

<u>No:</u>	BH2022/01983	<u>Ward:</u>	Westdene & Hove Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	The Hilltop Cafe Hill Top Brighton BN1 5LY		
<u>Proposal:</u>	Alterations and single storey extensions to café, incorporating indoor seating, recladding, installation of roller shutters and raised timber decking to existing outdoor seating area with associated works and landscaping.		
<u>Officer:</u>	Jack Summers, tel: 296744	<u>Valid Date:</u>	20.06.2022
<u>Con Area:</u>	N/a	<u>Expiry Date:</u>	15.08.2022
<u>Listed Building Grade:</u>	N/a	<u>EOT:</u>	03.11.2022
<u>Agent:</u>	CMK Planning 11 Jew Street Brighton BN1 1UT		
<u>Applicant:</u>	Mr M Pelling The Hilltop Cafe Hill Top Westdene BN1 5LY		

RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

- 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 and block plan	002	C	2 June 2023
Proposed Drawing	150	G	2 June 2023
Proposed Drawing	151	D	2 June 2023
Proposed Drawing	160	C	8 August 2022
Arboricultural Report	J64.07	-	21 April 2023

- 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.
- No development above ground floor slab level of any part of the development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development 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 SA5 and CP12 of the Brighton & Hove City Plan Part One; and DM18 and DM21 of the Brighton & Hove City Plan Part Two.

4. Access to the flat roof over the development hereby approved 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 policy DM20 of the Brighton & Hove City Plan Part Two.

5. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until the protection measures identified in the approved Arboricultural Report (Arboricultural Implications Assessment ref. J64.07, received on the 21st April 2023) are in place and retained throughout the construction process. The fences shall be erected in accordance with British Standard BS5837 (2012) Trees in relation to design, demolition and construction - Recommendations and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.
Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies SA5 and CP10 of the Brighton & Hove City Plan Part One, DM22 and DM37 of the Brighton & Hove City Plan Part Two; and SPD06: Trees and Development Sites.

6. No development shall take place until an Ecological Design Strategy (EDS) addressing enhancement of the site to provide biodiversity net gain, has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:
 - a) measures/objectives to achieve biodiversity net gain;
 - b) detailed designs and/or working method(s) to achieve stated objectives;
 - c) type and source of materials to be used where appropriate, e.g. native species of local provenance;
 - d) details of initial aftercare and long-term maintenance;
 The EDS shall be implemented in accordance with the approved details prior to first use of the development hereby permitted, and all features shall be retained in that manner thereafter.
Reason: To provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 174 and 180 of the National Planning Policy Framework, and policies CP10 of the Brighton & Hove City Plan Part One and DM37 of the Brighton & Hove City Plan Part Two.

7. Prior to first use of the development hereby permitted, a car park layout plan shall have been submitted to and approved in writing by the Local Planning Authority. This should include details of proposed vehicle entrance gates, cycle parking, car parking, electric vehicle parking and charging, disabled parking, loading bays, service and delivery areas and road markings and signs for the management (such as numbered spaces, Department for Transport approved symbols and names inside and outside of the space) of all forms of parking and stopping as appropriate. This should also include dropped kerbs from footways and tactile paving where appropriate for the mobility and visually impaired including adults with children buggies.

The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

Reason: To ensure the development provides for the needs of all occupants and visitors to the site, to ensure the provision of satisfactory facilities for all users of the car park including pedestrians and the mobility and visually impaired and to comply with policies CP9 and CP13 of the City Plan Part One, and DM33, DM35 and DM36 of the Brighton & Hove City Plan Part Two.

8. The development hereby permitted shall not be used until a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries servicing and refuse collection will take place and the frequency of those vehicle movements has been submitted to and approved in writing by the Local Planning Authority.

All deliveries servicing and refuse collection shall thereafter be carried out in accordance with the approved plan.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policies DM20, DM33, and DM40 of Brighton & Hove City Plan Part Two.

9. No activity within the site shall take place between the hours of 22:00 and 06:30 (the next day) daily.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies D20 and DM40 of the Brighton & Hove City Plan Part Two.

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. The applicant is advised to ensure that any advertisements they wish to display benefit from advertisement consent under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) prior to their display.
3. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.
4. Where asbestos is found/suspected on site, it will fall under the Control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: www.hse.gov.uk/asbestos
5. The applicant should be aware that the site may be in a radon affected area. If the probability of exceeding the Action level is 3% or more in England and Wales, basic preventative measures are required in new houses, extensions,

conversions and refurbishments (BRE2011). Radon protection requirements should be agreed with Building Control. More information on radon levels is available at <https://www.ukradon.org/information/ukmaps>

6. In order to be in line with Policy DM33 (Safe, Sustainable and Active Travel) cycle parking must be secure, convenient (including not being blocked in a garage for cars and not being at the far end of a rear garden), accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22 or will consider other proprietary forms of covered, illuminated, secure cycle storage including the Police approved Secure By Design cycle stores, "bunkers" and two-tier systems where appropriate.
7. The applicant is advised to contact permit.admin@brighton-hove.gov.uk for necessary highway approval from the Local Highway Authority prior to any works commencing on or adjacent to the adopted highway. The LHA would encourage the applicant to promote a scheme to include the full details of a Traffic Regulation Order (TRO) to implement double yellow lines on the kerb on Hill Top and Dyke Road Avenue (between entry/exit vehicular accesses/crossovers). Should the applicant refuse to promote the TRO, and should the application be granted planning permission, the LHA will promote and pursue the TRO separately. Should the LPA grant planning permission for this application, the LHA requests to be notified of this.
8. The applicant is advised that the new Part S of the Building Regulations requires electric vehicle charging point provision for non-residential developments undergoing renovation work, providing 10 or more car parking spaces.

SITE LOCATION

The application site is a small area of land at the top of Dyke Road Avenue, immediately west of Hilltop and opposite the Woodland Drive Conservation Area to the south. The site sits within the context of the major A27 junction with Dyke Road Avenue and King George VI Avenue (the A2038) some 55m to the north-west. The South Downs National Park is immediately beyond the site to the north and west.

It is hard-landscaped and has been used by a small café, with the majority of the land being taken up with a car park and an outside seating area. There are vehicle entrances to the site on its south and east sides.

During the COVID-19 pandemic, a temporary pavilion was erected to the north of the building for use as indoor seating, which has remained in place since.

There is currently some unauthorised development (in the form of a shed) beyond the northern boundary of the application site within the South Downs National Park. This is the subject of an active enforcement investigation by the South Downs National Park

Authority. It does not form part of the current planning application and should be given no weight in this assessment.

RELEVANT HISTORY

17/60/513 - Refreshment Kiosk, Dyke Road Avenue, Extension to kiosk. Approved

APPLICATION DESCRIPTION

Planning permission is sought to erect a single-storey side extension to the north of the café to replace the existing temporary pavilion, along with other external alterations, to create an outside seating area, and make alterations to the car park layout and boundary treatments.

The initial scheme included works to the soft landscaping around the northern and western sides of the site, crossing into the South Downs National Park. However, these have been much reduced, and it appears that the works now only cross planning authority boundaries along the northern side of the site with minor excavations of existing bunds. These minor works would require separate planning permission from the South Downs National Park Authority and do not form part of the present application.

Alterations have also been made with regards to the car parking/site layout following the comments of the Local Highway Authority.

REPRESENTATIONS

Thirty-eight (38) representations have been received, objecting to the proposal on the following grounds:

- Increase in vehicular traffic causing congestion, with unauthorised parking on surrounding highway
- Increase in the number of delivery vehicles for an enlarged business
- Increased pressure on the existing cesspit, which currently overflows
- No plan to manage overflow parking or delivery/takeaway deliveries
- No plan to manage increased waste
- Detrimental to highway safety
- The proposed development description is too vague
- Anti-social behaviour
- The existing building shares a boundary with Hill Top - this must not be altered
- Lack of consultation with local residents
- The main purpose of the development is to make a profit for the business
- Loss of trees, bushes and bunds
- Detrimental impact on biodiversity
- The development must not impact on the nearby public right of way
- The original café building was never granted planning permission, so the developer must apply for permission for the entire site.
- The temporary pavilion was erected due to COVID-19; it is no longer required but it still there. The café has never had formal inside seating and so this must not be considered.
- The proposed development site exceeds the size of the original plot of land.
- Access to the proposed disabled-access W/C runs in front of the service area.
- There is a single door between the staff WC and the kitchen area - this is not compliant with Building Regulations and Health and Safety requirements.

- The existing café has been attached to an adjacent boundary wall without planning permission

A representation has also been received from former Ward Councillor Brown, objecting to the proposed development. The full email has been attached to this report.

CONSULTATIONS

Arboriculture

No Objection. The Arboricultural Implications Assessment submitted by Broad Oak Tree Consultants Limited is considered to satisfactorily identify trees around the proposed development and propose suitable tree protection measures to be implemented during the development process.

Environmental Health

No Objection. The application is for the extension to an existing café. There is no history of noise complaints and no contaminated land concerns.

South Downs National Park Authority

No Objection. The red line site boundary includes land that falls within the South Downs National Park. For this reason, the applicant will need to submit a separate application to the SDNPA to cover this aspect of the proposals - or amend the red line to exclude this area altogether. With regards to this current application within the Brighton and Hove area and adjacent to the national park boundary, the SDNPA makes no comment on the principle of development. The proposed extension, alterations and landscaping would be located in an area where there is pre-existing development of a similar character, and as such the proposal would likely result in minor impacts on the setting of the National Park.

It is noted that no details have been provided on the proposed sliding gates. Details of these should be provided prior to determination or secured by condition. This is particularly important for the main entrance as this looks like it will sit partly on National Park land following the widening of the access proposed.

The SDNPA would advise that any development within the setting of the Park should positively contribute to ecosystem services and to biodiversity net gain. New planting should all be native and locally characteristic in order to offer meaningful benefits to wildlife and positively contribute to landscape character. Avoid planting which is overly ornamental and may not have significant ecological or landscape benefits.

Given the amount of timber to be used in the proposed development the SDNPA would strongly recommend securing the use of timber from sustainable managed sources and, where practical, sourced locally. This could be under the certification of 'Grown in Britain' or FSC timber.

Sussex Police

No Objection. As the area is surrounded with some residential dwellings, I would ask that moving forward reasonable hours of trading are made a condition of consent in order to protect the amenity of nearby residential occupiers and to accord with policy QD27 of the Brighton & Hove Local Plan.

[It should be noted that policy QD27 of the Brighton & Hove Local Plan relating to residential amenity has been superseded. Policy DM20 of the Brighton & Hove City Plan Part Two relates to impacts on amenity]

Transport

Comments regarding amended submission

This is the Local Highway Authority's (LHA's) second response to BH2022/01983 application. Prior to this response the LHA responded to the application (02/09/2022) requesting further information and clarification prior to determination, as the information submitted to-date was considered unacceptable from a transport and highways perspective.

The LHA attended a site visit in November 2022 to observe the site's traffic generation and parking accumulation during the morning peak hour (08:00-09:00), the busiest peak for the site in terms of site-generated vehicle trips, parking demand and existing traffic and congestion on the site's surrounding highway network. Following the peak hour traffic observations, the LHA met with the planning case officer and applicant to discuss the required amendments by the LHA.

The applicant submitted revised drawings in support of the planning application in January 2023, which seek to address all outstanding transport and highways matters following the site visit observation and discussions. The LHA has no objections to this application, subject to the inclusion of the recommended conditions, securing cycle parking, a delivery and service management plan, a restriction on heavy goods delivery vehicles, and details on boundary treatments.

MATERIAL CONSIDERATIONS

In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.

The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove City Plan Part Two (adopted October 2022);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour Joint Area Action Plan (JAAP) 2019.

RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1 Presumption in Favour of Sustainable Development
SA5 The Setting of the South Downs National Park
SA6 Sustainable Neighbourhoods
CP2 Sustainable Economic Development

CP8 Sustainable Buildings
CP9 Sustainable Transport
CP10 Biodiversity
CP11 Flood Risk
CP12 Urban Design
CP13 Public Streets and Spaces
CP15 Heritage

Brighton & Hove City Plan Part Two

DM18 High quality design and places
DM20 Protection of Amenity
DM21 Extensions and alterations
DM22 Landscape Design and Trees
DM29 The Setting of Heritage Assets
DM33 Safe, Sustainable and Active Travel
DM35 Travel Plans and Transport Assessments
DM36 Parking and Servicing
DM37 Green Infrastructure and Nature Conservation
DM40 Protection of the Environment and Health - Pollution and Nuisance
DM42 Protecting the Water Environment
DM43 Sustainable Drainage
DM44 Energy Efficiency and Renewables

East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan (WMP)

WMP3 Implementing the Waste Hierarchy

CONSIDERATIONS & ASSESSMENT

The main considerations in the determination of this application relate to the design and appearance of the proposed development, including its impact on the South Downs National Park; the potential impacts on the amenities of local residents; on highway safety; on biodiversity; and on the significance of heritage assets in the vicinity.

Principle of Development

The café is an established business that has been in place for an extended period of time. Planning history referencing a 'refreshment kiosk' on Dyke Road Avenue could evidence its existence since as early as 1960, but due to the age of this permission and limited supporting information it has not been confirmed that this permission definitely relates to the current application site. Regardless, satellite imagery of the site dates back as far as 2009 in this location and clearly show the café business in place at this time. As such, the existence of the café is considered to be immune from enforcement action. Therefore, the assertion in the representations received that permission should be sought for the entirety of the site including the principle of a café business in this location is not supported by the Local Planning Authority. While it does not appear that express planning permission was ever granted for a café (or refreshment kiosk) in this location, it has now been in place long enough that it would be lawful by reason of being immune from enforcement action in accordance with Section 171B of the Town and Country Planning Act 1990 (as amended).

In the representations received it has also been asserted that the existing café was extended to adjoin the adjacent boundary wall which is outside the ownership of the

operator. Again, satellite imagery of the site appears to show that this was done over four years ago and as such would now be immune from enforcement action in accordance with Section 171B of the Town and Country Planning Act 1990 (as amended). Matters relating to land ownership mentioned in representations are a civil matter and should not be given weight in the planning assessment.

The retention and enlargement of the existing business is considered to be acceptable in principle, subject to other relevant planning considerations set out below; supporting indigenous business growth is one of the aims of policy CP2 of the CPP1. There is not considered to be any reasonable objection to the development in principle.

Design and Appearance

The proposed extensions to the café building are considered to be acceptable in terms of appearance. The side extension would cover the corner of the site currently occupied by the temporary pavilion, and the small front and south side extensions would not lead to a significantly larger (or incongruous) visual profile. This being the case, the impact on the South Downs National Park is considered to be insignificant and acceptable, particularly in the context of the major highway infrastructure in the immediate vicinity.

The proposed external materials for the development primarily comprise timber cladding with some areas of render/cement boarding, timber-framed fenestration and a felt roof. It is considered these materials in principle would complement the soft landscaping which forms a backdrop for the structure and are acceptable in principle.

Further details of the external materials and security shutters shall be secured by condition in order to ensure that a satisfactory appearance is achieved.

The changes to the hardstanding should have no significant visual impact; they amount to line-painting and minor excavation of the northern bund. It should be reiterated that any works that fall within the boundary of the SDNP will require permission from the neighbouring Planning Authority.

Impact on Heritage Assets

The proposed development is across the road from the north end of the Woodland Drive Conservation Area. The development amounts to alterations to a hardstanding and the main café building and is separated from the conservation area by the busy Dyke Road Avenue carriageway. It is considered that it would have a neutral impact on the significance of this designated heritage asset.

Impact on Amenities

The proposed development is not considered likely to result in any harm to the amenities of local residents in terms of lost privacy or light, given it is separated from the nearest dwellings by roads (Hill Top and Dyke Road Avenue). The café building is not increasing in height except for a small chimney, and new windows are all at ground floor level and facing away from the nearest residential properties. A condition is proposed restricting access to the flat roof for anything other than maintenance or in the event of an emergency because it is considered that access as an amenity space could cause a harmful sense of overlooking for neighbours in the nearest properties.

In terms of noise nuisance, the café already generates some noise from vehicle movements and from customers, which is experienced in the context of the major road network around it. In terms of noise from the building itself and from seated customers, it is not considered likely to increase significantly. There are already unfixed tables and chairs on the site which do not require planning permission, as well as a covered gazebo allowed under the 'permitted development' rights afforded to businesses under Schedule Two, Part 2, Class G of the Town and Country Planning (General Permitted Development) order 2015 (as amended). The provision of a permanent extension and a raised decking area in the same location is not considered to likely to cause any significant increase in noise output or disturbance. The development would not encroach any further towards any residential dwellings, and there is expected to be significant background noise from the busy Dyke Road Avenue carriageway. Hours of operation would be imposed by condition, requiring it to close between 2200 and 0630. The council will retain the authority to investigate under the Environmental Protection Act 1990, should any noise complaints be received.

A greater concern is the detrimental impact on neighbouring amenities from increased movements of vehicles to/from the site. Numerous photographs have been submitted showing customers parking indiscriminately on the surrounding carriageway and footways on Hill Top, The Heights, and Dyke Road Avenue itself contrary to highways regulations and with little regard for the impacts upon the amenities of local residents or general highway safety. The impact on highway safety is considered later in the report, but as noted in that section, measures are proposed to secure better controls over parking and vehicle movements within and beyond the site which are considered to reduce the resulting impact on the amenity of local residents. It should also be noted that the scheme would allow a building and deck over areas that are already in use by the business so would not facilitate an intensification of activity or impact.

On this basis, the scheme is considered acceptable in terms of its impact on neighbouring amenity.

Impact on the Public Highway

There are concerns with the current operation of the site as it does not appear to have parking provision sufficient for the vehicle trips it currently generates, and the parking area is not laid out in a safe or acceptable manner. The proposed development presents a challenge as it would increase the built footprint of the business whilst also reducing on-site vehicle parking provision. However, as noted above, the business is currently making use of a temporary gazebo structure to provide some indoor seating, along with tables/chairs outside. The development would essentially formalise this with permanent structures of similar scale, so it would not be a significant net increase in covers over the existing layout.

A formal Traffic Survey has not been undertaken, but the Local Highway Authority visited the site at morning peak hour (0800 - 0900) and following amendments confirmed they have no objection, subject to measures to minimise irresponsible parking in the area.

The Local Highway Authority considers that the most expedient course of action would be to begin the process of having double yellow curb lines installed around the site, which would increase the punitive powers of the LHA against unauthorised parking. The

highway restrictions currently in place around the site have been demonstrably ineffective at dissuading unauthorised parking.

Further, the existing car parking layout is relatively informal, providing thirteen car parking spaces, and improvements in terms of formalising the layout in terms of accessibility and safety are welcomed. The proposed development would provide a total of ten vehicle parking spaces (including one disabled bay) and covered cycle parking. Pedestrian routes shown hatched on the plans, and a turning/waiting space for delivery scooters/mopeds is also shown. Entry to the site would be limited to the entrance on Dyke Road Avenue only, preventing congestion caused by vehicles entering the site from multiple directions at once. Widening of the crossover and vehicle entrance on Dyke Road Avenue is also proposed, which will further improve access to and from the site.

While there may be inadequate parking on site during peak hours, paragraph 111 of the National Planning Policy Framework (NPPF) states that *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

Highways Officers do not object to the application, and it would not facilitate an increase in activity on site or traffic to/from it, so the impact on the road network could not be considered to be 'severe'. The proposed works would result in a safer and policy-compliant layout, so would be an improvement over the existing situation both on- and off-site. Overspill parking could be more effectively controlled through the installation of double yellow curb lines which would serve as a more effective deterrent than the highway restrictions currently in situ, as enforcement officers would be able to serve notices immediately upon motorists parking on the surrounding carriageway, which has proven to cause a nuisance to local residents and have a detrimental impact on highway safety.

Providing secure cycle parking on the site may also encourage trips to the site by bicycle, reducing the number of vehicle trips. Although access to the site by bicycle would likely be along the busy carriageway of Dyke Road Avenue, it is a popular cycle route with cyclists heading into or out of the SDNP. The site is also close to the 27 and 77 bus routes.

The site currently features gates that open out over Highways-owned land. The LHA has advised that these are unacceptable, and the proposed plans show more appropriate sliding gates; further details shall be secured by condition to ensure a satisfactory appearance.

The site is not sufficiently sized to accommodate large delivery vehicles and with the new layout their movements would be further constrained. A Delivery and Service Management Plan, secured by condition, is considered essential to ensure that deliveries have an acceptable impact in terms of neighbouring amenities and highway and site safety. This plan will be required to stipulate that no vehicles over a certain size shall enter the site and will secure delivery times.

There is a public right of way adjacent to the site, within the South Downs National Park, with no works proposed along its route so it would be unaffected in highways terms.

On this basis the scheme is considered acceptable in terms of highway impact.

Biodiversity

The proposed development is adjacent to several trees that lie outside of the development site but with their crown overhanging the site. The applicant has submitted an Arboricultural Implications Assessment containing a tree survey and protection measures that will need to be implemented prior to development commencing. The extension will be sited upon the existing concrete slab so should not have any significant impact on the root systems of the trees surrounding it; this is considered acceptable.

Works to the trees include the pollarding of one cherry tree which currently leans heavily over the site boundary. It has been clarified that the lean on the stem would be in close proximity to the proposed development and will worsen as the tree develops. Rapid regrowth is anticipated. No other significant impacts on the trees are anticipated, subject to the implementation of the abovementioned tree protection fencing.

The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bumblebees. It is considered prudent to secure by condition an Ecological Design Strategy whereby biodiversity gains for the site can be identified and implemented. This can include features such as a bee brick in the building itself, and further details on the planters shown on the proposed drawings.

Other Considerations

It has been asserted in the representations received that the reason for the development is for the profit of the developer. This is not a material planning consideration and has not been given any weight in the planning balance.

Concerns have been raised that the existing cesspool overflows. This is not a planning matter and the existing portaloo does not form part of the proposed development. The proposal includes toilet facilities for customers and staff, these are considered to be acceptable in terms of planning. Concerns about whether they will be sufficient for expected customer numbers are not shared by the LPA, and whether they should be further separated from the kitchen area is a matter outside of planning that cannot be given weight in this assessment. The business will be required to operate in accordance with the legislation of the Food Standards Act 1999.

Concerns have been raised that the proposed development would lead to inadequate waste management on the site. The proposed development does not involve any significant enlargement of the business and it is not considered that the potential impact in terms of additional waste production are significant enough to warrant planning-related controls being implemented. There are waste storage bins shown on the proposed drawing and it would be in the interest of the business for these to be implemented, and if they turn out to be inadequate then further provision can be introduced. It would be in the interest of the applicant to keep their site clean and tidy, and the Council would maintain the right to investigate under the Environmental Protection Act 1990, should any complaints be received.

Concerns have been raised that by granting permission for the proposed development a harmful precedent could be established. Each planning application is assessed on its own merits and the decision made in this regard to this application would not automatically set a precedent either for or against similar development in the area.

Concerns have been raised in the representations received that the applicant did not consult with local residents regarding their plans to expand the business; this is noted but pre-application consultation while encouraged is not a mandatory requirement and has not been weighed against the development, which is assessed on its planning merits.

Concerns have been raised that the proposed development would lead to anti-social behaviour; this is not considered to be reasonable grounds to withhold planning permission in this instance. Instances of anti-social behaviour should be reported to the appropriate authorities and should not be used as a reason to prejudice the applicant.

The proposed development would intrude slightly into the SDNP. Through discussion with an officer from the SDNPA it has been clarified that the boundary of the SDNP runs along the edge of the car park hardstanding, so works to excavate out some of the bunds and enlarge the vehicle crossover would require permission from the SDNPA, the relevant Planning Authority for that part of the land, including consultation with Brighton & Hove City Council as adjoining Local Planning Authority. This would not impact on the acceptability of the remainder of the scheme which lies within the jurisdiction of Brighton & Hove City Council as the Local Planning Authority.

Conclusion

The proposed development is considered to be acceptable in principle, and in terms of appearance, including impact on the adjacent South Downs National Park, and the impacts it is anticipated to have on highway capacity and safety and the amenities of local residents. The proposed car park layout will improve access and highway safety conditions and make the site more accessible for those with mobility-related difficulties, whilst also better encouraging travel by sustainable means. Planning would be attached in the interest of maintaining visual and residential amenities, highway safety and local biodiversity. For the foregoing reasons the proposal is considered to be in accordance with policies SA5, CP2, CP8, CP9, CP10, CP12, CP13 and CP15 of the Brighton and Hove City Plan Part One, and DM18, DM20, DM21, DM22, DM29, DM33, DM35, DM36, DM37 and DM40 of the City Plan Part Two.

EQUALITIES

The proposed car parking layout includes a single disabled vehicle parking space, which should improve accessibility to the site for those with mobility-related difficulties.

CLIMATE CHANGE/BIODIVERSITY

Biodiversity improvements and tree protection measures be secured by condition within the approved development in the interest of maintaining and enhancing local biodiversity. Improved cycle parking provision shall encourage trips to and from the site by more sustainable means.

