

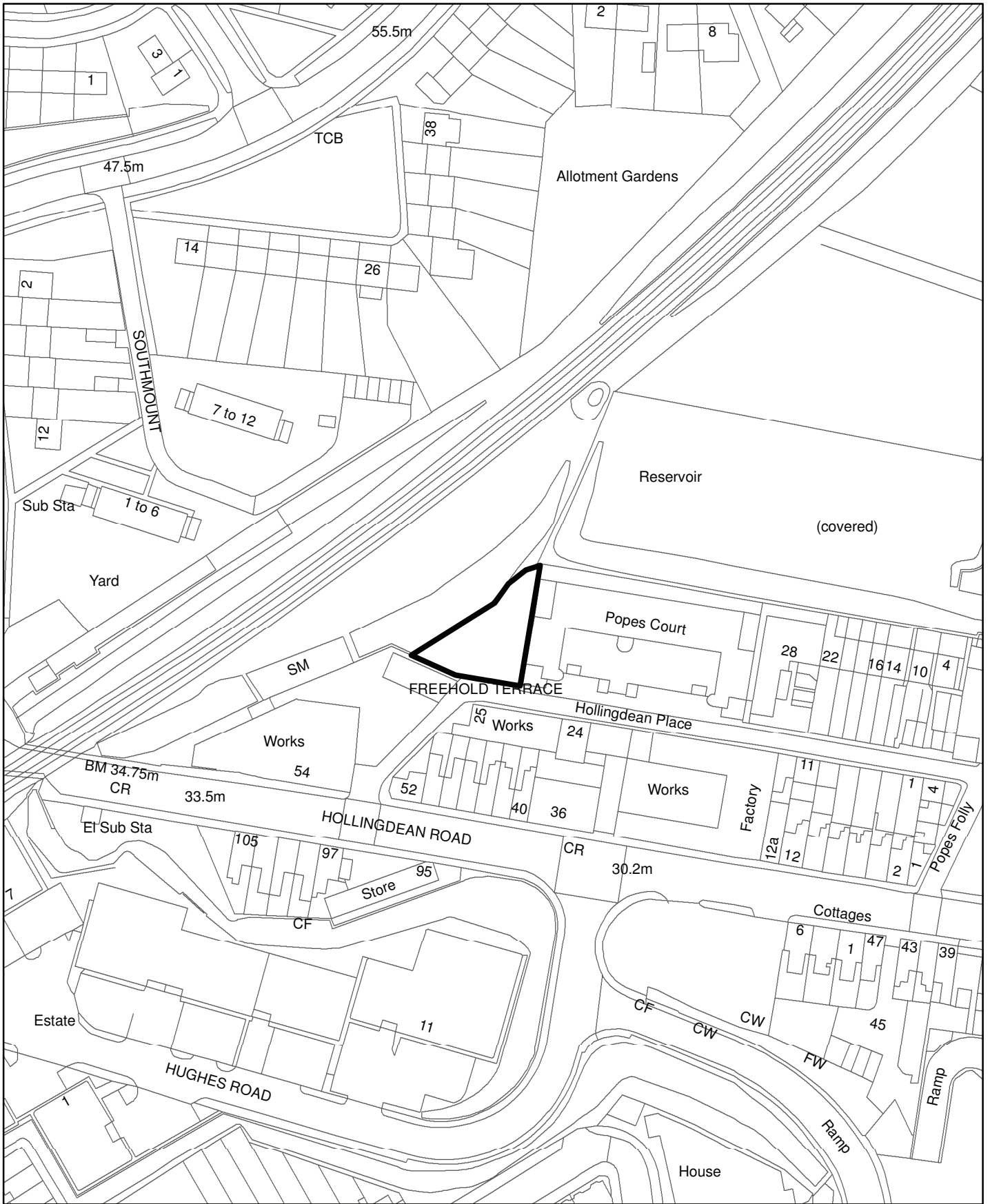
**PLANS LIST
ITEM H**

46 Freehold Terrace, Brighton

**BH2012/01789
Full planning consent**

29 AUGUST 2012

BH2012/01789 46 Freehold Terrace, Brighton.



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2012/01789	<u>Ward:</u>	HOLLINGDEAN & STANMER
<u>App Type:</u>	Full Planning		
<u>Address:</u>	46 Freehold Terrace, Brighton		
<u>Proposal:</u>	Demolition of existing buildings and erection of a four storey building with office space (B1) on ground and lower ground floors and a total of 8no residential units above, with solar panels to roof and associated landscaping.		
<u>Officer:</u>	Aidan Thatcher Tel: 292265	<u>Valid Date:</u>	12/06/2012
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	07/08/2012
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	ASP Planning, Old Bank Chambers, London Road, Crowborough		
<u>Applicant:</u>	ASP, C/O ASP Planning		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to be **MINDED TO GRANT** planning permission subject to the completion of a s106 agreement and the Conditions and Informative set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The proposed site is triangular in shape and is located on Freehold Terrace, a narrow U shaped street, accessed from Hollingbury Road. The street itself is mixed use, with residential accommodation dominating the eastern end of the street and commercial uses dominating the western end. The site is located at the western corner of the street.
- 2.2 Immediately adjoining the site to the east is Popes Court, a three storey flatted development. Immediately to the northwest is the Brighton–Lewes Railway line, and associated treed embankment.
- 2.3 The site is situated to the western end, and is currently in commercial use, Classes B1c – Light Industrial, B2 – General Industrial and B8 – Storage and Distribution (according to the marketing particulars within the submitted Planning Statement) and these operate from an open yard, a two storey and a single storey building. The site area is approximately 430sqm, with 279sqm of internal floorspace. The maximum width of the site is approximately 27.5m and depth 29.5m.

3 RELEVANT HISTORY

BH2011/03218: Demolition of existing buildings and erection of 2no three storey buildings with a total of 9no two bedroom residential units with solar panels to roof and associated landscaping. Refused 19/01/2012.

BH2011/03217: Demolition of existing buildings and erection of 2no four storey buildings with office space (B1) on ground and lower ground floors and a total of 9no two bedroom residential units above, with solar panels to roof and associated landscaping. Refused 19/01/2012. Appeal submitted and awaiting decision.

4 THE APPLICATION

- 4.1 Planning permission is sought for the demolition of the existing buildings on the site and the erection of a 4 storey mixed use irregular shaped building comprising a 278sqm Class B1 use on the ground/basement levels and 8 no. residential units across the first to third floors.
- 4.2 A single loading bay is proposed to the front of the site, together with 3 no. vehicular parking spaces together with refuse and recycling storage and cycle parking spaces.

5 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours:** 6 letters of objection have been received from the occupiers of **Flats, 1, 6, 9 and 23 Popes Court, and no. 39 The Crestway** on the following grounds:
- Increased parking stress;
 - Not enough on-site parking;
 - Loss of privacy; and
 - Increased traffic.

Internal:

- 5.2 **Environmental Health:** Support. A full contaminated land condition is recommended for this application, in particular because the development is to be situated where a gas works was once located. Additionally, conditions for plant noise, delivery times and sound insulation have been recommended.
- 5.3 **Private Sector Housing:** No Comment.
- 5.4 **Access Consultation:** Objection. Additional internal amendments are required in order to achieve full Lifetime Homes compliance. These relate to the lift car size, stair handrails, some leading edge doors require additional space and confirmation received relating to floor level bathroom drainage and strength of walls for grab rails.
Comments on amended plans - The revised plans do not address the above comments.
- 5.5 **Planning Policy:** Support. This revised scheme has now acceptably addressed an outstanding concern relating to private amenity space and policy HO5 of refused application BH2011/03217. Although the level of proposed replacement employment floorspace is slightly reduced giving issues with policy EM3; this may be acceptable with a suitable B1 refurbishment updating the current poor quality building. Compliance with policy QD27 regarding the protection of

amenity needs to be assessed. The proposed residential units are broadly considered to meet policies HO2, HO3, HO4 and HO5.

- 5.6 **Arboriculture:** No objection. Several trees on the adjoining railway embankment need to be considered as part of the development proposal, however, with adequate pruning and / or protection, they should be retained post-development.
- 5.7 Overall, the Arboricultural Section has no objection to the proposals in this application subject to suitable conditions being attached to any planning consent granted.
- 5.8 **Sustainable Transport:** Support. Recommended approval with conditions to protect the interests of the public using the roads and footways.
- 5.9 The applicant has proposed provision for the storage of 10 bicycles for the residential dwellings and 3 for the office as indicated on the provided plan. This is considered to be an appropriate amount for this level of development. The type of facilities are however not acceptable, being difficult to use, not convenient and therefore contrary to local plan policy TR1 and TR14. To overcome this objection a condition should be included requesting the applicant produces a further amended plan that details cycle storage facilities that are convenient to use e.g. 'Sheffield' type stands, covered and secure, preferably near to the main entrance and within the red line boundary.
- 5.10 The applicant is proposing 4 spaces for vehicles which are described as 3 car parking spaces for the residential development and 1 larger service delivery parking bay for the office use. Census data (2001) suggest that within the Hollingdean & Stanmer Ward 37.94% of dwellings do not own/have access to a vehicle. On average, 0.87 vehicles are available per dwelling across the ward. It is therefore likely that 9 dwellings would generate a demand to park between 6 and 8 vehicles. The 3 proposed residential parking bays would therefore potentially create a displacement of 3 - 5 vehicles on to the highway. The parking survey provided by the applicant suggests that there is no spare capacity within the local highway to park a vehicle during the day, but it does show that there is spare capacity in the evening. The Highway Authority therefore recommends that: The residential bays are allocated to specific flats to remove competition for spaces and reduce the likelihood of greater car ownership that could result in vehicles being displaced on-street; there is management of the office servicing bay outside business hours, to enable visitors to park within it that could help alleviate further potential overspill parking; occupants and employees are strongly encouraged to use sustainable travel to and from the site.
- 5.11 It is suggested that the following mitigating measures should be conditioned and employed:
- Signage stating the allocated flat number on individual car parking spaces
 - Signage that details clearly the hours that residents/visitors of the flats can use the office service bay
 - Directional signage to enable residents, employees and visitors to locate the cycle parking spaces

- Sustainable transport promotional material being readily available to new employees, residents, and visitors such as cycle and bus routes and timetable brochures and car club information
- 5.12 These revisions to the scheme will assist in alleviating some of the concerns expressed by the Highway Authority, although it is still possible that displacement of parking on the highway will occur. However, it is unlikely that the level of displacement would be considered significant enough to support a refusal at an appeal and therefore the Highway Authority does not wish to restrict grant of consent on car parking grounds.
- 5.13 It is noted that to access the proposed 4 parking spaces for vehicles the main entrance will need to be widened with an extended crossover constructed on the footway. The informative below is therefore included.
- 5.14 To comply with the Brighton & Hove Local Plan 2005 policies TR1 and QD28 and the Council Interim Guidance on Developer Contributions approved by Cabinet on the 2nd February 2012 the Applicant is expected to make a financial contribution of £6000 to help finance off-site highway improvement schemes including but not limited to a pedestrian refuge crossing on Upper Hollingdean Road east of its junction with Davey Drive to assist residents in walking safely to bus services on Ditchling Road, Downs Junior School, and employment opportunities in the area such as the Hollingdean Depot, and/or match fund works on the Local Sustainable Transport Fund corridor in particular improvements at the Vogue Gyratory.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
- 6.2 The development plan is:
- The Regional Spatial Strategy, The South East Plan (6 May 2009);
 - East Sussex and Brighton & Hove Minerals Local Plan (November 1999);
 - East Sussex and Brighton & Hove Waste Local Plan (February 2006);
 - Brighton & Hove Local Plan 2005 (saved policies post 2004).
- 6.3 The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is a material consideration which applies with immediate effect.
- 6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF. At the heart of the NPPF is a presumption in favour of sustainable development.
- 6.5 All material considerations and any policy conflicts are identified in the considerations and assessment section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
TR4	Travel Plans
TR5	Sustainable transport corridors and bus priority measures
TR7	Safe development
TR13	Pedestrian network
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU5	Surface water and foul sewage disposal infrastructure
SU8	Unstable land
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU11	Polluted land and buildings
SU13	Minimisation and re-use of construction industry waste
SU14	Waste management
SU15	Infrastructure
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD4	Design – strategic impact
QD5	Design – street frontages
QD6	Public art
QD7	Crime prevention through environmental design
QD15	Landscape Design
QD16	Trees and hedgerows
QD25	External lighting
QD27	Protection of amenity
QD28	Planning obligations
HO1	Housing sites and mixed use sites with an element of affordable housing
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO6	Provision of outdoor recreation space in housing schemes
HO7	Car free housing
HO13	Accessible housing and lifetime homes
EM3	Retaining the best sites for industry
EM5	Release of redundant office floorspace and conversions to other uses

Supplementary Planning Documents

SPD 03	Construction and Demolition Waste
SPD 08	Sustainable Building Design

Supplementary Planning Guidance Notes

SPG BH4	Parking Standards
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Planning Advisory Notes

PAN03 Accessible Housing and Lifetime Homes

PAN05 Design and Guidance for Storage and Collection of Recyclable Materials and Waste

8 CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application are the planning history, principle of the development, impact on street scene and wider area, amenity issues, transport issues, tree issues and sustainability issues.

Planning History:

8.2 There have been two planning applications recently refused permission on the site. BH2011/03217 was for a similar development, however included one additional residential unit, and a higher proportion of commercial floorspace.

The other application was for a purely residential scheme which was also refused.

8.3 The mixed use scheme was refused for the following reasons:

1. The proposed building is considered to be of an inadequate design, which relates poorly with the adjacent buildings in terms of height, scale, bulk, massing, materials and is of a contrived shape and footprint which appears to serve only to maximise the built form on the site. As such, the scheme is considered to be contrary to policies QD1, QD2, QD3 and QD5 of the Brighton & Hove Local Plan.
2. The proposed building represents an overdevelopment of the site due to the excessive site coverage, is out of character with the surrounding area and no viability justification has been provided to support the quantum of development proposed. Therefore the proposal is contrary to policies QD1, QD2, QD3 and EM3 of the Brighton & Hove Local Plan.
3. The proposal fails to provide any external private amenity space for the proposed residential units and as such is contrary to policy HO5 of the Brighton & Hove Local Plan.
4. The proposed development would result in a harmful impact on neighbouring amenity by virtue of loss of light and loss of outlook. As such, the proposal is considered to be contrary to policy QD27 of the Brighton & Hove Local Plan.
5. The proposal includes external walkways to access a number of the residential units which is considered would result in an unacceptable level of amenity for future occupiers and as such would be contrary to policy QD27 of the Brighton & Hove Local Plan.
6. The proposal fails to demonstrate that the residential element of the scheme is fully lifetime homes compliant and as such is contrary to policy HO13 of the Brighton & Hove Local Plan.
7. The proposal fails to demonstrate that adequate refuse and recycling storage is possible within the site boundary for both the residential and commercial elements of the scheme. As such the scheme is contrary to policies QD27, SU14 and EM3 of the Brighton & Hove Local Plan.
8. The proposal fails to demonstrate that adequate cycle parking provision is possible within the site boundary for both the residential and commercial

elements of the scheme. As such the scheme is contrary to policy TR14 of the Brighton & Hove Local Plan.

9. The proposed development fails to provide for the travel demand that it creates through either the provision of off-street parking and would significantly increase the demand for travel that would cause harm to highway safety. As such the proposal is contrary to policies TR1, TR7 and TR19 of the Brighton & Hove Local Plan.
- 8.4 The applicant has sought to address the previous reasons for refusal in this application, and each of the reasons is addressed below in the relevant section.

Principle of Development

- 8.5 The building is currently in Class B1c/B2/B8 use, and as such policy EM3 is of relevance. This confirms that land in industrial use or allocated of such uses will not be released for other uses unless the site has been assessed and found to be unsuitable for modern employment needs.
- 8.6 Sites will be assessed to determine whether they are suitable for modern industrial purposes. Reference will be made to the:
 - a. Location of the site;
 - b. Quality of the buildings;
 - c. Site layout;
 - d. Accessibility;
 - e. Proximity to trunk routes;
 - f. Other uses in the neighbourhood;
 - g. Cost of demolition or refurbishment set against its future value for employment needs; and
 - h. Length of time the site has been vacant and the efforts made to market the site in ways to attract different types of employment uses.
- 8.7 After assessment, sites that are genuinely redundant and do not have potential for industrial redevelopment will be released for re-use.
- 8.8 Preference will be given to alternative industrial or business uses, followed by uses that meet the Council's priorities as set out in the Local Plan; that is, live work units or affordable housing. Any alternative use should not unacceptably prejudice the amenity or viability of other business uses in the vicinity.
- 8.9 The application proposes to include 278sqm of Class B1 employment generating floorspace across the ground and basement levels of the proposed building. This would replace the existing employment generating floorspace on the site which comprises approximately 279sqm.
- 8.10 As such, there would be minimal net loss of employment generating floorspace and due to the increase in quality of the proposed floorspace this is sufficient to offset the loss and therefore the proposal is considered comply with policy EM3.
- 8.11 As the employment floorspace is being approximately re-provided, any additional development on the site can be considered as a windfall, providing

that it complies with all other development plan policies, which are considered in detail below.

Impact on street scene and wider area

- 8.12 Policy QD1 relates to design and the quality of new development. It confirms that all proposals for new buildings must demonstrate a high standard of design and make a positive contribution to the visual quality of the environment.
- 8.13 Policy QD2 relates to design and key principles for neighbourhoods. It confirms that new development should be designed to emphasise and enhance the positive qualities of the local neighbourhood, by taking into account the local characteristics, including:
- a. Height, scale, bulk and design of existing buildings;
 - b. Topography and impact on skyline;
 - c. Natural and developed background or framework against which the development will be set;
 - d. Natural and built landmarks;
 - e. Layout of street and spaces;
 - f. Linkages with surrounding areas;
 - g. Patterns of movement within the neighbourhood; and
 - h. Natural landscaping.
- 8.14 Policy QD3 relates to efficient and effective use of sites and confirms that new development will be required to make efficient and effective use of a site, including sites comprising derelict or vacant land and buildings.
- 8.15 The proposed building is to be 4 storeys in height, with the top storey set in by approximately 2m from the front (south) and eastern side boundary in order to reduce its prominence. The top storey would have a different material (metal standing seam roof) to ensure it appears and visually different from the lower floors. The building has been design to have a modern appearance with a mixture of facing brickwork, metal standing seam panels, render and metal framed glazing.
- 8.16 The building itself is irregularly shaped, approximately triangular following the shape of the site. The building has a high site coverage, with an amenity area to the rear and an open hardstand area to the front providing vehicular parking, refuse storage and cycle parking together with access to the development.
- 8.17 The ground floor footprint measures approximately 21.0m in width (max) x 15.5m in depth (max). This is significant reduction in the site coverage compared to the previously refused schemes and is considered to be more reflective of the site coverage of other plots within the vicinity of the site.
- 8.18 The adjoining property at Popes Court is in residential use as a flatted development, set in a U shape around a communal front garden area. Parking spaces for the development are set between the highway and the front boundary wall of the scheme. Popes Court itself is 4 storeys to the rear of the site, with two three storey wings providing the U shape, and thus the scheme is

lower where it meets the front boundary of the site. It is the west three storey wing which shares a boundary with the application site.

- 8.19 The building to the south of the site (which is the next adjoining site to the west due to the corner location of the application site) is a two storey industrial building of brick and metal sheet construction.
- 8.20 As mentioned above, the proposed building is to be four storeys above ground level and has a maximum height of approximately 11.0m, however, the height to eaves level (due to the top storey being set back) is a maximum of 8.7m, and this is the height that would be read within the street scene. Therefore the height, bulk and massing have been considerably reduced compared to the previously refused scheme, which proposed a maximum height of 14.1m. This set back, combined with the differing top floor material ensures that the perceived bulk of the building is further reduced.
- 8.21 The proposed height is now considered to be acceptable for this part of Freehold Terrace. It is commensurate with the height of the adjoining three storey part of Popes Court (adjacent to the party boundary), and marginally higher than the adjacent industrial building to the south. As such the building is considered to integrate effectively with its backland setting and the wider street scene without causing any undue visual harm.
- 8.22 The proposal also removes the front projecting solar balconies, and replaces these with an open balcony structure with timber surrounds. This provides a more open aspect to the frontage of the building and reduces the perceived bulk and massing of the building to an acceptable degree.
- 8.23 Therefore the site coverage, height, bulk, massing and scale of the proposal has been substantially reduced compared to the previously refused schemes and it is considered that the current proposal would integrate effectively with the wider area without causing any undue harm to its character or appearance. As such, the previous reasons for refusal 1 and 2 have been addressed.

Amenity Issues

For Neighbours

- 8.24 Policy QD27 relates to protection of amenity and confirms that permission will not be granted where development would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.25 The only neighbours who could be impacted upon from the development are those within the westernmost part of Popes Court. There are windows to habitable rooms which face onto the application site and are located approximately 4.5m from the site boundary. The proposed building has been significantly scaled back to ensure that it extends to the rear in line with the front wing of the adjoining property at Popes Court. Therefore, the Popes Court windows facing the site would overlook the rear amenity area only, and these there would be no overlooking to these windows possible, nor would there be any loss of outlook.

8.26 As such the proposal would cause no harm to the amenities of the adjoining occupiers and the previous reason for refusal no. 4 has been addressed.

For Future Residents

8.27 Brighton & Hove Local Plan policy HO13 requires that all new residential units should comply with Lifetime Homes Standards. Amended floorplans have been submitted during the course of the application to address the concerns raised by the Access Consultant. However, this is through annotations to the plans rather than amending the detail of the floorplans. However, the required amendments are internal only, and do not compromise the merits of the scheme. As such it is considered that sufficient demonstration has been provided that the development would meet the relevant lifetime homes criteria.

8.28 Therefore, the previous reason for refusal no. 6 has been addressed.

8.29 The units appear of be of sufficient size, with each room adequate for its function. All rooms except bathrooms appear to have sufficient access to natural light and outlook.

8.30 Policy HO5 requires the provision of private usable amenity space in new residential development.

8.31 Private amenity space is provided to all of the units through external balconies, or in the case of the top floor units, private terraces. Whilst the balconies are limited in size, these do provide sufficient space for a table and chairs and thus are considered to be acceptable for the size of the units proposed. The terrace areas on the top level are significantly more generous, and thus are considered to be of acceptable size.

8.32 Also proposed is a shared amenity space to the rear of the site which allows for additional space to site out, and limited informal play space.

8.33 As such it is considered that the scheme complies with policy HO5 of the Local Plan and the previous reason for refusal no. 3 has been fully addressed.

8.34 The application is supported with a noise assessment which concludes that the site falls within noise exposure category A, and as such is suitable for residential development. The comments from the Environmental Health Team support this view and as such there are not considered to be any undue noise issues from the nearby railway, road or the neighbouring industrial units.

8.35 The scheme is for a mixed use development, with commercial floorspace across the ground floor. As such, a condition is recommended to ensure adequate sound insulation between the two uses, over and above that required by Building Regulations to ensure that there would be no harmful impact on amenity.

8.36 A dedicated refuse and recycling storage area is proposed to the front of the site, alongside its side boundary with the property to the south. This will ensure

that there is satisfactory provision and thus is considered acceptable, and addresses previous reason for refusal no. 7.

Transport

- 8.37 Policy TR1 confirms that development proposals should provide for the demand for travel they create and maximise the use of public transport, walking and cycling.
- 8.38 Policy TR2 relates to public transport accessibility and parking and confirms that permission will only be granted where the development proposal has been assessed to determine the level of accessibility to public transport.
- 8.39 Policy TR14 confirms that all proposals for new development and change of use should provide facilities for cyclists in accordance with the parking guidance.
- 8.40 The scheme provides 3 no. off-street parking spaces and a dedicated loading bay for the commercial unit and 13no. cycle parking spaces.
- 8.41 Policy HO7 will grant permission for car free housing in locations with good access to public transport and local services and where there are complementary on-street parking controls and where it can be demonstrated that the development will remain genuinely car-free over the long term. The most practical way of achieving this is to restrict residents parking permits within Controlled Parking Zones. Three vehicular parking spaces are proposed. However, the site is not within a Controlled Parking Zone, so residents would therefore be able to park on the surrounding residential streets and the scheme could not be secured as genuinely car free.
- 8.42 The comments from the Council's Sustainable Transport Team are noted and they confirm that the impact of uplift in travel demand could be dealt with through a s106 contribution of £6,000.00 to assist in the financing of off-street highway improvement works such as a pedestrian crossing on Upper Hollingdean Road and improvements to the Vogue Gyratory. As such, this contribution forms part of the officer recommendation.
- 8.43 Also recommended are conditions relating to the management of the parking spaces and directional information to the cycle parking, retention of the parking area and full cycle parking details to be submitted.
- 8.44 As such, the current proposal, subject to conditions, would have an acceptable impact on the local highway network. This therefore addresses the previous reason for refusal nos. 8 and 9.

Contaminated Land

- 8.45 Policy SU11 will permit the development of known or suspected polluted land where the application is accompanied by a site assessment and detailed proposals for the treatment, containments an/or removal of the source of contamination, appropriate to the proposed future use and surrounding land uses and to prevent leaching of pollutants. Permission will not be granted for the development of polluted land where the nature and extent of contamination

is such that even with current methods of remediation as a result of the proposed development people, animals and/or the surrounding environment would be put at risk. Where the suspected contamination is not felt to be significant or not high risk, permission may be granted subject to conditions requiring a site investigation and any necessary remedial measures.

- 8.46 The site has a history of industrial uses upon the site, including that of a gas works. As such, the application has been supported with a Phase 1 Site Survey. This concludes that a Phase 2 site investigation and a Tier2 Generic Quantitative Risk Assessment be undertaken.
- 8.47 The comments from the Environmental Health Team agree with the recommendations of the submitted report, and that the following stages of investigation can be adequately addressed by condition.
- 8.48 As such there are no undue contaminated land issues arising from the proposal.

Tree issues

- 8.49 Policy QD16 relates to Trees and Hedgerows and confirms that applications for new development should accurately identify existing trees, shrubs and hedgerows, retain existing trees and hedgerows and where feasible include new tree and hedgerow planning within proposals.
- 8.50 It goes on to confirm that where development is permitted in the vicinity of trees, adequate provision must be made for the protection of existing trees. Tree protection and all construction work carried out will need to comply with the advice of current British Standard 5837 'Trees in relation to Construction' and any subsequent revisions.
- 8.51 The application is supported by an Arboricultural Report due to the presence of a number of trees on the adjacent railway embankment. The majority of these are at a higher level than the application site itself and thus are unlikely to be impacted upon. That said, there are trees to the northern corner where the development falls within the crown spread. The report concludes that subject to conditions there would be no undue impact on these trees.
- 8.52 The comments from the Council's Arboriculturist confirm that, subject to conditions, the scheme would not have any adverse impact on the trees which form part of the railway embankment to the northwest and thus agree with the submitted report in this regard. Therefore, there are no undue concerns in this regard.

Sustainability

- 8.53 Any new residential building upon the site would need to conform to the requirements of SPD08. This means that a fully completed Sustainability Checklist is required, and the residential element of the building must meet Level 3 of the Code for Sustainable Homes as a minimum and the commercial floorspace meet 50% in the energy and water sections of BREEAM within overall 'Very Good'.

- 8.54 In addition, and to conform to the requirements of policy SU2, any development must demonstrate that issues such as the use of materials and methods to minimise overall energy use have been incorporated into siting, layout and design.
- 8.55 The applicants have submitted a Sustainability Checklist with the application and have detailed a commitment to reach Code Level 4 of the CSH, which is in excess of the required levels.
- 8.56 Conditions are recommended to ensure the relevant levels as set out in SPD08 would be achieved.
- 8.57 In relation to policy SU2, measures have been indicated in the application that include rainwater harvesting and grey water recycling, seeking to achieve zero net annual CO2 emissions from energy use, a green roof, photovoltaic panels and by maximising passive solar gain.
- 8.58 These measures are considered acceptable to demonstrate compliance with SU2 and SPD08.

9 CONCLUSION

- 9.1 This application seeks consent for the erection of a mixed use building comprising Class B1a office space and 8no. residential units. The scheme is considered to address all of the previous reasons for refusal of a similar scheme and would be in accordance with local plan policies.

10 EQUALITIES

- 10.1 The application has demonstrated compliance with lifetime homes standards and would be required to meet current building regulations including those related to accessibility.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

- 11.1 A Section 106 obligation to secure the following;
- A contribution of £6,000 towards Sustainable Transport Strategy prior to commencement of the development.
- 11.2 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 listed below.
Reason: For the avoidance of doubt and in the interests of proper planning.

PLANS LIST – 29 AUGUST 2012

Plan Type	Reference	Version	Date Received
Block Plan	1143-P-01	-	12.06.12
Roof Plan	1143-P-402	B	12.06.12
Floorplans	1143-P-403	C	12.07.12
Elevations 1 of 2	1143-P-404	B	12.06.12
Elevations 2 of 2	1143-P-405	B	12.06.12
Arboricultural Impact Assessment	ATC-AIA-01	-	12.06.12
Tree Protection Plan	ATC-TPP-01	-	12.06.12
Tree Constraints Plan	ATC-TCP-01	-	12.06.12

- 3) 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.
- 4) The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles belonging to the occupants of and visitors to the development hereby approved.
Reason: To ensure that adequate parking provision is retained and to comply with policy TR19 of the Brighton & Hove Local Plan.
- 5) 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.
- 6) Unless otherwise agreed in writing by the Local Planning Authority, the new dwellings hereby permitted shall be constructed to Lifetime Homes standards prior to their first occupation and shall be retained as such thereafter.
Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
- 7) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

- Reason:** To ensure that any contamination identified during the demolition and construction phases is fully characterised and assessed and to comply with policy SU11 of the Brighton & Hove Local Plan.
- 8) Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas, roads and hardstandings shall be passed through trapped gullies to BS 5911:1982 with an overall capacity compatible with the site being drained.
Reason: To prevent pollution of the water environment and to comply with policy SU3 of the Brighton & Hove Local Plan.
- 9) The Class B1(C) use hereby permitted shall not be open to customers except between the hours of 08.00 and 22.30 on Mondays to Fridays and 09.00 and 20.00 on Saturdays, Sundays and Bank or other Public Holidays.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 10) No industrial activity of any kind, except loading and unloading, shall take place outside the proposed building within the curtilage of the site without the prior written approval of the Local Planning Authority.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

11.3 Pre-Commencement Conditions:

- 11) No development shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
Reason: To ensure a satisfactory appearance to the development and to comply with policy QD1 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 the Building Research Establishment (BRE) under the Code for Sustainable Homes and a Design Stage 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 BRE issued 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 development shall commence until a scheme to enhance the nature conservation interest of the site and a timescale for its implementation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full prior to occupation of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To increase the biodiversity of the site, to mitigate any impact from the development hereby permitted and to comply with Policy QD17 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 hardsurfacing, 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) No development shall commence until fences for the protection of trees to be retained on the adjoining site have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences 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: To protect the trees which are to be retained adjacent to the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.

- 17) (i) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority:

- (a) 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 BS10175:2001; and, unless otherwise agreed in writing by the Local Planning Authority,

PLANS LIST – 29 AUGUST 2012

- (b) 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 the 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 the competent person approved under the provisions of (i) (b) above that any remediation scheme required and approved under the provisions of (i) (b) above 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) as built drawings of the implemented scheme;
 - b) photographs of the remediation works in progress; and
 - 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 (i) (b)

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.

- 18) No development approved by this permission shall be commenced until the method of piling foundations for the development shall be carried out in accordance with a scheme submitted to and approved in writing by the Local Planning Authority prior to any development commencing. The development shall be carried out in strict accordance with the approved details.

Reason: To prevent the contamination of the underlying aquifer and to comply with policy SU3 of the Brighton & Hove Local Plan.

- 19) No development shall commence until a scheme for the soundproofing between the commercial and residential floorspace 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.

- 20) No development shall commence on site until a Scheme of Management of the vehicle and cycle parking has been submitted to and been approved in writing by the Local Planning Authority. The Scheme must include the following measures:

- Signage stating the allocated flat number on individual car parking spaces
- Signage that details clearly the hours that residents/visitors of the flats can use the office service bay
- Directional signage to enable residents, employees and visitors to locate the cycle parking spaces

- Sustainable transport promotional material being readily available to new employees, residents, and visitors such as cycle and bus routes and timetable brochures and car club information

The above works must be implemented prior to the occupation of the building and thereafter be maintained as such.

Reason: To ensure the development maintains a sustainable transport strategy and to comply with policies TR1, TR14 and TR19 of the Brighton & Hove Local Plan.

11.3 Pre-Occupation Conditions:

- 21) Unless otherwise agreed in writing by the Local Planning Authority, none of the residential units hereby approved shall be occupied until a Building Research Establishment issued Final Code Certificate 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.

- 22) 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.

- 23) 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.

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

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

11.4 Informatives:

1. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-

The application has demonstrated that there could be no undue impact on the character or appearance of the surrounding area, would be of an acceptable height, scale, bulk, massing and design and would cause no harm to amenity, highways, trees and would achieve acceptable levels of sustainability. As such the reasons for refusal on the previous scheme have been addressed and the proposal is in accordance with Local Plan policies.
2. The applicant is advised that details of Lifetime Homes standards can be found in Planning Advice Note PAN 03 Accessible Housing & Lifetime Homes, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk).
3. The applicant is advised that details of the Code for Sustainable Homes can be found on the Planning Portal (www.planningportal.gov.uk), on the Department for Communities and Local Government website (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). Accreditation bodies at March 2010 include BRE and STROMA; other bodies may become licensed in future.
4. 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). 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).
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).
6. The planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these

PLANS LIST – 29 AUGUST 2012

works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed in accordance with the Council approved Manual for Estate Roads and under licence from the Highways Operations Manager. The applicant is advised to contact the Network Co-ordination Team (01273 293366) prior to any works commencing on the public highway.

7. The applicant is advised that the above condition on land contamination has been imposed because the site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. To satisfy the condition 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 (i) (b) and (i) (c) of the condition. It is strongly recommended that in submitting details in accordance with this condition the applicant has reference to Contaminated Land Report 11, Model Procedures for the Management of Land Contamination. This is available on both the DEFRA website (www.defra.gov.uk) and the Environment Agency website (www.environment-agency.gov.uk).