and garden areas. Notwithstanding the calculations of the

daylight/sunlight assessment, the rear ground floor windows within the adjacent properties would retain direct sunlight for more than six months of the year, with the angle of the development rising from 29 degrees to 35 degrees (Nb the angle of the midday sun at the March/September equinox is 39.4 degrees). Given that the rear elevations of Newtown Road are south facing, these properties would retain existing levels of sunlight throughout much of the year. Consequently the degree of harm would not be so significant as to warrant the withholding of permission

- 8.21 To the west, the extension would be inset 3m from the west elevation. This setback is sufficient to ensure minimal amenity impact on the rear gardens and windows to nos.1-9 Fonthill Road, with the extension part disguised behind an existing stair tower.
- 8.22 There are no windows proposed in the rear elevation therefore the proposal would not result in overlooking of properties along Newtown Road or Fonthill Road. The rooflights are orientated to the south with blank rear upstands. This is sufficient to ensure no significant light spillage to the rear. The complete enclosure of the walkway access is sufficient to ensure minimal potential noise disturbance from residents accessing their properties.
- 8.23 On balance, the inset position of the additional storey is such that it would not have an excessively oppressive or enclosing impact when viewed from the gardens and ground floor windows along Newtown Road, would not result in loss of privacy, and would not result in a significant loss of daylight or sunlight.
- 8.24 Impact on existing businesses:  
Concern has been raised that the addition of residential units above existing businesses may give rise to noise complaints that ultimately prejudice the abilities of the businesses in the building to function as normal. Concern has also been raised that the loss of a rooftop skylight would have a harmful impact on the quality of office accommodation below. A Planning Noise Assessment has been submitted with the application to help address some of these matters.
- 8.25 The building is occupied by a mix of B1 office units, B8 storage units, and D2 leisure uses. The B8 uses are mainly at ground floor level and as such would not result in significant noise disturbance, whilst the nature of B1 office uses is such that disturbance is highly unlikely, and more so particularly outside of working hours. There are however yoga and dance studios in the building that by their nature likely to generate significant potential for noise disturbance. The dance studio in particular is located at third floor level, immediately below the proposed flats.
- 8.26 The noise assessment was carried out from Wednesday 21 May continuously to Thursday 29 May 2014. Residents have highlighted that this was during half-term when noise levels from the dance studio are lower. The report identifies maximum noise incidences of 82-90db on the first Wednesday to Friday, with lower maximum individual incidences of 77-79db over the following week (half term). The average daytime noise levels recorded remain consistent at 53-54db across the entire recording period. The assessment concludes that noise levels from the

railway line and uses within the building would meet the standards set out by WHO guidance and British Standard 8233 when windows are shut. When windows are open, night-time noise levels to the front of the flats would be exceeded (averaging 37db compared to the 35db guide, with maximum levels of 57db compared to the 45db guide). The report recommends that all bedrooms have alternative means of ventilation to enable windows to be closed at night as a means to overcome this issue.

- 8.27 In respect of noise transmission from the dance studio, specific noise surveys were carried out during a dance session between 17:00 and 18:00 on Tuesday 10 June 2014 and included a measurement in front of the speakers to establish the highest potential noise level incident on the ceiling. The speakers were turned up to the maximum level likely during a session for the recording. The recordings showed noise levels of between 73db and 83db.
- 8.28 The assessment calculates that the combination of the existing concrete roof and the proposed elevated floor to the new dwellings is sufficient to reduce worst case noise levels from the dance studio from the 75-85db range to a maximum 18-32db, within the WHO guideline. The calculations show that this threshold would be marginally exceeded only in the worst case scenario when music within the dance studio is at maximum level. Otherwise noise levels would be beneath the standard where disturbance would be caused.
- 8.29 The Environmental Health officer is satisfied that noise transference through the roof of the building and closed windows would not likely result in harmful noise disturbance for future residents above. Concern has though been raised at potential disturbance when windows to the dance studio and residential flats are open.
- 8.30 The applicants have submitted further information to address this concern. Specifically, the acoustic consultants have confirmed that sound recordings from the roof of the building clearly peak when the windows to the dance studio were open. These peaks occurred during three separate 15 minute periods at the front and rear of the building over the course of the continuous 7 day survey.
- 8.31 The Environmental Health officer notes that the readings are representative of the summer months when windows are most likely to be open and noise escape from the dance studio at its highest. The Environmental Health officer concludes that while noise from the dance studio may be audible on occasions, the information provided suggests it unlikely to be at a level that would cause a nuisance in the proposed resident's homes. Noise from the dance studio is only therefore likely to have a minimal impact on proposed residents, with the Environmental Health officer noting that even an open window will offer some level of noise reduction for residents. A recommendation to approve is made subject to a condition to secure the attenuation and ventilation recommendations set out in the noise assessment.
- 8.32 Subject to this condition the application is considered to accord with policies SU10 and QD27 of the Brighton & Hove Local Plan.

- 8.33 With regard disturbance from construction works, this would undoubtedly create noise and inconvenience for existing businesses in the building, however such impact would be for a temporary period only whilst works are carried out. To ensure impact on the amenities of adjacent occupiers is protected as far as is reasonably possible, a condition is attached requiring the submission of a Construction Environment Management Plan. The mitigation of any harm caused by development works that falls beyond the scope of the Plan would be a private matter for the building's owners to agree with current occupiers, either through the terms of their leases or otherwise.
- 8.34 With regard the loss of the skylight, this would undoubtedly impact on the existing quality of accommodation within the business below, however its loss would not prevent future business use of the unit. The unit and the building as a whole would retain large windows regularly positioned on the north and south elevations providing good natural light and outlook to all floors.
- 8.35 The proposed canopy to the front would include a single door access in place of large open shutters. This reduced access arrangement would likely impact on the ability of the business units to readily accept or distribute large and bulky goods in the manner to which they are accustomed. A condition is attached seeking revised details of the new access door arrangement to ensure appropriate accessibility is maintained for all users of the building.
- 8.36 For these reasons the proposed development would not result in a significant or harmful loss of amenity to existing residents or businesses, in accordance with policy QD27 of the Brighton & Hove Local Plan.
- 8.37 **Sustainable Transport:**  
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.
- 8.38 The site is within Controlled Parking Zone T, in a sustainable location adjacent to Hove Station and public transport routes. The proposal will provide no onsite parking for the residential units, with the existing provision to be retained for the existing business occupiers. SPGBH4 identifies that this scale of development would require a maximum provision of 14 parking spaces, whilst 2011 census data suggests that 9 flats would likely generate demand for five parking spaces. As the application proposes no parking provision the sustainable transport officer has requested a Residential Travel Information Pack be secured by way of a s106 agreement. The pack would include measures to promote sustainable transport usage and 2 years membership to the Car Club. A s106 agreement would also be needed to secure a contribution of £6,750 towards sustainable transport infrastructure in the Fonthill Road, Conway Street, Clarendon Road area. Although in a CPZ it is not considered appropriate in this instance to require that occupiers be made ineligible for parking permits as the edge of the CPZ is a short distance to the northwest. If made car-free, residents would likely park on the streets outside the CPZ increasing parking pressure in these areas. Consequently making the development car-free would be counter-productive to reducing parking pressure.



- 8.39 Bicycle storage for 24 bicycles is proposed in an existing rear storage building. This is above that required by SPGBH4 and is secured by condition. The Sustainable Transport officer has also requested a pedestrian footway be delineated within the site and this could be secured by condition to minimise risk of pedestrian and vehicle collision.
- 8.40 If the application were approved conditions and s106 measures would ensure the proposal accords with policies TR1, TR7, TR14 & TR19 of the Brighton & Hove Local Plan.
- 8.41 **Sustainability:**  
Policy SU2 and SPD08 requires efficiency of development in the use of energy, water and materials and recommends that residential developments of this number should achieve Level 3 of the Code for Sustainable Homes (CSH). This is an appropriate mechanism given that the proposed dwellings would be stand alone additions atop the existing building.
- 8.42 The application is supported with a Sustainability Checklist which details that all 9 properties will meet level 3 of the Code for Sustainable Homes. This is secured by condition. Acceptable refuse and recycling facilities are detailed in an enclosure within the front car park, and are also secured by condition.

## **9 CONCLUSION**

- 9.1 On balance, the impact of the proposed additional storey on the appearance of this non-designated heritage asset is considered acceptable having regards the nature of the significance of the building and the public benefits of providing addition housing units given the absence of a five year housing supply. Whilst the additional storey would impact on the amenities of residents to the rear along Newtown Road, the degree of loss of daylight and sunlight would not be sufficiently significant as to warrant the refusal of permission. Subject to conditions the amenities of future occupiers would be sufficiently protected from existing activities in the building. Accordingly the development complies with development plan policies.

## **10 EQUALITIES**

- 10.1 The development is required to meet Lifetime Homes standards.

## **11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES**

### **11.1 S106 Heads of Terms**

- A contribution of £6,750 towards sustainable transport infrastructure
- A Residential Travel Information Pack to promote sustainable transport usage and include 2 years membership to the Car Club

### **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
Site plan	13-113-01	A	06/11/2014
Existing block plan	13-113-02	A	06/11/2014
Proposed block plan	13-113-03	B	06/11/2014
Existing ground and roof plans	13-113-04	A	06/11/2014
Existing south, north and west elevations and section A-A	13-113-05	A	06/11/2014
Proposed ground and roof plans	13-113-06	D	06/11/2014
Proposed south, north and west elevations and section A-A	13-113-07	C	06/11/2014
Proposed roof plan/flat layouts	13-113-08	C	06/11/2014
Part front elevation	13-113-09	B	06/11/2014
Part rear elevation	13-113-10	B	06/11/2014
Proposed section A-A	13-113-11	C	06/11/2014
Existing and proposed front elevation	13-113-12	B	06/11/2014

- 3) Other than amenity spaces to the front of the building as detailed on drawing nos 13-113-06 rev.D and 13-113-08 rev.C received on 06 November 2014, access to the flat roof to the building shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.  
**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 4) The window in the west side elevation of the development hereby permitted shall be obscure glazed and non-opening, and thereafter permanently retained as such.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

11.3 Pre-Commencement Conditions:

- 5) No development shall take place until samples of the following materials 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:
  - a) samples of the cladding and roofing materials

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b) samples of the proposed window and door treatments  
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 and QD14 of the Brighton & Hove Local Plan.

- 6) No development shall take place until full details of the design, materials and finishes for the balcony screens and railings, and their relationship with the parapet roofline, 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 and QD14 of the Brighton & Hove Local Plan.

- 7) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:

a) a scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)

b) a scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site

c) details of hours of construction including all associated vehicular movements

d) details of the construction compound

e) a plan showing construction traffic routes

The construction shall be carried out in accordance with the approved CEMP.

**Reason:** In the interests of amenity and highway safety, to comply with policies QD27, SU10, SR18, SU9 and TR7 of the Brighton & Hove Local Plan.

- 8) Notwithstanding the submitted details, the ground floor entrance doors shall not be installed until a revised opening arrangement that allows for access for larger goods and deliveries has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.

**Reason:** as the existing door does not provide suitable access for the existing business units within the building and to comply with policies QD14 & QD27 of the Brighton & Hove Local Plan.

- 9) 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.

- 10) No development shall commence until a scheme for the soundproofing of the residential flats hereby permitted, to accord with the recommendations set out in the submitted noise[acoustic] report received on the 06 November 2014 as a minimum, 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 prior to the first occupation of the development and shall thereafter be retained as such.

**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.

- 11) No development shall commence until details of a scheme of works to provide a segregated footway within the Hove Business Centre car park from Fonthill Road to the new residential access has been submitted to and approved in writing by the Local Planning Authority. The works shall be completed prior to the first occupation of the development hereby permitted and shall thereafter be retained.

**Reason:** In the interest of highway safety and to comply with policies TR1, TR7 and TR8 of the Brighton & Hove Local Plan.

11.4 Pre-Occupation Conditions:

- 12) Unless otherwise agreed in writing by the Local Planning Authority, none of the residential units hereby approved shall be occupied until a 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.

- 13) 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.

- 14) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development 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.

- 15) 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.

11.5 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:-

On balance, the impact of the proposed additional storey on the appearance of this non-designated heritage asset is considered acceptable having regards the nature of the significance of the building and the public benefits of providing addition housing units given the absence of a five year housing supply. Whilst the additional storey would impact on the amenities of residents to the rear along Newtown Road, the degree of loss of daylight and sunlight would not be sufficiently significant as to warrant the refusal of permission. Subject to conditions the amenities of future occupiers would be sufficiently protected from existing activities in the building. Accordingly the development complies with development plan policies.
3. The applicant is advised that the details required by Condition 11 are to be delegated for agreement to the Head of Development Control in consultation with the Chair, Deputy Chair and the Opposition Spokesperson.

