

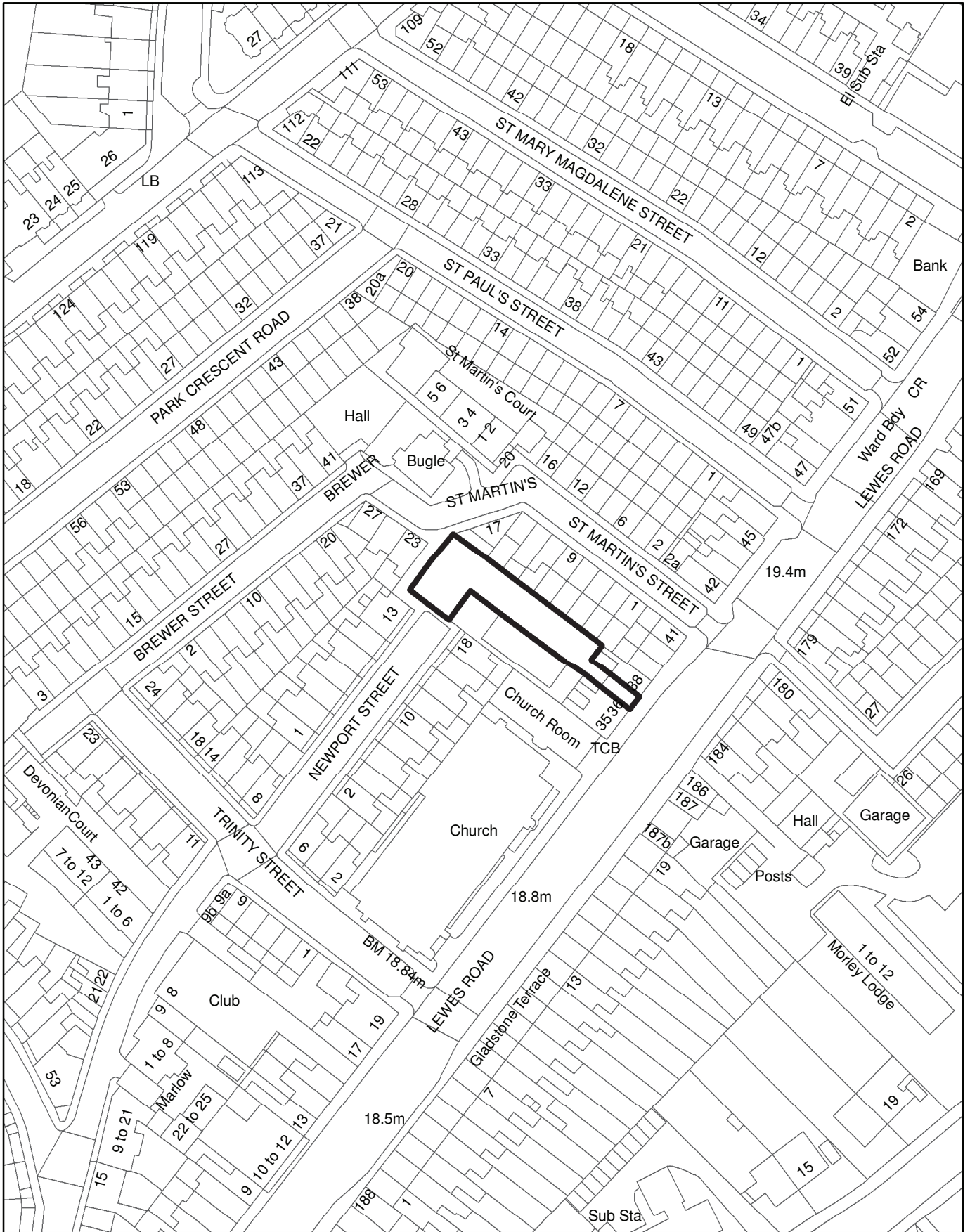
**PLANS LIST
ITEM D**

37 Lewes Road, Brighton

**BH2012/02367
Full planning**

31 OCTOBER 2012

BH2012/02367 37 Lewes Road, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2012/02367	<u>Ward:</u>	ST. PETER'S & NORTH LAINE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	37 Lewes Road, Brighton		
<u>Proposal:</u>	Change of use from tool hire premises (Use Class A1) to car sales premises (Sui Generis) including the erection of an office cabin and installation of 3no wall mounted external lights.		
<u>Officer:</u>	Jonathan Puplett Tel: 292525	<u>Valid Date:</u>	23/08/2012
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	18/10/2012
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Ian M Reed, 74 Underdown Road, Southwick		
<u>Applicant:</u>	Naeem Khalid, 30 Chorley Avenue Saltdean, Brighton		

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 **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is situated on the eastern side of Lewes Road. Previously nos. 25-38 Lewes Road were in use as a tool hire business (Use Class A1). The open space to the rear and a large storage building situated on this land served as ancillary storage and servicing for the tool hire business. The tool hire business has closed and the ground floor units fronting on to Lewes Road are currently in A1/A3 use. This change means that the open land to the rear of these units and the storage building have been left unused / vacant. The application site consists of the access from Lewes Road and most of the open area; the site would also have vehicular access on to Newport Street. The existing storage building and an area around this building does not form part of the application site. The western boundary of the site has a high boundary wall with a residential property on St. Martin's Street behind. The northern boundary of the site is also screened by a relatively high wall with residential gardens of properties on St. Martin's Street behind.
- 2.2 The access from Lewes Road is through an entrance which forms part of the ground floor of the building fronting on to Lewes Road. This access has a security shutter. The access onto Newport Street is secured by high metal gates with high walls to either side.

3 RELEVANT HISTORY

BH2012/02641 (Advertisement Consent): Display of a non-illuminated fascia sign fronting Lewes Road. Under consideration.

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BH2010/03308 (35 Lewes Road): Application for Approval of Details Reserved by Conditions 5, 6, 7, 9 and 13 of application BH2010/00230. Approved 07/01/2011.

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

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

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

BH2006/03631 (35-38 Lewes Road): 'Variation of Condition 2 relating to planning permission 95/1064/FP to read "The Premises shall not be open for trade except between the hours of 07.30 to 17.30 hours Monday to Friday, and between 08.00 and 17.00 hours on Saturdays." Also Variation of Condition 9 to read "No vehicles, unless otherwise agreed in writing with the local planning authority, shall be admitted to this site via Newport Street".' Approved 02/02/2007.

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

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

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

95/0922/AD: Illuminated fascia sign. Approved 08/11/1995.

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

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

4 THE APPLICATION

- 4.1 Planning permission is sought for the change of use of the site to car sales (Sui Generis). Physical works proposed consist of the erection of a 'log cabin' style building for use as a sales office, and the installation of three external lights.

5 PUBLICITY & CONSULTATIONS

External:

- 5.1 **Neighbours: Five (5) letters** have been received from **nos. 8, 13 and 18 Newport Street and nos. 3 and 24 St. Martin Street** objecting to the application for the following reasons:

- There is already a portacabin in situ on the site.

- ‘No entry’ signs and collapsible plates across the Newport Street access to the site have been removed. This is unacceptable; the Newport Street site should be for exit only.
- The proposal would result in additional traffic and on-street parking along Newport Street and in the surrounding area.
- The proposal would result in increased air pollution and noise disturbance.
- The proposed lighting would cause a nuisance / the proposed external lighting should not be allowed to be on at night.
- The local plan indicates that a proportion of A1 uses within the Lewes Road District Centre should be maintained.
- The proposed use could include car repairs which would cause noise and pollution.
- The proposal is to operate seven days a week which would harm neighbouring residents’ quality of life.
- The proposed access from Lewes Road and egress onto Newport Street would create a ‘thoroughfare for traffic’.
- The existing business at no. 35 Lewes Road causes noise disturbance.
- The proposed use would be out of keeping with its residential surroundings.
- The proposed use would result in overlooking of the rear of properties on St. Martin’s Place.
- The proposed development would cause a security risk for neighbouring occupiers.

5.2 **One (1) letter** has been received from **St. Martin’s Church** stating no objection to the application.

5.3 **A letter** has been received from **Councillor Pete West**, a copy of which is attached this report.

Internal:

5.4 **Sustainable Transport:** Recommend conditions to ensure that vehicles enter the site from Lewes Road only and egress on to Lewes Road only, and that they do so in a forward gear. It is recommended that the display of directional signage within the site be secured by condition. It should also be required by condition that the proposed parking areas are retained, and that vehicles over 3000kg weight do not enter the site.

5.5 **Environmental Health:** Recommend conditions to restrict hours of use and deliveries, to prevent mechanical washing / valeting and servicing of vehicles taking place, and to secure further details of the external lighting proposed.

5.6 **Economic Development:** No comments received.

5.7 **Planning Policy:** No comment.

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
TR7	Safe development
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU11	Polluted land and buildings
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD27	Protection of Amenity
SR5	Town and district shopping centres

Supplementary Planning Guidance:

SPGBH4 Parking Standards

Supplementary Planning Documents:

SPD08 Sustainable Building Design

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of the change of use in this location, neighbouring amenity and transport / highways matters.

Planning Policy:

- 8.2 Policy SR5 of the Brighton & Hove Local Plan seeks to maintain and enhance the defined prime frontage of the Lewes Road District Shopping Centre. Whilst the front of the application site forms part of this designated area, the Lewes Road frontage of the site is in fact a vehicular access rather than forming part of a ground floor commercial unit. The site was previously attached to the ground floor premises which front on to Lewes Road (nos. 35, 36 and 38 Lewes Road) when the entire site (nos. 35, 36, 37 and 38 Lewes Road) was in use as a tool hire business. Since this business has ceased to trade the Lewes Road units have been occupied by A1/A3 uses which do not utilise the main part of the open area of the site. The application site is effectively a 'left over' part of the previous use and the units within the Lewes Road frontage are not dependant upon it for their future viability. Therefore, whilst the established use of the application site is as ancillary storage and servicing to a (previous) retail (A1) use, the loss of this use would not conflict with the objectives of policy SR5.
- 8.3 The proposed car sales use is not, in principle, contrary to local plan policies.

Visual Impact

- 8.4 The proposed development would not have a significant impact on views of the site from the public realm. A small 'log cabin' style sales office is proposed and vehicles would be parked within the site. These items would not be prominent when viewed from Lewes Road. Vehicles within the site would be visible through the access at the end of Newport Street, this is not considered to be inappropriate. The vehicles and sales office building within the site would be visible from the windows of neighbouring residential properties. It is considered that the resulting appearance would not be of a harmful nature.

Sustainable Transport

- 8.5 The Sustainable Transport Officer has raised no objection to the proposal. It is considered of importance that a 'one way' route through the site is enforced (as was the case in relation to the previous use of the site), with vehicles entering the site from Lewes Road and existing on to Newport Street. Vehicles should not reverse out of the site on to Lewes Road. The site and Newport Street are not considered to be suitable for heavy vehicles such as vehicle transporters. The access of the site by such vehicles should therefore be restricted. These matters can be controlled by planning condition. It has been recommended by the Sustainable Transport Officer that the display of directional signage within the site be secured by condition. This is not considered to be necessary as vehicular movements in and out of the site can be controlled by condition as detailed above.
- 8.6 Four parking spaces for visitors (customers) and staff are proposed; this provision is considered to be appropriate and is below the maximum standard set out in SPGBH4. The retention of these spaces for visitors and staff can be secured by planning condition. It is acknowledged that the proposed use could result in some increased on-street parking in the vicinity of the site, for example by customers visiting the premises. The area surrounding the site is not within a Controlled Parking Zone. This concern is not however considered to be of a significance which would result in the refusal of planning permission.

- 8.7 The Sustainable Transport Officer considers that the trip generation which the proposed use would cause is likely to be similar to the previous use in situ.

Impact on Amenity:

- 8.8 The main activities associated with the proposed use are likely to be:
- Vehicles entering the site and parking.
 - Vehicles exiting the site.
 - Movement of staff and customers and staff, and discussions relating to the sale of cars which may take place outside and within the sales office building proposed.
- 8.9 Proposed hours of use are as follows:
Monday – Saturday 09.30 – 17.00, Sundays 10.00-16.00.
- 8.10 It is considered that these activities, within the hours of use proposed, are unlikely to cause significant noise disturbance for neighbouring occupiers. The proposed hours of use, and the hours which deliveries may take place, can be controlled by condition.
- 8.11 Some air pollution would be caused by vehicular movements within the site, it is not considered that this would be of a magnitude which would cause significant harm to neighbouring amenity.
- 8.12 Concerns have been raised by neighbouring occupiers that activities associated with car sales such as vehicle repairs may take place within the site. The Environmental Health Officer has recommended that the uses within the site be restricted by planning condition. It is considered that such a condition is necessary and appropriate and would restrict noisy ancillary uses which could be associated with car sales.
- 8.13 External lighting is proposed which could cause disturbance for neighbouring occupiers. The Environmental Health Officer has recommended that further details of this lighting be secured by condition. The hours of use of the lighting can be restricted to the proposed hours of use to ensure that the lights do not cause night time disturbance.
- 8.14 Overall it is considered that, subject to compliance with appropriate conditions, the proposed use is unlikely to cause significant harm to neighbouring amenity.

Other Considerations:

- 8.15 A portacabin was present on site at the time of the site visit. This matter has been passed to the Planning Investigations Team. This item does not form part of this planning the application.
- 8.16 Neighbouring occupiers have raised concerns regarding the potential for increased threat of crime. The site has two vehicular accesses; the Lewes Road access has a security shutter and the Newport Road access has high lockable gates. The site is surrounded by high walls. The security of the site is likely to be a priority of any future occupier. It is not considered that the proposed use represents a security risk which would result in the refusal of planning

permission. The application does not fall within the criteria for consultation with the Sussex Police Crime Prevention Officer.

- 8.17 Concerns have been raised as to whether the proposed use represents a fire risk. The use involves the parking of vehicles in proximity to residential properties. No concerns have been identified.
- 8.18 The large storage building to the rear of nos. 35-36 Lewes Road does not form part of the application site. Were the proposed use to be implemented the use of this storage building for other purposes would be restricted as the servicing area around the building would be limited.
- 8.19 Previous uses of the site suggest the potential for contamination of land. No penetrative ground works are proposed as part of the application, this matter is not therefore of significant concern in relation to the application proposal.

9 CONCLUSION

- 9.1 Subject to compliance with appropriate conditions, the proposed change of use is considered to be acceptable in this location, would not cause significant harm to neighbouring amenity and is acceptable having regard to transport considerations. Approval is recommended.

10 EQUALITIES

- 10.1 No implications identified.

11 CONDITIONS / INFORMATIVES

11.1 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.

Plan Type	Reference	Version	Date Received
Location plan	12/04-01		23/08/2012
Existing site plan	12/04-05		23/08/2012
Proposed site plan	12/04-02		23/08/2012
Proposed elevations & floorplan of sales office	12/04-03		23/08/2012

- 3) The permission hereby approved grants consent for car sales only. No other activities shall be carried out.
Reason: To protect the amenity of neighbouring occupiers and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

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- 4) The use hereby permitted shall not be open to customers except between the hours of 09.30 and 17.00 on Mondays to Saturdays and 10.00 and 16.00 on Sundays, Bank or Public Holidays.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 5) Deliveries to the premises hereby approved shall not take place except between the hours of 09.30 and 17.00 on Mondays to Saturdays and 10.00 and 16.00 on Sundays, Bank or Public Holidays.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
- 6) The external lighting hereby approved shall not be in use except between the hours of 09.30 and 17.00 on Mondays to Saturdays and 10.00 and 16.00 on Sundays, Bank or Public Holidays.
Reason: To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 7) Vehicular access to the site shall be from Lewes Road only and all vehicles shall leave the site onto Newport Street only.
Reason: In the interests of highway safety, to restrict the size of vehicles using Newport Street and to comply with policies TR7 and QD27 of the Brighton & Hove Local Plan.
- 8) No vehicles exceeding 3000kg maximum gross weight shall enter the premises.
Reason: In the interests of highway safety, to restrict the size of vehicles using Newport Street and to comply with policies TR7 and QD27 of the Brighton & Hove Local Plan.
- 9) The vehicle parking spaces for staff of and visitors to the premises shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles belonging to the staff of and visitors to the development hereby approved.
Reason: To ensure that adequate parking provision is retained and to comply with policy TR19 of the Brighton & Hove Local Plan.

11.2 Pre-Commencement Conditions:

- 10) The external lighting hereby approved shall not be installed until full details of the lighting has been submitted to and approved in writing by the Local Planning Authority. The lighting installation shall comply with the recommendations of the Institution of Lighting Engineers (ILE) "Guidance Notes for the Reduction of Light Pollution" (dated 2005,) for **zone E** or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) shall be submitted with the details. The approved installation shall be maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to a variation.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

11.3 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:-
Subject to compliance with appropriate conditions, the proposed change of use is considered to be acceptable in this location, would not cause significant harm to neighbouring amenity and is acceptable having regard to transport considerations.
2. The applicant is advised that the grant of planning consent does not preclude any investigations being undertaken by the Environmental Health Department should complaints be received. The department has specific duties and powers to be able to deal with a variety of statutory nuisances under the Environmental Protection Act 1990 and powers to abate the nuisance if identified.



Brighton & Hove COUNCILLOR REPRESENTATION
City Council

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From: Pete West
Sent: 09 October 2012 16:46
To: Jon Puplett
Cc: m.e.winder@sussex.ac.uk; Lizzie Deane; Ian Davey; Angela
Subject: BH2012/02367 37 Lewes Road

Dear Jonathan,

I write in support of local residents who are expressing concern over some likely outcomes from the proposed change of use from tool hire to car sale at this premises. I add to their concerns some of my own and would appreciate your response to how these matters will be addressed.

1. noise from customer and stock vehicles, and staff activity. This will particularly impact on Sundays. Has noise assessment been conducted given the likely acoustic amplification of surrounding buildings?
2. air pollution from the vehicles being demonstrated and tested
3. Although permission for garage services is not sort, it is usual for car sellers to carry valeting and vehicle repairs that will potentially generate noise from machinery, blow off from spray paints, odour from repair solvents. It will be difficult to enforce control of such activities.
4. vehicle movements to and from site, especially customers, and impact on other highway users, air and noise pollution. Are the plans for Lewes Road in particular compatible with this proposed use?
5. adequacy of on-site customer parking to ensure no on-street parking pressure
6. control of vehicle stock numbers to ensure surplus not stored on street
7. in close proximity to residential properties, and the Lewes Road Sustainable transport corridor, and Lewes Road shopping area, this proposal will not enhance the local economic environment and townscape. How is the proposal compatible with the expectations of the Local Plan, draft City Plan policy for Lewes Road DA3, and London Road/Lewes Road LR2?
8. risk of attracting crime as vehicles will be stored in the open and if the site lacks adequate perimeter security. I understand that it is proposed to condition to limit the use of floodlighting. Will that restrict lighting to be off after opening hours to protect the amenity of neighbours. I note concern about use of proximity detectors and how they may be tripped by wildlife causing night time nuisance.
9. would security lighting be needed to support use of CCTV. What is the advice of the Police and Crime Reduction Partnership?
10. there will be a considerable risk of fire and explosion from the concentration of vehicles stored in close proximity to dwellings if subject to an arson attack or if there is a fault. What is view of the ESF&RS about how appropriate this location is for such storage?
11. I understand the portacabin office was installed before the planning consultation even began on the application. A noise abatement order has had to be served on the applicants business associates at an adjacent property for their disturbance of residential neighbours. None of this inspires confidence that the applicant will respect the conditions if the application is granted.

Many thanks for your consideration.

I appreciate your target decision date is looming, and that many of these questions may take time to answer, so pending conclusion of your deliberations may I please request this application is determined by the planning committee.

Best regards

Pete West