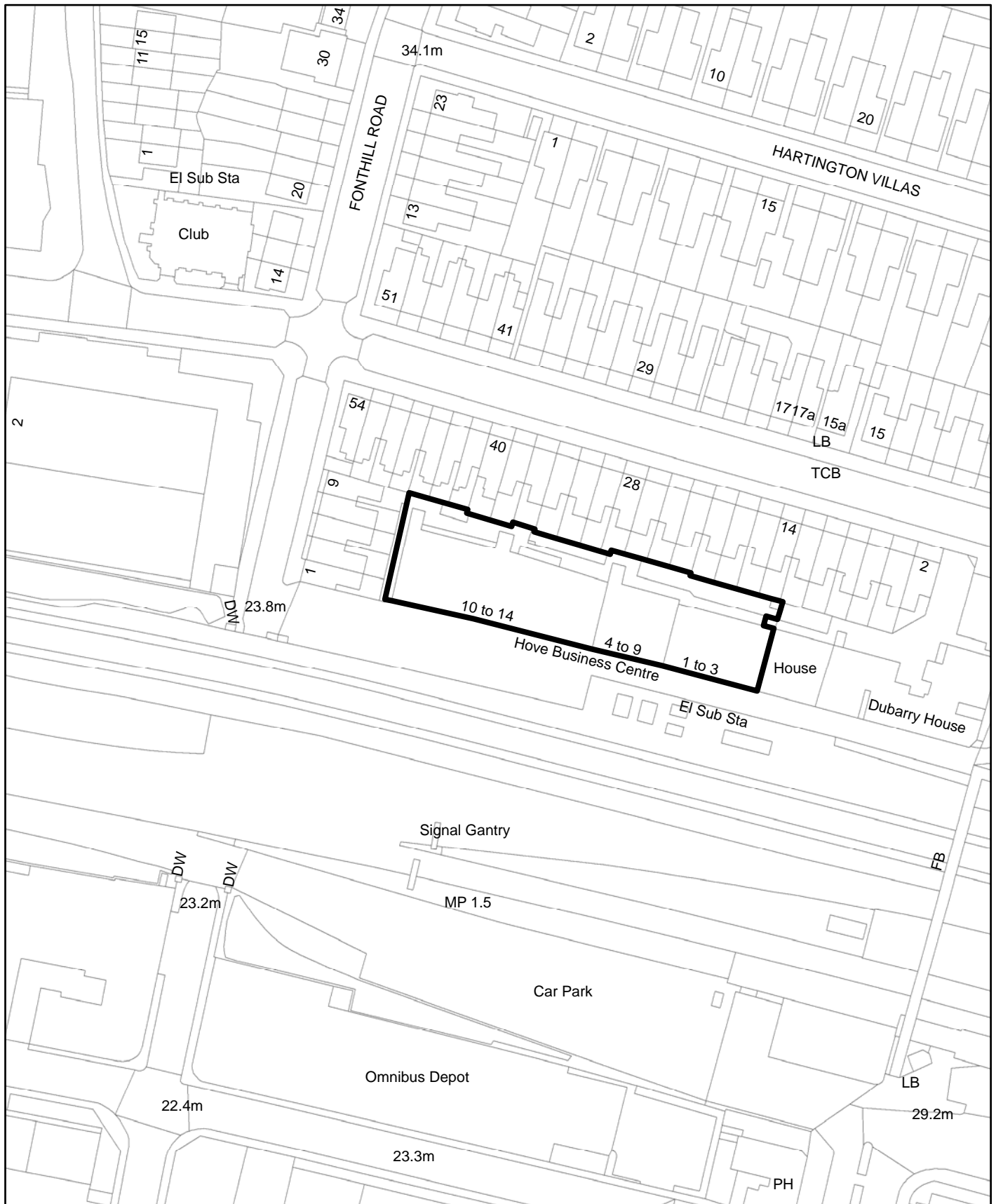


ITEM D

**Hove Business Centre, Fonthill Road, Hove
BH2014 / 03742
Full Planning**

13 July 2016

BH2014/03742 Hove Business Centre, Fonthill Road, Hove



Scale: 1:1,250

<u>No:</u>	BH2014/03742	<u>Ward:</u>	GOLDSMID
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Hove Business Centre Fonthill Road Hove		
<u>Proposal:</u>	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.		
<u>Officer:</u>	Adrian Smith Tel 290478	<u>Valid Date:</u>	06/11/2014
<u>Con Area:</u>	Adjacent Hove Station	<u>Expiry Date:</u>	01/01/2015
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Lewis McMillan Architects, 7 Queen Square, Brighton BN1 3FD		
<u>Applicant:</u>	Pearl & Coutts, c/o Lewis McMillan Architects, 7 Queen Square Brighton BN1 3FD		

This application was presented to the committee on 9 December 2015 with a recommendation of Minded to Grant subject to a s106 agreement. The engrossed s106 was not received until after the adoption of the City Plan Part One therefore it falls that the application must be re-considered against the new development plan for the City prior to any formal decision being issued. This report has been updated accordingly to reflect the new policy framework set out in the City Plan Part One, principally policy CP20 on affordable housing.

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 **REFUSE** planning permission for the reasons 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 designated as a building of local interest.

3 RELEVANT HISTORY

At the meeting on 9 December 2015 the committee resolved that it was Minded to Grant the application subject to a s106 agreement requiring a sustainable transport contribution.

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:

Eighty Three (83) 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 (x2), 44, 46 & 48 Newtown Road; savehove; Unit 6, 7/7A (x3), 8, 11 (x29) Hove Business Centre; 11 Woodland Court Dyke Road Avenue; Unit 8 Studio Gobo; 6 Wilbury Avenue; 22 Hove Park Villas; 10 Hartington Villas; 5 Burton Villas; savehove; 81 Vale Avenue; 3a Bembridge Street; F7 Stretton Court 66 Rutland Gardens; 8 Shoreham Road; 137 Montgomery Street; The Fusebox Level 4 North New England House; and Unknown (x15), 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

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- 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
- 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
- Disruption to existing businesses in the building during 6-9 month construction works. Businesses will likely need to move out during works to avoid damaging noise, dirt and dust. This includes Crunch who employs over 150 people.
- Businesses will look to leave the building, likely to other cities given the lack of suitable alternative office stock in the city, resulting in loss of local jobs.
- Running a business will be impossible during works
- Loss of business space leading to reputational damage to the city
- 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
- The landlord has a history of cutting corners and poor maintenance
- The roof has been poorly maintained following water ingress and cannot support the proposed 9 flats. The roof has blown off twice before in high winds. N.B. a survey report dated 20 February 2014 has been submitted to demonstrate this.
- Insufficient school places

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. Copy of letter attached.

5.4 Following re-consultation following receipt of new Acoustic Report:
Sixteen (16) letters of representation have been received from **6, 12, 14b, 16, 18 (x2), 22, 24, 32, 34, 36, 38b, 40, 42, 44 & 48 Newtown Road; Unit 10 Hove Business Centre; 26 Montgomery Street, objecting** to the application for the following reasons:

- Destruction of an important local building and historical site
- The building should be listed
- Development unsuitable for building and area. Not in keeping with building
- The revisions have not addressed concerns
- Loss of daylight and sunlight
- The daylight/sunlight report is inaccurate, with missing windows and inaccurate numbering
- The development will not be car free as the pay and display bays can still be used
- Parking is limited in the area
- Onsite parking should be provided to avoid overcrowding
- Light pollution from use of walkway
- Overlooking and loss of privacy
- Littering from roof
- Noise and disturbance from occupiers
- Increased traffic pollution
- Increase in petty theft and burglaries
- The dance studio will receive complaints and be forced to shut
- First step in converting building to flats
- Loss of house value
- The building's entire roof will need to be removed
- Businesses will be forced to move out

5.4 **Internal:**

Environmental Health: No objection

Noise

An acoustic report was submitted by 7th Wave Acoustics as part of this application, and there were a number of communications between Environmental Health and the author over its robustness. Ultimately, while concerns were put

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forward as to the introduction of residents into an area that already had established dance schools, and a nearby railway line, it was felt that the acoustic protection outlined in the report was sufficient to deal with the levels of noise found through site monitoring.

- 5.5 However, a number of last minute pieces of information came to light before the application went to committee. Of most concern was an undated letter from the Rox School of dance and Drama, which cast doubt over the acoustic report submitted. In particular, it appeared that the dance school was closed for 6 of the 9 days monitoring. Additionally, it was stated that the internal dance school measurements which were recorded to estimate the passage of sound through the ceiling into the new flats above, were not sufficient. The letter from the Dance School was indicative of the fact that much noisier classes happen, and that the report at the time was not representative of events held at the school.
- 5.6 It was also noted that there were a number of last minute representations from residents about the dance schools, which alleged a significant number complaints made in summer 2013.
- 5.7 In examining the application regards was given to a number of factors, including the number of complaints and the types of complaints received. For clarity, the complaints to Environmental Health were as follows:

Brighton Academy of Dance- Unit 2

Date	Problem
11.7.2008	Fire escape doors open-punching noises and beeping from cross trainers
7.8.2009	Grunting and shouting and whistling noises from fight school

Rox School of Dance and Drama-Unit 3

Date	Address	Problem
28.6.2001	Newtown Road	Loud music and vocal instructions, tap dancing interferes with people's enjoyment of their gardens.
28.6.2006	Newtown Road	They leave their windows open leading to a lot of noise for neighbours i.e. signing, live music, karaoke) during weekdays and weekends
15.8.2007	Newtown Road	Noise from dance school
8.5.2008	Newtown Road	Noise from loud music coming from the dance school
15.7.2009	Newtown Road	Noise from school tap class singing and dancing etc.
27.5.2010	Newtown Road	Noise from classes-windows left open
13.9.2012	Microscape House	Dance school, noise caused by music, dancing, clapping etc.
3.5.2013	Newtown Road	Excessive and annoying noise(tap dancing classes, music, shouting, singing)occurring for last 5 years and reported every year

- 5.8 It is worth noting a number of points about the complaints:

- The complaints including both Units were made from 2 single residential properties, with the exception being Microscape House.
 - Whilst representations made reference to 156 complaints having been made from a resident directly to the Dance School, the City Council can only consider information it has and as the tables indicate, complainants have not approached the City Council for some, the most recent complaint was in fact 2013.
- 5.9 Due to the dance schools letter, doubt was cast over the accuracy of the noise report and its ability to provide a representative account of the noise climate, which was being used to inform the levels of insulation needed. As such Environmental Health had to revise its comments to suggest that there was currently insufficient information.
- 5.10 Subsequently a new acoustic report by 7th Wave Acoustics (ref: R001.1062.01.NA.2.0), dated the 2nd October 2015 has been submitted. As part of this report, a new acoustic survey has carried out. For the avoidance of doubt, the Schools were contacted to ensure that any measurements taken would be representative, and Scott Castle, Senior Environmental Health Officer attended on site measurements.
- 5.11 It is worth noting that the onsite measurements were done with the windows to Rox School of Dance open, in order that a worst case scenario could be represented. Rox School of Dance advised that windows are usually closed, and that they have air conditioning in order to enable this.
- 5.12 Rox School of Dance also stated that the noise levels from Brighton Academy of Dance were unusually loud during the period when on site monitoring was carried out.
- 5.13 With regards to the floor separating the dance schools and the proposed residents, further sound insulation measures have been applied to this separating floor since the previous acoustic report. These measures provide a higher level of sound reduction and look to ensure that noise intrusion into the flats from the dance school is minimised as far as reasonably practicable.
- 5.14 The new monitoring showed a higher level of noise from the dance schools that previously reported. Taking these new levels, and the improved sound insulation into account, it is believed noise levels intruding into the proposed residential properties is likely to be around 4 dB LAeq,1 min. As a worst case scenario, the report has also shown levels of intrusion could possibly be as high as 25 dB LAeq,1min. While the noise from the studio may still be heard on occasion, it is significantly below the recognised criteria for an acceptable internal noise environment. Given the sites commercial nature there is a certain level of “buyer beware”.
- 5.15 This report also shows that standard double glazing should be sufficient for the proposed properties so long as ventilation is provided. This is because the noise criteria specified in British Standard 8233 and by the World Health Organisation can only be met with the window closed.

- 5.16 The type of ventilation used will need to be agreed with Environmental Health in order to ensure that it will meet acoustic requirements, and that it won't in itself cause a noise nuisance.
- 5.17 Contaminated land
Hove Business Centre has been prioritised under Part IIA of the Environmental Protection Act 1990, as it has been flagged as potentially contaminated land due to multiple industrial uses at site. It is therefore prudent and appropriate in this instance to apply a full contaminated land condition. This condition is phased, and a robust desk top study (including site walkover), conceptual site model and risk assessment will be the minimum requirement.
- 5.18 Construction Phase
Aside from issues with noise and contaminated land, there are also concerns about how local residents will be affected during the construction of the proposed residential dwellings. Having been out to site, it appears that the proposed properties are in very close proximity to multiple existing residential and commercial businesses.
- 5.19 Construction by its very nature does have noisy phases and will inevitably be noticeable at various stages to various individuals throughout the build. This is why it is important to put the onus onto the developers to come up with a plan to minimise complaints, design their timetable with best practicable means in place, meet with residents, have complaint handling systems in place and generally be a good neighbour.
- 5.20 Therefore if the application was to proceed it is recommended that a Construction Environmental Management Plan be required, and that this necessitate the final developer signing up to a section 61 prior agreement. The CEMP may be secured through the Section 106 process, if applicable.
- 5.21 **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 its self which is included on the list of buildings of local interest. Inclusion on the local list requires that in considering planning applications affecting the building its 'special interest' will be taken into account.
- 5.22 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.
- 5.23 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.

5.24 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.

5.25 Housing: No objection

5.26 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 City Plan Part One (adjusted March 2016);
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- 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 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

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DA6	Hove Station Area
CP1	Housing delivery
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP14	Housing density
CP15	Heritage
CP19	Housing mix
CP20	Affordable housing

Brighton & Hove Local Plan (retained policies March 2016):

TR7	Safe development
TR14	Cycle access and parking
SU10	Noise nuisance
QD14	Extensions and alterations
QD27	Protection of Amenity
HO5	Provision of private amenity space in residential 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

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 locally listed 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, affordable housing, 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 The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.
- 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 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 formally adopted as a building of local interest by reason of its ornate southern elevation and its historical position and use within the Hove Station Area.
- 8.5 Locally listed buildings are categorised as 'non-designated heritage assets' within the NPPF and NPPG. 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. Subject to the agreement of the final materials by condition to ensure a suitably recessive appearance, this approach would serve to preserve the appearance and visual dominance of the historic parapet roofline.
- 8.8 On balance, having regard its local listing, the extent of its public visibility, and the need for housing in the city, 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.

8.9 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.

8.10 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.

8.11 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 CP12 & CP15 of the Brighton & Hove City Plan Part One and QD14 & HE6 of the Brighton & Hove Local Plan.

8.12 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.

8.13 **Affordable Housing**

National planning policy on affordable housing, as set out in the National Planning Practice Guidance following the Written Ministerial Statement of 28 November

2014 (as upheld by the Court of Appeal on 11 May 2016), states that affordable housing contributions should not be sought from developments of 10-units or less. The Court of Appeal Judgement provides authority that this threshold is not to be applied as mandatory. Instead it forms part of National Planning Policy and as such forms a material consideration to be weighted alongside the development plan and all other material considerations. As formal national policy, the Council attaches substantial weight to the contents of the Written Ministerial Statement and the updated NPPG guidance.

- 8.14 At a local level policy CP20 of the City Plan Part One (adopted 24 March 2016) requires developments of between 5 and 9 (net) residential units to provide 20% affordable housing as an equivalent financial contribution. In this instance, based on the methodology set out in the Developer Contributions Technical Guidance Paper (approved by Economic Development & Culture Committee on 16 June 2016), 9 units of the mix proposed within Zone 2 would require a contribution of £241,500 (equivalent to two one-bedroom units).
- 8.15 Although contrary to National Policy on the application of affordable housing thresholds, the Council considers there to be significant local circumstance that warrants the application of greater weight to policy CP20 than the national threshold set out above. This local circumstance is based on a combination of overall housing shortfalls, the identified need for affordable housing, and the substantial proportion of the housing being delivered through small scale development of 10 units or less within the city.
- 8.16 In the case of Brighton & Hove, the housing provision target within the City Plan Part One is for 13,200 new dwellings to be provided up to 2030. This represents 44% of the city's objectively assessed housing need which was assessed to be 30,120 dwellings. The City Plan Inspector accepted this provision given that the city is highly constrained in terms of opportunities for further growth and expansion.
- 8.17 The need for affordable housing provision in Brighton & Hove is acute. This need is evidenced by the Council's Background Study Paper 'Objectively Assessed Need for Housing (June 2015) which identifies entry-level house prices 9.6 times the earnings of younger households, a current affordable housing need of 11,528 households, and a net annual need of 2,105 households per annum. This equates to a net annual need of 810 affordable homes, which on its own is a greater figure than the projected total annual delivery of all housing types which is 660 units over the plan period. Overall the report demonstrates an acute need for new affordable housing provision in the city. This need was acknowledged by the Inspector in her assessment of the City Plan Part One and by her approval of the policy (CP20) to secure affordable housing provision / contributions in respect of schemes of 5 units or more.
- 8.18 In addition to the above, a substantial proportion of the housing delivered in recent years within the city has been through small scale development of 10 units or less. This theme is projected to continue in forthcoming years and therefore it is essential to the successful delivery of the Council's affordable housing strategy

as set out in the City Plan Part One that schemes of 5 units or more do contribute to the delivery of affordable housing.

- 8.19 In the period 2010 to 2015, schemes of less than 10 residential units delivered 53% of all new housing units in Brighton & Hove. Schemes of 5-9 units delivered 469 new housing units in Brighton & Hove which equates to 24% of the housing units delivered across the city as a whole. This is a substantial proportion and to not secure affordable housing provision in respect of such schemes would have a significant detrimental impact upon the delivery of affordable housing in the city during the plan period.
- 8.20 For these reasons, and having regard the individual merits of the application site, the Council considers that significant weight should be given to the lower thresholds set out in Policy CP20, above and beyond the substantial weight that the National Policy on affordable housing thresholds otherwise carries. No site specific issues or viability case have been presented by the applicant to suggest that the contributions sought would threaten the viability of the scheme or represent a disproportionate burden upon the developer. The applicant has clarified that they are not prepared to make this contribution. Therefore the application fails to accord with City Plan Policy CP20 and is recommended for refusal accordingly.
- 8.21 **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.
- 8.22 Policy HO13 requires all new residential units to be Lifetime Homes compliant. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. The building is accessible step-free to all levels therefore a condition is attached to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.
- 8.23 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.
- 8.24 **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.
- 8.25 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.

8.26 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.

8.27 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.

8.28 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.

8.29 The original daylight/sunlight assessment contained many inaccuracies in its assessment of the numbering, form and fenestration of the properties along Newtown Road, and has now been superseded. The new assessment contains the correct numbering and upper floor window patterns, but continues to omit several of the rear ground floor doors and windows to the Newtown Road properties. This weakens the robustness of the report. Notwithstanding these omissions, sufficient data is available for other ground floor doors and windows in the terrace which sit on the same plane and in the same proximity to the building to ascertain the likely reduction in light levels that would result from this development.

8.30 The assessment identifies that all adjacent properties would experience some loss of daylight, however no window tested would fail the BRE guidance tests. The degree of lost light would be variously between 1% and 10%, significantly below the 20% drop that the BRE guidance suggests would be appreciable and potentially harmful. The most significant loss of light would be to the ground floor windows in the rear outriggers, however in this instance a maximum 10% loss of

light is not considered significant. 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.

- 8.31 In terms of sunlight, the report identifies that three recessed ground floor windows at 20, 22 & 28 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 comply with 2 or more of the 3 criteria. 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. This loss of winter sunlight is borne out in the data within the sunlight assessment. Notwithstanding this, 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 currently to 35 degrees post-development (N.B. 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 similar 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
- 8.32 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.
- 8.33 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.
- 8.34 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.
- 8.35 Impact on existing businesses:
A large number of objections have been received from employers and employees of the building concerned that construction noise and disturbance will be intolerable and would necessitate business moving out of the building and likely away from the city. Several of the representations refer to poor maintenance of the roof and the likely need for it to be replaced to accommodate the additional storey.
- 8.36 Construction works would undoubtedly create noise and inconvenience for existing businesses in the building, however such impact is not irregular in this instance and not grounds in itself to withhold permission. To ensure impact on the amenities of businesses and 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. Similarly, any need for a roof replacement or repair to accommodate the development would be a matter for the Building Regulations to address.

- 8.37 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 new Planning Noise Assessment (7 October 2015) has been submitted following concerns over the robustness of the Assessment originally submitted. The new Assessment includes new recorded data of noise generated by businesses within the building, as well as noise from the adjacent rail line.
- 8.38 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 studios in particular are located at third floor level, immediately below the proposed flats.
- 8.39 The new noise assessment was carried out in two phases, from front and rear recorders on the roof of the building from Wednesday 3 June 2015 continuously to Sunday 7 June 2015, and then from front and rear recorders directly above the Rox dance studio from Monday 22 June 2015 to Monday 29 June 2015. The updated noise report confirms noise levels on the roof to be near identical to those from the original surveys. The report calculates that noise levels in the new flats with the windows shut would fall comfortably within the criteria set by BS8233 and the WHO. Noise levels with windows open would exceed the recommended standard however the report recommends that this can be suitably addressed by providing alternative means of ventilation so windows can stay shut if necessary. This is not an irregular arrangement in an urban environment such as this and is secured by condition.
- 8.40 New noise surveys have been also carried out from within the Rox dance studio, with worst case recordings taken between 19:00 and 20:00hrs on Wednesday 3 June 2015. The recordings were taken with the windows open (usually they are shut) and during class that Rox advised was one of their loudest. The recordings showed noise levels to range between 73db and 90db, with averages of 85db. The report models the sound performance of the proposed new floor above, which is predicted to achieve 70-74db sound insulation. This would equate to noise levels transmitting into the proposed flats of between 4db and 25db, well within the 35db recommended in BS8233. The report concludes that worse case noise levels from the dance studio would be highly unlikely to cause concern and could well be inaudible.

- 8.41 The Environmental Health team are satisfied that noise transference through the roof of the building and around its façade would not likely result in harmful noise disturbance for future residents above, or result in complaints against the dance studio below even if their windows are open.
- 8.42 Subject to the recommended conditions to secure the sound insulation between the floors and the alternative means of ventilation, the application is considered to accord with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 8.43 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.
- 8.44 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.
- 8.45 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.
- 8.46 **Sustainable Transport:**
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.
- 8.47 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.

8.48 If the application were approved conditions and s106 measures would ensure the proposal accords with policies CP9 of the Brighton & Hove City Plan Part One and TR7 & TR14 of the Brighton & Hove Local Plan.

8.49 Sustainability:

Policy CP8 of the City Plan Part One requires new residential development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. It also requires the non-residential element to meet BREEAM 'very good'. 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 The applicant has failed to provide a contribution towards affordable housing within the city as required by policy CP20 of the City Plan Part One. Having regard local circumstance this policy is considered to carry significant weight above and beyond the substantial weight to be attached to National Policy on the application of affordable housing thresholds. The proposal therefore fails to meet the social strand of sustainable development within the National Planning Policy Framework, notwithstanding the acceptability of all other aspects of the development. The refusal of permission is therefore recommended on this basis.

10 EQUALITIES

10.1 The development is required to meet Requirement M4(2) of the optional requirements in Part M of the Building Regulations for all units.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

11.1 Reason for Refusal:

1. The applicant has failed to provide a contribution towards affordable housing within the city as required by policy CP20 of the Brighton & Hove City Plan Part One.

11.2 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 is based on the drawings listed below:

PLANNING COMMITTEE LIST – 13 July 2016

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