

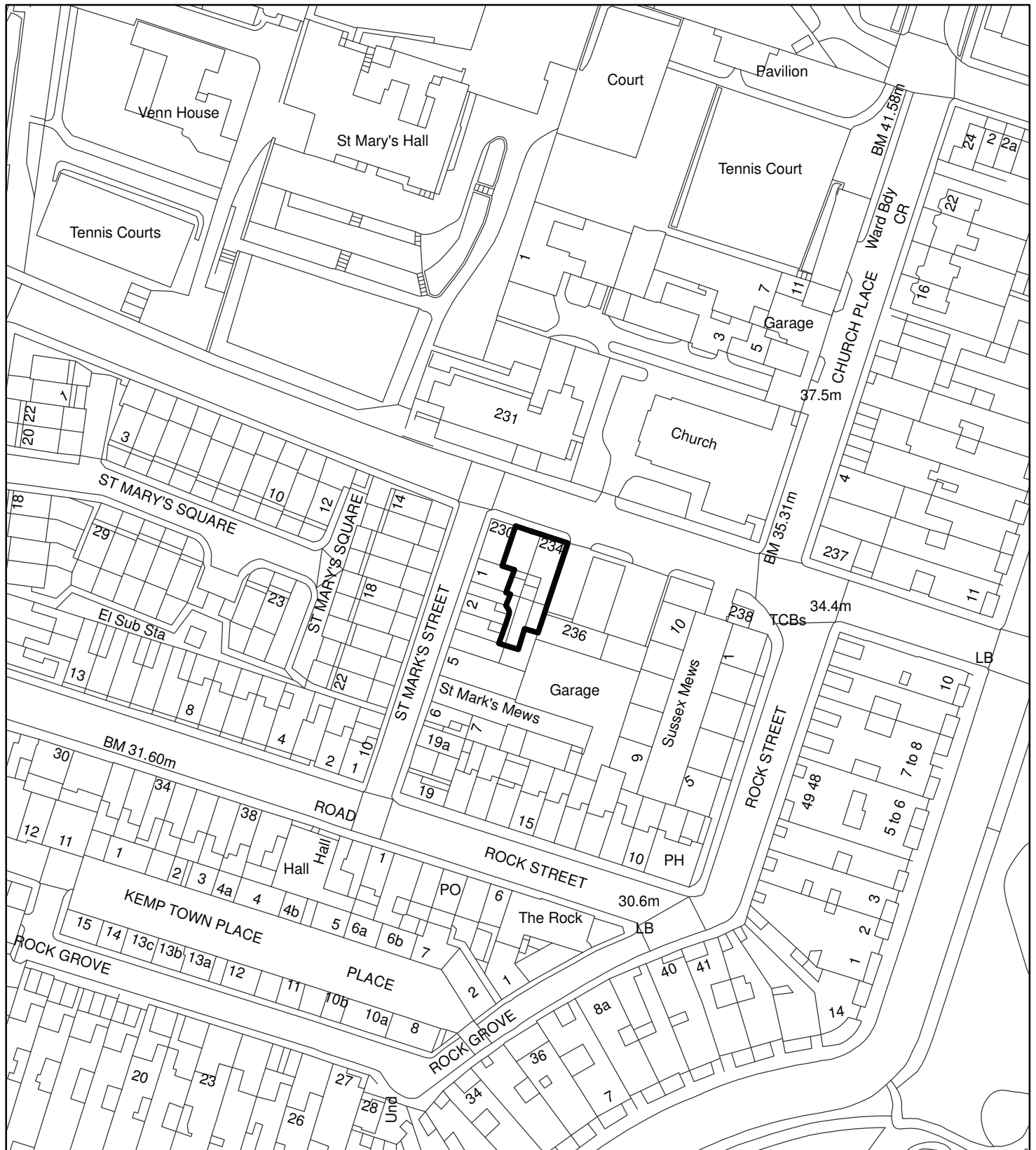
**PLANS LIST
ITEM C**

232-234 Eastern Road, Brighton

**BH2012/02341
Full planning consent**

30 JANUARY 2013

BH2012/02341 232 - 234 Eastern Road, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2012/02341	<u>Ward:</u>	EAST BRIGHTON
<u>App Type:</u>	Full Planning		
<u>Address:</u>	232-234 Eastern Road, Brighton		
<u>Proposal:</u>	Change of use from retail (A1) to mixed use retail (A1) and hot food take away (A5).		
<u>Officer:</u>	Robin K Hodgetts, Tel 292366	<u>Valid Date:</u>	10/08/2012
<u>Con Area:</u>	East Cliff	<u>Expiry Date:</u>	05/10/2012
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Lewis & Co Planning, Paxton Business Centre, Portland Road, Hove		
<u>Applicant:</u>	STE Ltd, C/O Lewis & Co 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 **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application relates to a ground floor and basement A1 retail unit in a 3 storey terrace with residential flats above, that lies on the south side of Eastern Road. It includes an outside storage area to the rear, accessible from St Mark's Street, and backs onto the rear of residential properties on St. Mark's Street.
- 2.2 To the east of the site is a petrol station and carwash and to the west is another A1 retail unit. Opposite the site, on the northern side of Eastern Road, is a residential, three storey block of flats. The property is in the East Cliff Conservation Area.

3 RELEVANT HISTORY

BH2006/01956: Creation of an opening for an additional door in the shop front. – Approved 08/09/06.

83/1332: Change of use of 1st floor from offices to residential and conversion of property to form 8 bedsits (1st and 2nd floors) and 1 flat (3rd floor) – Approved 29/12/83.

80/2114: Provision of new pedestrian door to storage area on St Mark's Street elevation – Approved 06/02/81.

79/2979: New shopfront – Approved 11/01/80.

79/2403: New shopfront – Refused 29/10/79.

68/1670A: Change of use of first floor from flats to offices – Approved 03/10/68.

4 THE APPLICATION

- 4.1 Planning permission is sought for the change of use of the unit from retail (A1) to mixed use retail (A1) and hot food takeaway (A5) including provision of an extraction vent to the rear elevation.

5 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours: Seven (7)** letters of representation have been received from the occupiers of: **1 St Mark's Street (x2), 3 Cowden Road, Flat 2, 230 Eastern Road, Flat 1, 230 Eastern Road, 37 Chesham Road and Flat 2, 232 Eastern Road** objecting to the application for the following reasons:

- An increase in the amount of noise, odour and waste materials at the site, including street litter.
- An increase in the amount of traffic generated by the site and a general lack of parking in the area.
- Concerns and allegations were also made regarding non-planning matters or matters not related to this application.

- 5.2 **Sussex Police:** The Crime Prevention Adviser for Sussex Police raised some concerns about the potential impact, in terms of increased footfall, noise and litter, on neighbouring residential properties but feels that the proposed 2300 closing time is acceptable but should not be exceeded. They were also pleased to note that the delivery scooters would not take up the limited parking spaces available.

Internal

- 5.3 **Environmental Health: Support:** If the proposal is to be granted, as a precautionary measure, would recommend a condition to ensure that the development does not cause a noise disturbance to adjoining and nearby noise sensitive properties. The application, with its Acoustic Report, is considered to address concerns regarding potential noise and odour nuisance caused by the proposed use and extract flue. Conditions are recommended relating to soundproofing of plant / machinery and hours of opening / use.

- 5.4 **Planning Policy: Support:** It appears that the application site has operated as one retail unit since at least 2006, if not before, and that despite the frontage appearing to form two planning units, is considered to be one unit. As such policy SR8 applies. The partial change of use to introduce a small amount of A5 to become a mixed use is considered acceptable in line with policy SR8, provided conditions are applied ensuring that the only parts of the site used for A5 use are specified and that the significant A1 retail element is retained. A condition was also recommended seeking details of the proposed shopfront are submitted.

- 5.5 **Sustainable Transport: Support:** Recommended approval as the Highway Authority have no objections to this application.

- 5.6 The proposals to change the permitted use of A1 to a combined A1/A5 use are not considered to have a negative highway impact. The total floor area is to

remain the same at 348m² (58m² to be A5 land use). These proposals are not considered to increase the total person trip rate generated by the building. There may be more trips in the evening, than currently occurs, as more people will go to the takeaway in the evening however this is not deemed to have a negative impact upon the operation of the highway. The proposals are therefore not considered to have a material highway impact above existing permitted levels of trip generation associated with the existing use.

- 5.7 The applicant is not proposing any on-site car parking spaces. SPG04 states that the maximum car parking standard for a take away land use within a CPZ is 1 car parking space per 5m² of public area plus 1 space per 2 full time equivalent members of staff. Therefore the proposed level of car parking is in line with SPG04 and deemed acceptable.
- 5.8 SPG 4 states that a minimum of 1 cycle parking space per 300m² of floor space or part thereof is required for every A5 development. For this development of 58m² of A5 land use the minimum parking standard is 1 cycle parking space. In order to be in line with Policy TR14 of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient, well lit, well signed and wherever practical, sheltered.
- 5.9 It appears from the submitted plans that there is adequate space within the rear yard to accommodate cycle parking to the minimum standard, which could be secured via condition.
- 5.10 The nature and number of servicing and delivery movements associated with the takeaway is considered to be similar to the permitted use of a convenience store. There may be slightly more if a delivery service is to be offered as part of the takeaway service. There are currently double yellow line parking restrictions to the front of the property. Therefore legal loading can take place from here if a delivery service was to be operated. There are also parking opportunities down St Mark's Street for customers who are travelling to collect food orders. Therefore the servicing and delivery arrangements are deemed to be acceptable and not considered to be a reason for refusal.
- 5.11 The Highway Authority would not wish to restrict grant of consent of this Planning Application. The Highway Authority would recommend that a condition relating to cycle parking is included on any permission granted.

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
TR14	Cycle access and parking
TR19	Parking standards
SU10	Noise Nuisance
QD14	Extensions and Alterations
QD27	Protection of Amenity
SR8	Individual shops
EM6	Small industrial, business units and warehouse units
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Guidance:

SPGBH4 Parking Standards

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of the change of use, the visual impact of the physical works, impact on the conservation area and the impact of the development on the amenity of nearby properties and highway capacity/safety.

Principle of the proposal

- 8.2 Policy SR8 – Individual Shops of the Local Plan applies, however, because the application does not seek the loss of an A1 retail unit, rather a change of use from A1 to a mixed use A1/A5. The proposal would result in 287sqm A1 retail floorspace (including internal storage areas) and 57.5sqm (16.7%) A5 take away floorspace. There is no objection in principle to this change of use. Therefore the proposal is acceptable in principle and compliant with the policies of the Local Plan.

Design:

- 8.3 The physical alterations involve only the installation of an extraction unit to the rear elevation, exiting at ground floor level and rising to second floor level. Due

to this location it would not be visible from any public space of footpath/highway. The only place it would be visible is from the forecourt of the adjoining petrol station at 236 Eastern Road. The extract unit is not considered to have any detrimental effect upon the appearance of the host building, wider street scene or conservation area.

- 8.4 The scheme does not propose any alterations to the front of the property. If approved, it is likely that advertisements will be proposed for the new use. An informative is therefore recommended advising the applicant that advertisement consent may be required for any new signs.

Impact on Amenity:

- 8.5 Policy QD27 states that planning permission for any development will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.6 The proposed use and extraction flue would have the most potential for impact on the amenity of the occupiers of the flats above the site, by way of noise and odour. Details of the proposed extraction have been supplied by way of an acoustic report. The Environmental Health Officer considers that based on the information provided the development is unlikely to result in significant harm to neighbouring amenity, subject to conditions restricting of hours of operation and ensuring adequate soundproofing of all plant / machinery.
- 8.7 It is recognised that an A5 use does have the potential to create amenity issues relating to noise and odour but considering the location, acoustic report submitted, proposed hours of use and comments received from Environmental Health and Sussex Police it is not considered that this would be significantly detrimental to neighbouring amenity.
- 8.8 It is noted that the opening hours sought by the applicant are 08.00 to 23.00 on all days which are reasonable and match with the condition restricting the hours as recommended by Environmental Health. As such a condition to this effect is recommended.
- 8.9 If noise and/or odour complaints were received sufficient provisions exist within the powers under the Environmental Protection Act 1990 for Environmental Health to investigate the matter and take whatever action is deemed necessary to abate the problem.

Sustainable Transport:

- 8.10 The Highway Authority considers that the proposed development is unlikely to generate significantly increased traffic levels. There is likely to be an increase in traffic in the evening but this is not considered to be harmful to the operation of the highway. It is also noted that a 24 hour petrol station operates adjacent to the site which would have more potential impact on traffic than the proposal.

- 8.11 The proposal does not include any provision of parking or cycle parking spaces. In order to comply with SPG4 a condition requiring details of a secure parking space is recommended.

Other Issues:

- 8.12 Matters relating principally to fire safety as raised by objectors are not material planning considerations.

9 CONCLUSION

- 9.1 The proposed development would retain a healthy balance and mix of uses within the area as well as retaining a retail element fronting Eastern Road. The scheme would not result in a significant impact on the amenity of any adjacent residential properties and is also deemed appropriate in terms of its impact on the appearance and character of the surrounding East Cliff Conservation Area.

10 EQUALITIES

- 10.1 None 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 and block plan			07/01/13
Existing plans, section and elevations	01		27/07/12
Proposed plans, section and elevations	02		27/07/12

- 3) Noise associated with all plant and machinery (including the proposed extract duct) incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB(A) below the existing L_{A90} background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997. 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.

- 4) The use hereby permitted shall not be open to customers except between the hours of 08.00 and 23.00 each day.

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.

- 5) Unless otherwise agreed in writing by the Local Planning Authority, the Class A5 use hereby permitted shall be restricted to the ground floor area only as specified on approved drawing No.02 received on 27 July 2012. Further, notwithstanding the indicative internal layout submitted, no seating or other facilities for customers associated with the A5 use shall be provided within the southern section of the ground floor of the unit, originally No.233, which shall only be used for retail uses falling within Use Class A1 only.

Reason: To retain a retail use and frontage to Eastern Road in accordance with Policy SR8 of the Brighton & Hove Local Plan.

- 6) No deliveries or servicing shall take place from the side access to St. Marks Street.

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.

11.2 Pre-Occupation Conditions:

- 7) The development hereby permitted shall not be brought into use until secure cycle parking facilities for the occupants of the development have been provided in full compliance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that satisfactory facilities for the parking of cycles are provide and to encourage travel by means other than private motor vehicles and to comply with policy TR14 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:-
The proposed development does not include the loss of a retail unit. The scheme would not result in a significant impact on the amenity of adjacent residential properties and is also deemed appropriate in terms of its impact on the appearance and character of the surrounding East Cliff conservation area.

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2. The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: ehl.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing). It is also the responsibility of the applicant to ensure that they comply with food safety legislation, including registration of the premises under EC Regulation 852/2004.
3. Please note that advertisement consent is likely to be required for proposed advertisements. Please contact the Planning Department if you wish to discuss this further. The applicant is advised to refer to the Council's guidance on advertisements in Supplementary Planning Document 8: Advertisements for further assistance.
4. In accordance with the National Planning Policy Framework the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.