

<b><u>No:</u></b>	<b>BH2011/02401</b>	<b><u>Ward:</u></b>	<b>ST. PETER'S &amp; NORTH LAINE</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Land at 27 - 31 Church Street, Brighton</b>		
<b><u>Proposal:</u></b>	<b>Erection of mixed use development comprising 9no residential dwellings, retail and offices incorporating basement level parking and associated landscaping.</b>		
<b><u>Officer:</u></b>	Anthony Foster	<b><u>Valid Date:</u></b>	17/08/2011
<b><u>Con Area:</u></b>	North Laine	<b><u>Expiry Date:</u></b>	12 October 2011
<b><u>Listed Building Grade:</u></b>			
<b><u>Agent:</u></b>	Morgan Carn Partnership, Blakers House, 79 Stanford Avenue, Brighton		
<b><u>Applicant:</u></b>	Brockhampton Land Co Ltd, C/o Morgan Carn Partnership		

## 1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and the policies and guidance in section 7 of this report and resolves that it is **MINDED TO GRANT** planning permission subject to the applicant entering into a Section 106 Planning Obligation Agreement and to the following Conditions and Informatives:

### S106

- A contribution of £33,000 towards improvements to the North Road bus stops located on Queens Road.
- A restriction to ensure that the car parking spaces are retained for the occupiers/users of the development and that the residential units are allocated one space per unit.

### Regulatory Conditions:

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
2. The development hereby permitted shall be carried out in accordance with the approved drawings no. 0970-P-101-P1, Design & Access Statement, Planning Statement, Sustainability Checklist, Biodiversity Checklist, Transport Statement, received on 12 August 2011, External Daylight (VSC) Analysis, Lifetime Homes Standards Checklist received on 21 October 2011, Report on Phase I Desk Study received on 8 November 2011, and drawings no. 0970-P-102-P4, 103-P3, 104-P3, 105-P3, 106-P3, 107-P4, 108-P3, 109-P4, 110-P4, 111-P4, 112-P2, 113-P2, 114-P2, 115-P3, 116-P1, Study of Stepped entrances and railing detail in the North Laine area, Brighton, received 16 March 2012.  
**Reason:** For the avoidance of doubt and in the interests of proper planning.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and

re-enacting that Order with or without modification), no window, dormer window, rooflight or door other than those expressly authorised by this permission shall be constructed without planning permission obtained from the Local Planning Authority.

**Reason:** To safeguard the amenities of the occupiers of nearby properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

4. The new dwellings shall be constructed to Lifetime Homes standards to the satisfaction of the Local Planning Authority.

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

5. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policy SU4 of the Brighton & Hove Local Plan.

6. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan.

7. Access to the flat roof areas hereby approved shall be for maintenance or emergency purposes only and the flat roof areas shall not be used as a roof garden, terrace, patio or similar amenity area.

**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

8. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development is occupied.

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

9. No deliveries or waste collections shall occur at the premises except between the hours of 08:00 and 19:00 on Mondays to Fridays and 08:00 and 19:00 on Saturdays and not at anytime on Sundays, Bank or Public Holidays.

**Reason:** To safeguard the amenities of the occupiers of adjoining

properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

10. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.

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

Pre-Commencement Conditions:

11. No development shall take place until the following details have been submitted to and approved by the Local Planning Authority in writing:

- i) sample elevations and sections at 1:20 scale of the shopfronts, railings, gates, bays, balconies, basement ventilation louvres or grilles, windows, doors, door canopies, steps parapets, balustrades, copings, eaves, brises soleil, louvres, bin stores, meter cupboards, cycle stores, and all other features,
- ii) details and sections at 1:5 scale of the eaves, copings, cills, door thresholds and steps,
- iii) elevations at 1:10 scale of the railings and the gates,
- iv) sectional profiles at 1:1 scale of the window frames, door frames and shopfront frames showing their relationship to their reveals and cills,
- v) details and samples of materials and colours including of the rainwater goods and paving,

and the works shall be carried out and completed in strict accordance with the approved details and maintained as such thereafter.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.

12. Unless otherwise agreed in writing by the Local Planning Authority, no residential development shall commence until:

- (a) evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage Report / Interim Report showing that the development will achieve Code level 3 for all residential units have been submitted to the Local Planning Authority; and
- (b) a Design Stage / Interim Code for Sustainable Homes Certificate demonstrating that the development will achieve Code level 3 for all residential units has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

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

13. Unless otherwise agreed in writing by the Local Planning Authority, no non-residential development shall commence until:

- a) evidence that the development is registered with the Building Research Establishment (BRE) under BREEAM (either a 'BREEAM Buildings' scheme or a 'bespoke BREEAM') and a Design Stage Assessment Report showing that the development will achieve an

BREEAM rating of 50% in energy and water sections of relevant BREEAM assessment within overall 'Very Good' for all non-residential development have been submitted to the Local Planning Authority; and

- b) a BRE issued Design Stage Certificate demonstrating that the development has achieved a BREEAM rating of 50% in energy and water sections of relevant BREEAM assessment within overall 'Very Good' for all non-residential development has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

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

- 14. No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:

- (a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2001 - Investigation of Potentially Contaminated Sites - Code of Practice;

(Please note that a desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of b and c below. However, this will be confirmed in writing);

and unless otherwise agreed in writing by the local planning authority,

- (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175; and, unless otherwise agreed in writing by the local planning authority,

- (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the local planning authority verification by a competent person approved under the provisions of condition (i)c that any remediation scheme required and approved under the provisions of condition (i)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority such verification shall comprise:

- a) built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in

accordance with the scheme approved under condition (i) c.”

**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

15. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping, which shall include hard surfacing, means of enclosure, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

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

16. Notwithstanding the approved plans, details of secure and covered cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority, the development hereby permitted shall not be occupied until the approved details have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

17. No development shall take place until details of external lighting have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereby retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan.

18. No development shall commence until a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.

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

19. No development shall take place until a scheme detailing the provision of a disabled visitor parking space shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out prior to occupation of the development in strict accordance with the approved details and be retained as such thereafter.

**Reason:** To ensure that adequate parking provision is retained and to comply with policy TR19 of the Brighton & Hove Local Plan.

Pre-Occupation Conditions:

20. Unless otherwise agreed in writing by the Local Planning Authority, none of the residential units hereby approved shall be occupied until a Final/Post Construction Code Certificate issued by an accreditation body confirming that each residential unit built has achieved a Code for Sustainable Homes rating of Code level 3 has been submitted to, and approved in writing by, the Local Planning Authority.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.
21. Unless otherwise agreed in writing by the Local Planning Authority, none of the non-residential development hereby approved shall be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a BREEAM rating of 50% in energy and water sections of relevant BREEAM assessment within overall 'Very Good' has been submitted to, and approved in writing by, the Local Planning Authority.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

Informatives:

1. This decision to grant Planning Permission has been taken:
- (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance and Supplementary Planning Documents:  
(Please see section 7 of the report for the full list); and
  - (ii) for the following reasons:-  
The development provides a high quality mixed use development which would make effective and efficient use of land within the built up area is of an appropriate scale, design and detailing and would preserve the character and appearance of the area, and the setting of adjoining listed buildings.
2. The applicant is advised that details of the Code for Sustainable Homes can be found on the Planning Portal ([www.planningportal.gov.uk](http://www.planningportal.gov.uk)), on the Department for Communities and Local Government website ([www.communities.gov.uk](http://www.communities.gov.uk)) and in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website ([www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)). Accreditation bodies at March 2010 include BRE and STROMA; other bodies may become licensed in future.
3. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM

websites ([www.breeam.org](http://www.breeam.org)). Details about BREEAM can also be found in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website ([www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)).

4. The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (1995)' for Zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: [ehlpollution@brighton-hove.gov.uk](mailto:ehlpollution@brighton-hove.gov.uk) website: [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)).
5. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website ([www.communities.gov.uk](http://www.communities.gov.uk)).

## 2 THE SITE

The site is on the south west corner of Portland Street & Church Street. The site was formerly in industrial use and the former buildings were cleared from the site in 1996/1997. The site and surrounding area slopes significantly downwards from north to south. The site is located within the North Laine Conservation Area.

To the east on Portland Street there are terraces of brick flint and stucco 19<sup>th</sup> Century and 1980s two storey dwellings with attic dormer windows and ridged roofs. To the south in Portland Street is a row of modern houses built in the last few years in a traditional style using flint and brick.

The buildings on either side of Church Street are 19<sup>th</sup> Century buildings with hipped and ridged roofs comprising ground floor shops. Those to the east have first floors and attic accommodation. The corner one (No.25/26) has a large dormer above its bay, whilst No.24 has a gable window in it.

To the west of the site on the corner of Windsor Street and Church Street is a three storey early Victorian building which is a public house on the ground floor (No.46 Windsor Street). It is rendered and has small paned windows and a hipped roof. A group of early 19<sup>th</sup> three storey century terraced properties present on Windsor Street back onto the application site on the western elevation (Nos.43-45 Windsor Street). To the south of these are factory and warehouse buildings. There is a significant drop in levels between the Windsor Street plots and the application site.

Directly opposite the site on the north side of Church Street is the tall stucco

fronted Listed former Drill Hall.

The buildings to the east and south are small scale and domestic in character. However, there are taller buildings present to the south on Windsor Street (Windsor Court) and present fronting North Street.

The site is identified for a mix of housing, business/light industrial workshops and high tech uses and small scale retail uses under policies EM2, EM9, and EM10 of the Brighton & Hove Local Plan.

### 3 RELEVANT HISTORY

**BH2007/01058:** Mixed use development accommodated on 6 floors consisting of 5 studio flats, 24 one-bedroom flats, 10 two-bedroom flats and 1 three-bedroom flat, 7 office units (Portland Street), 4 retail units (Church Street) and 21 carparking spaces. Resubmission and revised scheme following withdrawal of application BH2006/01813. Refused 16/05/2008.

**BH2006/01813:** Mixed use development accommodated on seven floors comprising 12 studio flats, 31 one bedroom apartments, 7 two bedroom apartments, 3 three bedroom apartments, 2 A1 (shop) units and 1 A3/A4 (cafe/bar) unit. Provision of 21 car parking spaces. Withdrawn by the applicant 20/09/2006.

**BH2003/01193/FP:** Amend Condition 1 of the planning approval Ref: BH2002/00211/FP to read 'The Development hereby approved shall be carried out wholly in accordance with amended plans No. 0127-36c, 31d,32d,33e, 34j, 35i,36h and 37c submitted on 6th November 2002 unless otherwise agreed in writing by the Local Planning Authority.' Approved 04/06/2003.

**BH2002/00211/FP:** Amendments to extant and commenced planning permission (93/1046/FP) involving the erection of four storey building comprising lower ground floor car and cycle parking, A1/A2 or A3 ground floor unit (fronting Church Street) with the remainder as offices. Approved 04/03/2002.

**BH2001/02823/FP:** Construction of four storey building with basement car park. comprising offices at upper ground to second and A1, A2 or A3 unit at ground floor on Church Street (amendment to previously approved and commenced permission ref. 93/1046/FP). Withdrawn by the applicant.

**BH2001/02739/FP:** Adjacent site to the south – 42/44 Portland Street Temporary use for 6 months as a car park whilst building works are completed according to previous planning approval. Approved 08/01/2002.

**BH2000/03276/RM:** Adjacent site to the south – 42/44 Portland Street. Approval of reserved matters for the design and external appearance of 9 x two-storey town houses and associated landscaping. Approved 07/03/2001.

**BH1999/02516/OA:** Adjacent site to the south – 42/44 Portland Street. Removal of derelict former commercial buildings and existing scaffolding yard; erection of 9no. two storey town houses with associated parking; and regularisation of existing car parking. Refused – a subsequent appeal was allowed.

**96/0447/AD:** Installation of 3 advertisements hoardings fronting Church Street and a 6 foot fence along Portland Street frontage. Approved 17/09/1996.

**96/0286/CA:** Adjacent site to the south – 42/44 Portland Street. Demolition of



existing buildings. Approved 23/04/1996.

**BN96/0285/FP:** Erection of 4 storey block of class B1 studio workshops (660 sqm), 8 town houses, basement parking for 30 cars (19 for studio workshops, 11 for town houses) on site of 43-44 Portland Street. (Renewal of BN89/0750/F). Approved 23/04/1996.

**94/0204/FP:** Use of site as car-park (84 spaces) for 2 years. Refused 09/05/1994.

**93/1090/FP:** Installation of 3 advertisement boardings fronting Church Street and 6 foot fence along Portland Street frontage. Withdrawn by the applicant on 02/02/1994.

**93/1046/FP:** Erection of 5 storey building comprising basement car park, A1, A2 or A3 unit (ground) remainder offices. Amendment to 89/0749 including raising floor levels, elevation changes and general re-arrangements. Approved 12/08/1996.

**89/0750/F:** Erection of 5 storey building comprising basement car park, A1, A2 or A3 unit (ground) remainder offices. Amendment to 89/0749 including raising floor levels, elevation changes and general re-arrangements. Approved 12/08/1996.

**89/0750/FP:** Erection of 4 storey block of Class B1 studio workshops (660 sq.m), 8 town houses, basement parking for 30 cars (19 for studio workshops, 11 for town houses) on site of 43-44 Portland Street, demolition of existing buildings. Approved 06/06/1991.

**89/0749/FP:** Erection of 4 storey office block (3,020 sq. m.) plus an A1 and/or A2 and/or A3 unit fronting Church Street with basement parking for 28 cars, demolition of existing buildings (amendment to refusal 88/1348/F). Approved 06/06/1991.

#### **4 THE APPLICATION**

Planning permission is sought for 2 retail units providing a total of 341sqm of retail space at ground floor level fronting onto Church Street. At first, second and third floor levels the application proposes a total of 631sqm of B1 office space. Six no. 3 storey 3-bed houses are proposed fronting onto Portland Street, and a further 3 no. 3 storey 2-bed houses are proposed along the western boundary of the site.

The application proposes a basement parking area which would be accessed via the existing car park to the south of the site, which is in the ownership of the applicants. The proposed parking comprises 25no. spaces, 8 of which are disabled parking bays. A total of 16 secure cycle parking spaces are proposed along with refuse and recycling storage.

Pedestrian access to the retail and office component of the application would be from Church Street and the residential units would be accessed from Portland Street or the central courtyard within.

The proposed development would be 3 storeys in height along Portland Street and 4 storeys plus basement along Church Street. The third storey fronting onto Church Street would be set back from the frontage of the floors below by a minimum of 0.3m.

The proposed buildings would be finished in clay facing brick, natural zinc panels, coloured render, slate cladding and natural zinc. All metal work including windows and rainwater goods are to finished in powdercoated aluminium.

## 5 CONSULTATIONS

### External

**Neighbours: Two (2) letters of representation have been received from 45 Windsor street, and an undersigned letter from Flats 1, 2, 3, 4, 5, 6, 7, 10, 11 Raglan Court, Portland Street objecting to the application for the following reasons:**

- Loss of light to residents fronting on to Portland Street
- Overshadowing to adjoining residents
- The north west corner of the development will result in overshadowing and loss of light due to the close proximity of the building and height of the proposal
- Increased overlooking resulting from the scheme

### **North Laine Community Association: Support**

We write to support this application. The massing and scale of the application is far less than any previous application and is in scale with the North Laine.

We understand that the occupants of the flats opposite in Portland Street are concerned regarding the loss of light given the narrow nature of the street.

### **CAG: Support**

The group welcomed the development of this site and were happy with the overall mass and form of the proposal. The group agreed to support this application subject to the conservation team negotiating improvements to the design and detailing. In particular it was felt that more attention should be paid to the entrance to the residential accommodation and courtyard, which should have more presence, to the turning of the corner, to the buildings' relationship to ground levels in respect of the car park and to materials which should be in keeping with the surrounding area.

### **Internal:**

#### **Heritage:**

##### Initial comment received 6/9/2011

The proposal does not respect the scale and character of Church Street and Portland Street and would be over-dominant. It would rise substantially above the established historic rooflines and skylines of the streets. The design and the choice and use of materials do not respect the character of the streets. It would neither preserve nor enhance the character of the conservation area and would harm the setting of the Listed former Regimental Drill Hall and Headquarters and would be contrary to Local Plan Policies, QD1, QD2, QD4, QD5, QD27, HE3 and HE6 and The North Laine Conservation Area Study.

##### Further comment received 2/12/2011

Whilst some minor improvements have been made to the design, the proposal does not respect the scale and character of Church Street and

Portland Street and would be over-dominant. It would rise substantially above the established historic rooflines and skylines of the streets. The design and the choice and use of materials do not respect the character of the streets. It would neither preserve nor enhance the character of the conservation area and would harm the setting of the Listed former Regimental Drill Hall and Headquarters and would be contrary to Local Plan Policies, QD1, QD2, QD4, QD5, QD27, HE3 and HE6 and The North Laine Conservation Area Study.

Final comment received 4/4/2012

The applicants have presented evidence to support their proposals for the steps to the units on Portland Street. It is considered that the applicants have sufficiently addressed earlier concerns about the height, massing and design of the building and consider that the proposals are now acceptable subject to conditions.

**Sustainable Transport:**

Sustainable modes

Although the standard of local provision for sustainable modes is considered in the application this is done only in general terms and the proposed development will cause additional trip generations using infrastructure which requires maintenance and improvement. Use of the standard contributions formula indicates that a contribution of £33,000 for the combined uses of the scheme. This would be spent on improvements to the North Road bus stops in Queens Road.

Parking

The parking provision proposed corresponds exactly to the SPG4 requirements except that (1) Only 1 disabled space is provided for the retail use for which at least 2 are required. (2) At least 5 bicycle parking places are required for the office use compared to the proposal of 3. Revised plans should be required by condition to address these shortfalls. Also, SPG4 requires that the retail and office general parking should be for operational use only. To help partially achieve this and prevent the bays being hired out to inappropriate users, it is suggested that a condition should be attached to any consent requiring that those parking in the bays are residents or users of the building

**Planning Policy:** The site lies in the North Laines area within a mixed use employment allocation (EM2, EM9, EM10 and HO1) and within the Regional Shopping Centre prime frontage (SR4).

A mixed use scheme providing office space, with retail fronting Church Street and an element of housing is welcomed on this site. The principle of the proposal is in general conformity with policy and is acceptable. Full compliance with policy therefore depends on detailed matters.

**Economic Development:** Support the application as it accords with the local plan policies for the site, namely EM2 and EM9, however it is disappointing in economic development terms that the site has not been made to work harder for its city centre location.

The proposal will provide 631m<sup>2</sup> of office accommodation and 341m<sup>2</sup> of retail accommodation which has the ability to provide 50 jobs based on the offPAT employment densities which are welcomed.

**Environmental Health:** The standard contaminated land condition should apply in this case. Also conditions requesting further information regarding plant and machinery are required.

## 6 MATERIAL CONSIDERATIONS

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.”

The development plan is the Regional Spatial Strategy, The South East Plan (6 May 2009); East Sussex and Brighton & Hove Minerals Local Plan (1999); East Sussex and Brighton & Hove Waste Local Plan (February 2006); Brighton & Hove Local Plan (21 July 2005).

## 7 RELEVANT POLICIES & GUIDANCE

### The National Planning Policy Framework (NPPF)

- Section 1: Building a strong, competitive economy
- Section 2: Ensuring the vitality of town centres
- Section 4: Promoting sustainable development
- Section 6: Delivering a wide choice of high quality homes
- Section 7: Requiring good design
- Section 8: Promoting Healthy Communities
- Section 10: Meeting the challenge of climate change, flooding and coastal change
- Section 12: Conserving and enhancing the historic environment

### Brighton & Hove Local Plan:

- TR1 Development and the demand for travel
- TR7 Safe development
- TR14 Cycle access and parking
- TR19 Parking standards
- SU2 Efficiency of development in the use of energy, water and materials
- SU13 Minimisation and re-use of construction industry waste
- QD1 Design – quality of development and design statements
- QD2 Design – key principles for neighbourhoods
- QD3 Design – efficient and effective use of sites
- QD4 Design – strategic impact
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD27 Protection of Amenity
- HO3 Dwelling type and size
- HO4 Dwelling densities
- HO5 Provision of private amenity space in residential development

## PLANS LIST – 25 APRIL 2012

HO6	Provision of outdoor recreation space in housing schemes
HO7	Car free housing
HO9	Residential conversions and the retention of smaller dwellings
HO13	Accessible housing and lifetime homes
EM1	Identified employment sites (industry and business)
EM3	Retaining the best sites for industry
EM5	Release of redundant office floorspace and conversions to other uses
EM6	Small industrial, business units and warehouse units

### Supplementary Planning Guidance:

SPGBH4 Parking Standards

### Supplementary Planning Documents:

SPD02	Shop Front Design
SPD03	Construction & Demolition Waste
SPD08	Sustainable Building Design
SPD09	Architectural Features
SPD11	Nature Conservation & Development

## **8 CONSIDERATIONS**

The main considerations in the determination of this application relate to the principle of development and proposed mix of uses, the impact of the development upon the character and appearance of the surrounding conservation area, amenity of future occupiers, impact of the proposal upon neighbouring occupiers, highways implications and sustainability issues.

### **Background**

The adjoining site to the south was developed for 9 terraced dwellings plus car parking. When allowing the appeal (1999/02516/OA) the Inspector concluded that residential use was acceptable for the site, as the Council's requirement for mixed development under local development plan policy would be met by the commercial redevelopment of the north site (the current application site) for office and retail uses, either in accordance with the permission, or an alternative scheme.

Previous permissions granted for the application site include BH2003/01193/FP, BH2002/00211/FP and 93/1046/FP, for a mixed use of A1/A2 and A3 uses at ground with 3,020 sqm of office floorspace above, within a 5 storey building. No residential units were proposed as part of these schemes. The 1993 scheme was considered to be implemented, prior to the submission of applications BH2002/00211/FP and BH2003/01193/FP. As both applications BH2002/00211/FP and BH2003/01193/FP were for amendments to extant and commenced planning permission reference 93/1046/FP, it is also considered that development has commenced with regard to the 2002 and 2003 permission (as they are linked to the 1993 permission).

Whilst some weight must be given to these permissions, the original permission and subsequent amendments to the scheme were approved

under the previous Brighton Borough Local Plan 1995. The current Brighton & Hove Local Plan was adopted in July 2005.

**The principle of development/mix of uses**

National Planning Policy Framework (NPPF) section 1 seeks to build a strong, competitive economy, whereby the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future. Section 2 of the NPPF recognises that town centres form the heart of their communities and policies should support the viability and vitality of Town Centres, and also recognise that residential development can play an important role in ensuring the vitality of centres.

Section 4 Promoting Sustainable Transport states that policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.

Policy EM2 of the Local Plan designates sites for high-tech and office uses, whilst policies EM9 and EM10 state that the site is suitable for a mixed use development with suggested uses including offices and small workshops, mixed housing types and ground floor retail frontage to Church Street. The Church Street frontage of the site also falls within the Regional Shopping Centre, as designated within the Local Plan.

The breakdown of the proposed mix of floorspace is 341sqm retail (A1/A2/A3), 631sqm office (B1a), and 812sqm residential (C3), comprising of 9 residential units.

With regard to the proposed level of employment floorspace, Planning Policy have commented that whilst the proposal only offers 631sqm of employment floorspace, the proposed employment space is to be split between 6no. units and provides a level of flexibility of the overall size of the units and could be easily converted to other forms of employment space such as workshops.

The application proposes 341sqm of retail floorspace which is split between two units. This is to be provided at ground floor level along the frontage of Church Street and will therefore add to the vitality and offer in the prime frontage in the regional shopping centre in accordance with policy SR4.

The proposed scheme provides 6no. three bedroom dwellings and a further 3no. two bedroom dwellings. The previously refused scheme ref BH2007/01058 provided 41 residential units, including 24no. 1 beds, 10no. 2 beds and 1no. 3 beds, within a flatted scheme. This proposal was considered to provide an inappropriate mix of accommodation. The provision of single dwellings suitable for family accommodation is welcomed given the mix which was proposed under application reference BH2007/01058.

When compared to the extant scheme the proposed application would result in the net loss of employment floorspace, it is however considered that the

application, as proposed, provides a balanced mix of uses on a site which has been vacant for almost two decades and is considered to be in accordance with Local Plan policies EM9 and EM10, and the wider aims of the NPPF.

### **Design**

Section 7 of the NPPF attaches great importance to the design of the built environment, that good design is indivisible from good planning, and should contribute positively to making places better for people.

Policy QD3 of the Local Plan seeks the more efficient and effective use of sites, however, policies QD1 and QD2 require new developments to take account of their local characteristics with regard to their proposed design.

In particular, policy QD2 requires new developments to be designed in such a way that they emphasise and enhance the positive qualities of the local neighbourhood, by taking into account local characteristics such as height, scale, bulk and design of existing buildings, impact on skyline, natural and built landmarks and layout of streets and spaces.

Policy HE6 of the Local Plan requires development within or affecting the setting of conservation areas to preserve and enhance the character and appearance of the area and should show, amongst other things:

- a high standard of design and detailing reflecting the scale, character and appearance of the area, including the layout of the streets, development patterns, building lines and building forms;
- the use of building materials and finishes which are sympathetic to the area;
- no harmful impact on the townscape and roofspace of the conservation area; and
- the retention and protection of trees, gardens, spaces between buildings and any other open areas which contribute to the character and appearance of the area.

The applicant has submitted amended drawings in response to the initial comments raised by the Heritage Officer.

### Portland Street Frontage

The proposed residential buildings are three storeys in height on this frontage with the second floor set back approximately 0.6m from the front building line of the floors below. The properties are a maximum of 9m in height from the existing street level of Portland Street. Portland Street is typified by ridged roofs with eaves and dormer windows. The proposed residential properties fronting onto Portland Street would have flat parapeted roofs.

Portland street gradually slopes down from north to south resulting in approximately 1m difference in levels across the frontage. The amended drawings propose that the Portland Street block steps down to follow the gradient of the road. Amendments to the scheme have resulted in a reduction in the overall height of the residential properties to appear more inline with the height of the adjoining terraced properties. The amendments have also

introduced stepped entrances onto Portland Street and railings to this elevation, providing a defensible area to the Portland Street elevation.

The proposed residential properties seek to maintain the rhythm of the existing terrace properties on Portland Street and are to be finished in like materials including facing brick. The top storeys of the proposed residential dwellings are to be finished in a darker material to reflect the traditional use of slate roofs within the North Laine Conservation Area. It is considered that this frontage is of an appropriate height and appearance in relation to adjoining development subject to conditions in relation to the final materials. The Heritage Team have confirmed that they are happy with the amendments made to the scheme.

#### Church Street frontage

The building is four storey on this frontage with the third floor set back from the building line by approximately 1.7m. An entrance archway is proposed along this elevation with a height of 3.2m-3.4m and a width of 2.5m, this entrance is to be gated. The elevation is broken up by the choice of materials providing vertical subdivision along the façade. The scheme has been amended in order to relate to the topography of the land, as there is a significant difference in levels along the Church Street frontage.

A fin-like projection divides the two parts of the façade at the point where the building steps down the hill. The design of which has been amended so it no longer rises above the roof.

The existing Church Street frontage is of mixed quality and appearance. The majority of the buildings are two/three stories in height with rooms contained within the roof spaces. The proposed Church Street frontage is comparable to the height of the neighbouring buildings within the area. The Heritage team have comment that the height of the four-storey building is comparable with that of the Listed Building on the opposite side of Church Street.

The proposed fourth storey floor is set back to varying degrees along this frontage. At the corner with Portland Street the fourth storey is set back a minimum of 1.2m, the central element of the Church Street frontage is set back 0.3m, and the western element is set back 1.7m from the Church Street frontage. This varied set back not only reduces the perceived bulk of the upper floor but also provides a varied and interesting façade from views within Church Street.

The Church street frontage is to consist of rendered panels and aluminium windows. It is considered that this frontage is of an appropriate height and appearance in relation to adjoining development and is acceptable subject to conditions in relation to the final materials.

Overall in design terms the proposed development is of an appropriate scale, design and detailing in relation to the existing street scene. The development would preserve the character and appearance of the North Laine Conservation Area, and the adjoining Listed Building, and therefore complies



with the overriding aim of the NPPF and local plan policies QD1, QD2, QD4, HE3 and HE6.

**The impact on the living conditions of surrounding residents**

Policy QD27 of the Local Plan requires new development to respect the existing amenity of neighbouring properties. The properties which are adjacent to the western boundary of the site are set at a higher level and is bounded by a large retaining wall at a height of approximately 6m and 8m, from the proposed finished basement floor level.

The proposed built form along this western boundary, to the rear of the properties fronting onto Windsor Street would consist of a five storey including basement element, with a height of 12m to 16.4m for a length of 10m projecting back from the Church Road frontage, this then reduces to a three storey block including basement, with a height of 7.2m for a length of 9.5m, then a two storey element including basement with a height of 5.5m for a length of 4.4m. The final section is a 4 storey element including basement with a height of approximately 11m. This built form is set at least 1m from the adjoining boundary of the site.

Objections have been received stating that the proposal would be detrimental to residential amenity by way of overlooking, loss of privacy, overshadowing and loss of light.

A Daylight Assessment has been submitted which compares the current scheme to a permission granted in 1996, which was commenced in 1997. No planning application reference number is supplied, but it is assumed that the scheme relates to the scheme approved under 93/1046/FP.

The BRE guidelines state that where the Vertical Sky Component to a window is less than 27% and there would be more than a 20% reduction in levels of daylight received, the loss of light would then be noticeable to that room. The guidelines are intended to be used for adjoining properties and any existing non-domestic uses where the occupants would have a reasonable expectation of daylight. This would normally include schools, hospitals, hostels, small workshops and most offices.

The report for the properties fronting onto Windsor Street concludes that a total of 16 windows were assessed out of 4 properties along the rear elevation. With the extant scheme 11 of the windows would fail to meet the BRE minimum guidelines. The currently proposed scheme is an improvement with 3 of the windows failing to meet the BRE minimum requirements.

The report for the properties fronting onto Portland Street concludes that a total of 31 windows were assessed which front onto Portland Street. With the extant scheme 5 of the windows fail to meet the BRE minimum guidelines. As part of the currently proposed scheme a total of 8 windows would fail to meet the BRE minimum guidelines which is an increase in 3 windows.

Although the Daylight Assessment allows for a comparison with the previously

approved permission in 93/1046/FP, the noticeable impact of loss of light to windows has been calculated using the impact of 93/1046/FP, when the site has actually be cleared for over 10 years.

Whilst it is regrettable that three additional habitable windows would fail to meet the BRE minimum guideline, in terms of daylight, it is considered that the proposal would not result in the demonstrable harm of the existing amenities over and above that which would be apparent if the extant scheme were to be implemented.

The proposed 5 storey element to the north west corner of the site directly adjoins the Earth and Stars Public House, there are no windows proposed on this flank elevation on the first 4 storeys of the building, however full height floor to ceiling windows are proposed to the 5<sup>th</sup> storey of the building. This 5<sup>th</sup> storey is set in by 1.7m from the floors below. To ensure that no additional overlooking will take place it is considered prudent to impose a suitably worded condition to restrict the use of the flat roofed areas of the development for maintenance purposes only.

The rear elevation of the residential units proposed within the south-west corner of the site will have obscurely glazed windows to ensure that no overlooking occurs to the properties to the rear.

The proposed fenestration to the residential properties fronting onto Portland Street may give rise to an increase in perceived overlooking for the neighbours due to the occupiers having benefited from a vacant site for the past decade. This may also be exacerbated by the raised ground level of the residential properties, resulting in an awkward relationship between the opposite sides of the road, whereby the proposed dwellings would be looking down upon the existing dwellings opposite. However, the site is located within the North Laines which is characterised by narrow streets with rows of terrace properties either side, resulting in a level of mutual overlooking. It is considered that on-balance refusal of the scheme on the grounds of overlooking could not be sustained.

#### **Standard of accommodation to be provided**

Local Plan policy QD27 requires that new residential development provides suitable living conditions for future occupiers. Policy HO5 requires the provision of private amenity space where appropriate to the scale and character of the development. The policy does not contain any quantitative standards for private amenity space but the supporting text indicates that balconies would be taken into account.

The application proposes a central communal courtyard and semi-private terraces facing into the site. All future users of the site will have access to the communal courtyard. Balconies are also proposed at first and second floor level looking inward toward the courtyard and additional small balconies are proposed at second floor level to the residential units fronting onto Portland Street.

Whilst the size of these balconies is relatively small they would be of sufficient size to allow for outdoor seating and planting. It is therefore considered that the provision of a mix of private amenity space and communal space is acceptable in this instance.

There would be the potential for inter-visibility between balconies and roof terraces throughout the scheme but particularly across the southern courtyard area. This is not though considered to be unusual for higher density schemes in central locations and potential future occupants would be aware of this arrangement. It is therefore considered that the mutual overlooking across the courtyard would not lead to a poor standard of amenity for future occupants.

Policy HO13 requires new residential dwellings be built to lifetime home standards. The Planning Statement advises that all units have been designed to meet lifetime home standards and this is apparent on the proposed floorplans. The plans clearly show that the units are can be adapted to meet the needs of people with disabilities without major structural alterations. On this basis the proposal is considered to comply with the overall aims of policy HO13.

### **Sustainable Transport**

Section 4 of the NPPF seeks to promote sustainable transport. Policy TR1 of the Local Plan requires that development proposals provide for the demand for travel they create and maximise the use of public transport, walking and cycling.

A Transport Statement has been submitted demonstrating that the site is conveniently located for walking, cycling and public transport. Access to the site is to be from the south, to the rear of the existing terrace properties.

The basement car park would provide 25 parking spaces for the mix of the scheme and in general accordance with the requirements as set out in SPGBH4. The level of proposed residential disabled parking, at 8 spaces, is in 1 space short of what is required. The Transport Statement says that 1 disabled space is allocated for the retail element whereby 2 disabled spaces are required. This can be controlled by a suitably worded condition.

Concern has been raised by Sustainable Transport as SPGBH4 requires that the retail and office general parking should be for operational use only and not be hired out to other non-operational users. This forms part of the heads of terms for the s.106 agreement to ensure that the parking spaces are retained for the occupiers of the scheme.

The site is well within a controlled parking zone where there is currently a waiting list for resident permits. Any future occupants of the proposed development would be required to join the waiting list in order to receive a residents parking permit. On this basis and the proposed provision of on-site parking is not expected to cause problems of displaced parking for existing residents.

The proposal is to provide 16 cycle parking places, 12 for the residential units, 3 for the office use and 1 for the retail use. The provision falls slightly short compared to the SPG4 minimum requirement for 5 spaces however this can be overcome by the imposition of a suitably worded condition requiring 3 additional cycle parking spaces for the office element.

The Sustainable Transport officer has suggested that a contribution of £33,000 would be required. This has been calculated using the standard contributions formula for the office and residential elements combined. However, the Sustainable Transport officer has stated that it is more difficult to assess the required contribution due in respect of the retail element as there are few relevant multi-modal surveys and no exact comparators for this proposed use in TRICS. Given this fact, the central and accessible nature of the site, and the likelihood of linked trips, it would be inappropriate to rely completely on the use of TRICS and it is proposed that a transport contribution of £33,000 for the application as a whole should be required. This would be spent on improvements to the North Road bus stops in Queens Road.

The applicant has indicated that they are happy to enter into an agreement for such a contribution therefore subject to the completion of which the application is in accordance policies TR1, TR17 and HO7 and should be refused on these grounds.

#### **Sustainability issues**

Policy SU2 of the Brighton & Hove Local Plan requires new development to demonstrate a high level of efficiency in the use of water, energy and materials. The application must also be assessed with regard to the Supplementary Planning Document on Sustainable Building Design (SPD08). The recommended standards for this level of development is Level 3 of the Code for Sustainable Homes for the residential element and a 50% reduction in energy and water sections of relevant BREEAM assessment with an overall 'very good' for the shop and office components.

The proposal shows several design features that encourage sustainability including, photovoltaic and the applicant states that the scheme will achieve level 3 of the Code for Sustainable Homes and a BREEAM rating of 'very good'. A condition to secure this is recommended.

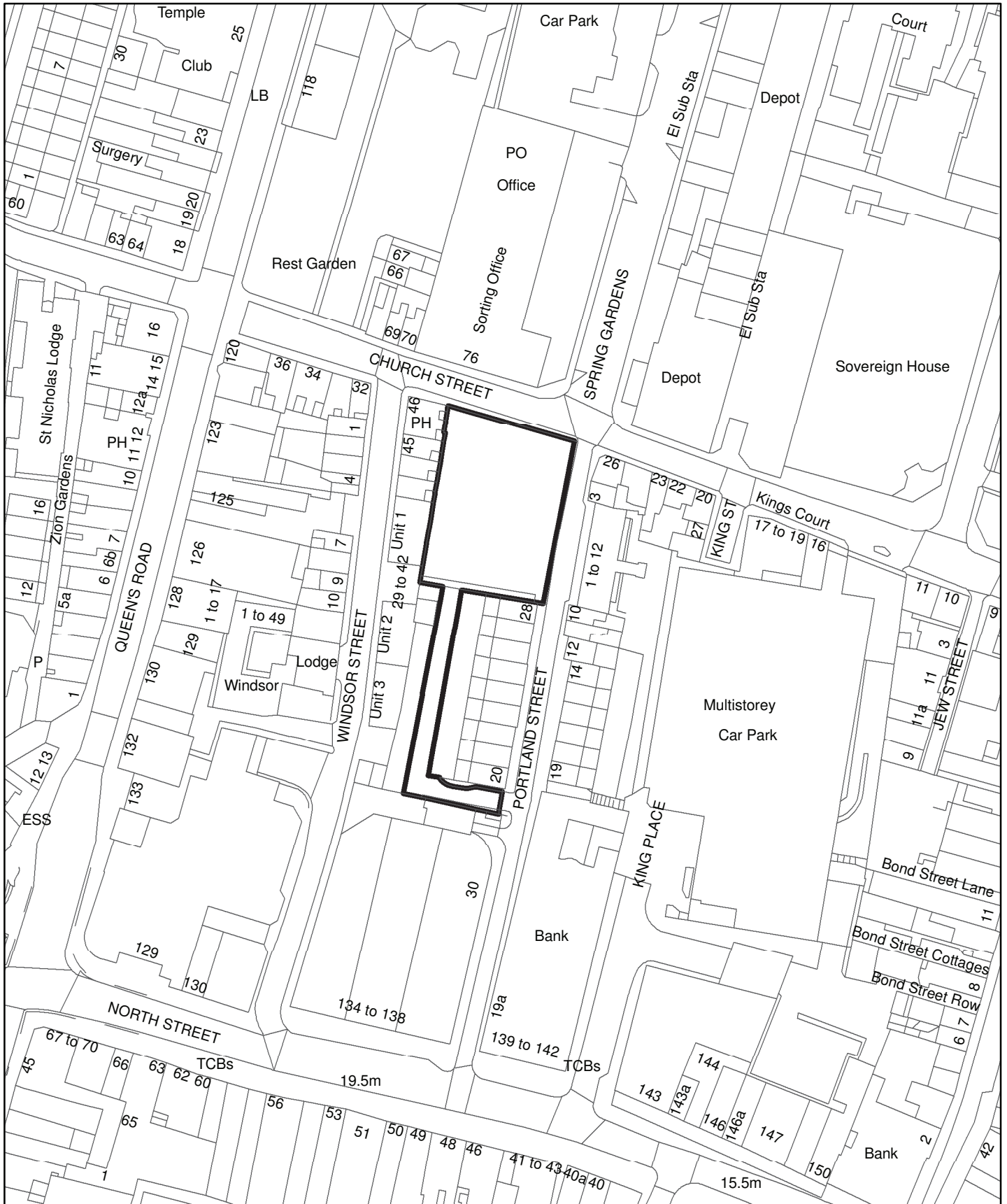
#### **9 CONCLUSION**

The development provides a high quality mixed use development which would make effective and efficient use of land within the built up area is of an appropriate scale, design and detailing and would preserve the character and appearance of the area, and the setting of adjoining listed buildings.

#### **10 EQUALITIES IMPLICATIONS**

The new dwellings would need to meet lifetime homes standards and provide level access to the proposed commercial floorspace.

# BH2011/02401 Land at 27 - 31 Church Street, Brighton.



**Brighton & Hove  
City Council**



**Scale: 1:1,250**

