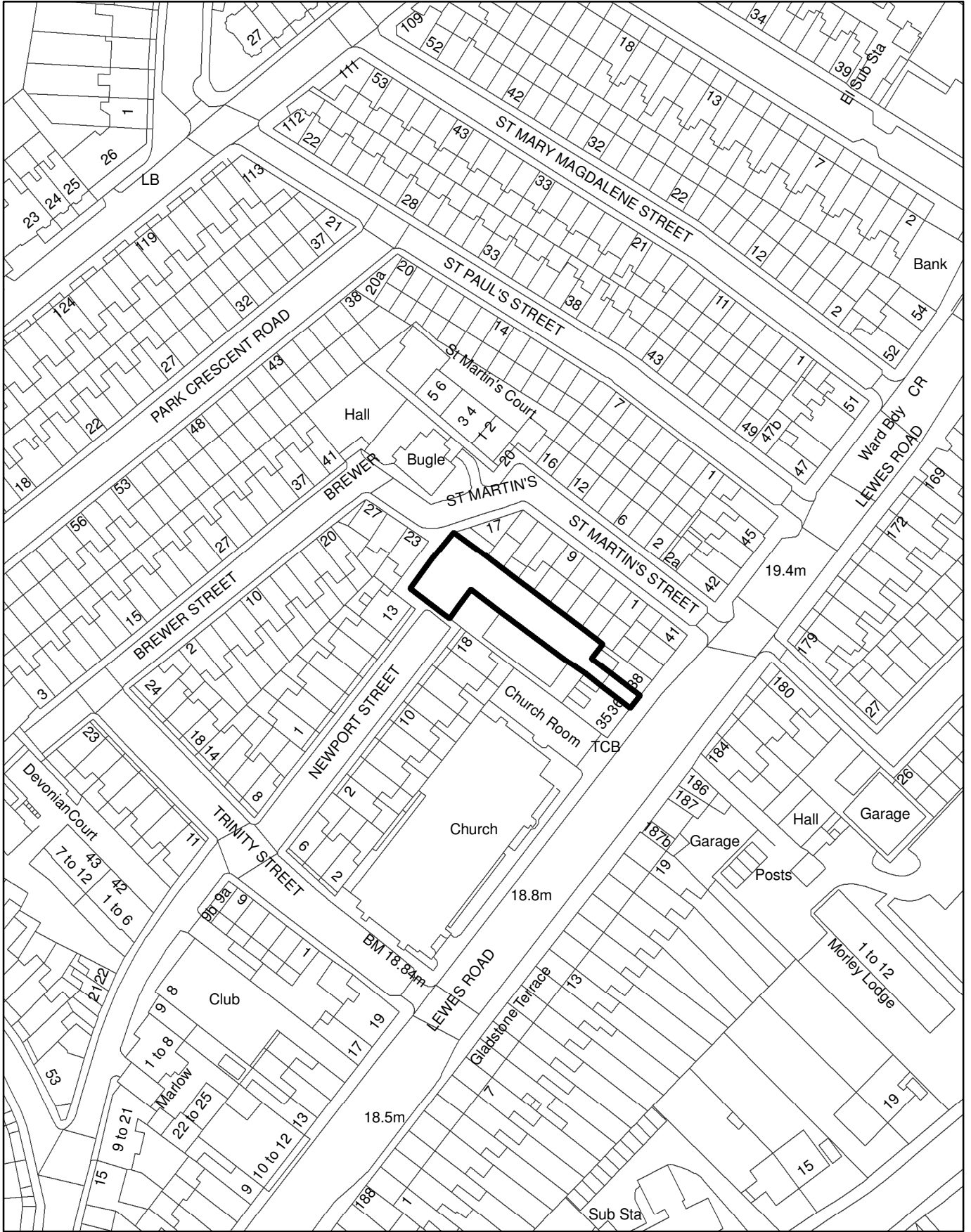


ITEM F

**37 Lewes Rd, Brighton
BH2015 / 04277
Removal or Variation of Condition**

08 June 2016

BH2015/04277 37 Lewes Road, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2015/04277	<u>Ward:</u>	ST. PETER'S & NORTH LAINE
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	37 Lewes Road Brighton		
<u>Proposal:</u>	Application for removal of condition 7 of application BH2012/02367 (Change of use from tool hire premises (Use Class A1) to car sales premises (Sui Generis) including the erection of an office cabin and installation of 3no wall mounted external lights), which states that vehicular access to the site shall be from Lewes Road only and all vehicles shall leave the site onto Newport Street only.		
<u>Officer:</u>	Chris Swain, tel: 292178	<u>Valid Date:</u>	26/11/2015
<u>Con Area:</u>	N/A	<u>E.O.T Date:</u>	13/06/16
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	SDR Designs, 14 Batemans Road Brighton BN2 6RD		
<u>Applicant:</u>	Pavilion Car Sales, Mr Naeem Khalid 37 Lewes Road Brighton BN2 3HQ		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 11 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site consists of the undercroft access from Lewes Road and most of the open area behind which is used for car sales. The site also has a vehicular access on to Newport Street to the rear. The western boundary of the site has a high boundary wall with a residential property on St. Martin's Street behind. The northern boundary of the site is also screened by a relatively high wall and adjoins residential gardens in association with the properties on St Martin's Street.
- 2.2 The access from Lewes Road is through an entrance which forms part of the ground floor of the building fronting on to Lewes Road. This access has a security shutter. The access onto Newport Street is secured by high metal gates with high walls to either side.
- 2.3 There is an existing storage building to the south of the site. This building is outside the red line of the application site and has no permission for use in association with car sales.

3 RELEVANT HISTORY

BH2015/04278 - Erection of detached toilet building. Approved on 9 February 2016.

BH2015/00662 - Application for removal of conditions 7 and 8 of application BH2012/02367 (Change of use from tool hire premises (Use Class A1) to car sales premises (Sui Generis) including the erection of an office cabin and installation of 3no wall mounted external lights). Condition 7 states that vehicular access to the site shall be from Lewes Road only and all vehicles shall leave the site onto Newport Street only. Condition 8 states that no vehicles exceeding 3000kg maximum gross weight shall enter the premises. Refused on 20/08/2015 for the following reason;

- *Conditions 7 and 8 of permission ref. BH2012/02367 were applied to ensure and preserve highway safety and neighbouring amenity. The information submitted fails to demonstrate that the grant of a new permission with these conditions omitted would not cause an increased highway safety risk and would not cause increased harm to neighbouring amenity through additional vehicular movements along Newport Street and additional noise and disturbance.*

BH2012/02367 (37 Lewes Road): Change of use from tool hire premises (Use Class A1) to car sales premises (Sui Generis) including the erection of an office cabin and installation of 3no wall mounted external lights. Approved 06/11/2012.

BH2010/00230 (35 Lewes Road): Change of use from retail at ground floor shop and basement (A1) to restaurant on ground floor and basement kitchen (A3) and conversion of ancillary first floor storage area (A1) to 2 no. bedroom flat (C3) and associated works including installation of rear extract system. Approved 19/04/2010.

BH2008/02662 (35-38 Lewes Road): Variation of Condition 2 of application 95/1064/FP for an extension of the existing hours of use. Approved 08/12/2008. Condition 1 of this approval: *'The premises shall not be open or in use except between the hours of 0730 to 1730 hours Monday to Friday, and between 0800 and 1700 hours on Saturdays.'*

BH2006/04059 (35-38 Lewes Road): Installation of security lighting (Retrospective). Approved 23/02/2007. Condition 1 of this approval: *'The lighting hereby approved shall only be switched on between the hours of 07.30 and 18.30 hours Monday to Friday and 08.00 and 18.00 Hours on Saturdays.'*

BH2006/03631 (35-38 Lewes Road): 'Variation of Condition 2 relating to planning permission 95/1064/FP to read "The Premises shall not be open for trade except between the hours of 07.30 to 17.30 hours Monday to Friday, and between 08.00 and 17.00 hours on Saturdays." Also Variation of Condition 9 to read "No vehicles, unless otherwise agreed in writing with the local planning

authority, shall be admitted to this site via Newport Street".' Approved 02/02/2007.

96/0660/AD (35-38 Lewes Road): Installation of non-illuminated 'Warning' sign at the exit onto Newport Street. Approved 15/08/1996.

96/0428/FP: Installation of gates to rear exit onto Newport Street and increase of wall height fronting St. Martins Street. (Retrospective). Approved 06/08/1996.

95/1064/FP: Alterations, including new shopfront and roller-shutters, to change the use from vehicle hire to hire of tools and equipment. Approved 21/11/1995.

95/0438/FP: Change of use from van hire to retail. Approved 17/07/1995.

91/0544/FP: Demolition of existing building in rear yard and erection of replacement single storey building. Approved 30/07/1991.

4 THE APPLICATION

4.1 Planning permission is sought to remove condition 7 of approved application BH2012/02367 which was an application for the change of use from tool hire premises (Use Class A1) to car sales premises (Sui Generis) including the erection of an office cabin and installation of 3 no. wall mounted external lights.

4.2 The applicant seeks to remove condition 7 which read as follows;

4.3 *“Vehicular access to the site shall be from Lewes Road only and all vehicles shall leave the site onto Newport Street only. **Reason:** In the interests of highway safety, to restrict the size of vehicles using Newport Street and to comply with policies TR7 and QD27 of the Brighton & Hove Local Plan”.*

5 PUBLICITY & CONSULTATIONS

External

5.1 **Neighbours: Eighteen (18)** letters of representation have been received from the occupiers of nos. **1, 4(x2), 7, 8, 10(x2), 10A, 12(x2), 13(x4), 14, 18(x2) Newport Street** and **an unspecified address** objecting to the application on the following grounds;

- Concerns that the consultation period is not sufficient in time to allow all responses,
- Concerns that the council's enforcement team has not committed the necessary resources to look into current breaches,
- The application is using other parts of the site for the car sales business outside the original consent,
- The proposal will result in a change of address and Newport Street will take on more commercial rather than a residential character,
- Increased highway safety concerns, especially for pedestrians,
- Increased noise and disturbance from additional traffic,
- Customers are more likely to use the Newport Street entrance,
- The condition has been in place for many years on this site for reasons of amenity and safety and it should not be removed,

- Test drivers, not used to a specific car could be more susceptible to accidents,
- The road is one way and introducing additional vehicles will result in a highway safety risk,
- Commercial businesses should be accessed from Lewes Road,
- Children often play on Newport Street,
- The increased vehicular movements would be out of character for this residential street,
- Parking stress and congestion for Newport Street residents,
- Concerns relating to light pollution,
- The proposed cabin is inappropriate in this location,
- Business has outgrown its current location,
- Environmental damages,
- Disturbed and interrupted sleeping patterns,
- No room to turn around on site,
- Whilst there are not a high number of vehicular movements associated with the current business there are concerns that a future business could generate a much higher amount of trips to the detriment of nearby residents,
- Existing problems with vehicles parking on double yellow lines on Newport Street,
- Graffiti and barbed wire on the perimeter of the site are unsightly,
- Harm to privacy of residents of Newport Street.

Councillor West: Objects to the application (comments attached).

Internal:

5.2 Sustainable Transport:

The Highway Authority has no objections to the removal of condition 7 subject to its replacement with a revised condition stating that all vehicles leaving the site must be in a forward gear and also that condition 8 is revised to ensure that no vehicles over 3500kg can enter the site or make deliveries of vehicles to the site.

5.3 This is to ensure that road safety on Lewes Road is not negatively impacted and that the movements of larger vehicles in Newport Street is restricted.

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 City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
CP9 Sustainable transport

Brighton & Hove Local Plan:

- TR7 Safe development
SU9 Pollution and nuisance control
SU10 Noise nuisance
QD27 Protection of amenity

Supplementary Planning Guidance:

- SPGBH4 Parking Standards

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The consideration in the determination of this application relates to the proposed removal of condition 7 of the approved scheme.

Planning History

- 8.2 Previously nos. 25-38 Lewes Road were in use as a tool hire business (Use Class A1). The open space to the rear and a large storage building situated on this land previously served as ancillary storage and servicing for the tool hire

business. The tool hire business closed and the ground floor units fronting on to Lewes Road are currently in A1/A3 use. This change meant that the open land to the rear of these units and the storage building became a 'leftover' area. Under application BH2012/02367 the open area was granted a change of use to car sales (sui generis).

- 8.3 Whilst the operational change of use has commenced the physical works which included the construction of a log cabin to use as an office were never implemented. A subsequent application for a toilet building in a similar location was approved in February 2016.
- 8.4 It is noted that there are a number of security lights attached to the main building to the south of the site. This building is outside the application site.
- 8.5 In 2015 an application for the removal of conditions 7 and 8 (BH2015/00662) was refused on the grounds that the applicant failed to demonstrate that the removal of these conditions would not negatively impact on highway safety and residential amenity.

Removal of condition 7:

- 8.6 Condition 7 which required all vehicles to enter via Lewes Road and exit via Newport Street was in place to ensure that vehicles did not reverse onto Lewes Road and also make deliveries via Newport Street in the interests of highway safety and residential amenity.
- 8.7 The applicant has attempted to address the previous reason for refusal by submitting a revised Planning Statement detailing the number of vehicular trips from the site each week and also stating that vehicles will be delivered to the site individually and not via transporters.
- 8.8 The Sustainable Transport Team does not object to the removal of condition 7, subject to a revised condition which requires all vehicles to access and exit the site in forward gear which would satisfy concerns relating to highway safety.
- 8.9 Condition 8 would also be revised to state that no vehicles over 3500kg can access the site or deliver vehicles to the site. This condition would ensure that vehicles for the car sales business could not be delivered via vehicle transporters.
- 8.10 It is considered that with these conditions in place that there would be no significant concerns in relation to highway safety or residential amenity.
- 8.11 The applicant is satisfied with the revised conditions.

9 CONCLUSION

- 9.1 To conclude, subject to accordance with the revised conditions the existing use as a car sales business would not result in significant harm to the residential amenity of neighbouring occupiers or result in highway safety concerns.

10 EQUALITIES

None identified.

11 CONDITIONS / INFORMATIVES

1) Not used.

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	12/04-01	-	23/08/2012
Existing site plan	12/04-05	-	23/08/2012
Proposed site plan	12/04-02	-	23/08/2012
Proposed elevations & floorplan of sales office	12/04-03	-	23/08/2012

3) The permission hereby approved grants consent for car sales only. No other activities shall be carried out.

Reason: To protect the amenity of neighbouring occupiers and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

4) The use hereby permitted shall not be open to customers except between the hours of 09.30 and 17.00 on Mondays to Saturdays and 10.00 and 16.00 on Sundays, Bank or Public Holidays.

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

5) Deliveries to the premises hereby approved shall not take place except between the hours of 09.30 and 17.00 on Mondays to Saturdays and 10.00 and 16.00 on Sundays, Bank or Public Holidays.

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

6) The external lighting hereby approved shall not be in use except between the hours of 09.30 and 17.00 on Mondays to Saturdays and 10.00 and 16.00 on Sundays, Bank or Public Holidays.

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

7) All vehicles entering and leaving the site shall be in a forward gear.

Reason: In the interests of amenity and highway safety and to comply with policies TR7, TR8 and QD27 of the Brighton & Hove Local Plan and policy CP9 of the Brighton & Hove City Plan Part One.

- 8) No vehicles exceeding 3500kg maximum gross weight shall enter the premises or shall be used for the delivery of vehicles to the premises.
Reason: In the interests of amenity and highway safety, to restrict the size of vehicles entering the site or making deliveries to the site and to comply with policies TR7 and QD27 of the Brighton & Hove Local Plan and policy CP9 of the Brighton & Hove City Plan Part One.
- 9) The vehicle parking spaces for staff of and visitors to the premises shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles belonging to the staff of and visitors to the development hereby approved.
Reason: To ensure that adequate parking provision is retained and to comply with policy TR19 of the Brighton & Hove Local Plan and policy CP9 of the Brighton & Hove City Plan Part One.
- 10) The external lighting hereby approved shall not be installed until full details of the lighting has been submitted to and approved in writing by the Local Planning Authority. The lighting installation shall comply with the recommendations of the Institution of Lighting Engineers (ILE) "Guidance Notes for the Reduction of Light Pollution" (dated 2005,) for zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) shall be submitted with the details. The approved installation shall be maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to a variation.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One 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:-
Subject to compliance with appropriate conditions, the development is considered to be acceptable in this location, would not cause significant harm to neighbouring amenity and is acceptable having regard to transport considerations.



PLANNING COMMITTEE LIST
08 JUNE 2016

COUNCILLOR REPRESENTATION

From: Pete West
Date: 21 December 2015 18:17
To: Planning Applications
Subject: Re: Planning Application BH2015/04277

Dear Planning officers,

May I register my support for Mr Lavers thorough and well argued objection. May I also, as I am permitted to do as ward councillor, request that this planning application be determined by the Planning Committee rather than under officer delegated powers if the officer recommendation is to approve the application.

Best regards

Pete West

Councillor Pete West
Green Party City Councillor for St Peter's & North Laine Ward.

