

**PLANS LIST  
ITEM E**

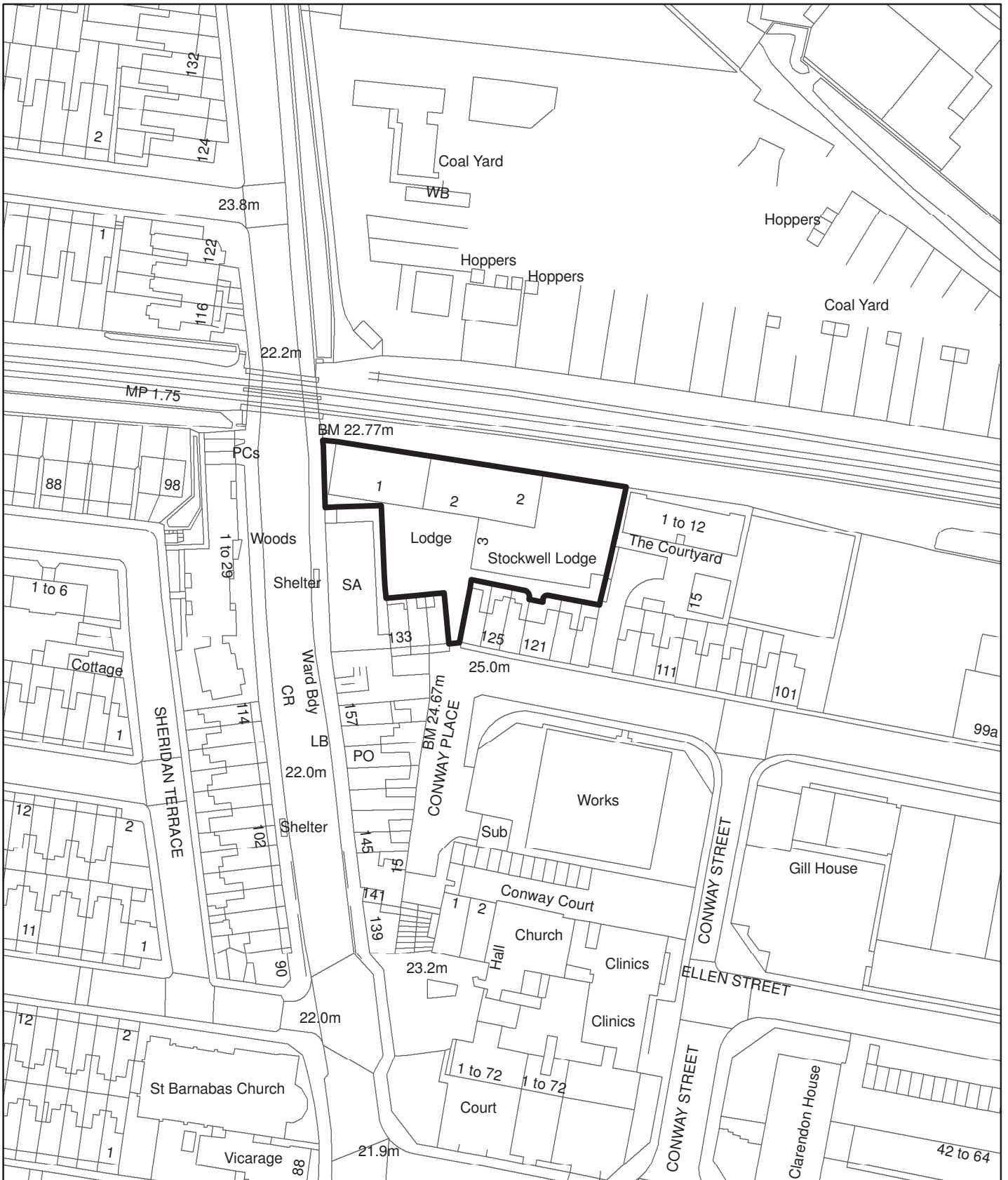
**121-131 Conway Street, Hove**

**BH2012/03988**

**Removal or variation of condition**

**13 MARCH 2013**

# BH2012/03988, 121-131 Conway Street, Hove.



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<b><u>No:</u></b>	<b>BH2012/03988</b>	<b><u>Ward:</u></b>	<b>GOLDSMID</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>121-131 Conway Street, Hove</b>		
<b><u>Proposal:</u></b>	<b>Application for variation of condition 4 of 3/87/0895 (Change of use to 3no Class B1 Units from existing Builders Depot) that the use hereby authorised shall be limited to the hours of 0700 to 2100 Monday to Saturday, and 1100 to 1500 hours on Sundays and Bank Holidays.</b>		
<b><u>Officer:</u></b>	Clare Gibbons Tel: 292454	<b><u>Valid Date:</u></b>	17/12/2012
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	11/02/2013
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	Lewis and Co Planning SE Ltd, Paxton Business Centre, Portland Road, Hove		
<b><u>Applicant:</u></b>	Beads Unlimited, Mr Geoff Ellis, Unit 3, Stockwell Lodge, 121-131 Conway Street, Hove		

## 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 **REFUSE** planning permission for the reason set out in section 11.

## 2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located on the north side of Conway Street close to its junction with Conway Place. It is situated behind two storey residential terraced properties fronting Conway Street and is accessed via a gap between nos. 127 and 129 Conway Street. The application premises are within a single storey building containing light industrial uses, that together with an adjoining building in similar use, for an L-shape around a courtyard used for car parking.
- 2.2 To the north of the site are railway lines. To the west of the site is a Salvation Army building. To the south are two storey residential buildings.

## 3 RELEVANT HISTORY

**BH2012/03987:** An application seeking retrospective planning permission to change the use of Unit 2, 121-131 Conway Street from light industrial (B1) to Stroke Care Facility (D1) and Martial Arts Facility (D2) is currently under consideration.

**BH2012/01778:** On 14<sup>th</sup> August 2012 planning permission was refused for a change of use from light industrial (B1) to Stroke and Neurological Physiotherapy clinic (D1).

**3/87/0895:** On 15<sup>th</sup> January 1988 planning permission was granted for a change of use to 3 Class B1 units from existing builder's depot. This was subject to conditions restricting the use to B1; restricting operating hours to 07:00 to 18:00

Monday to Friday, 07:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays; and to retain the car parking area and turning space.

**M/13709/68:** On 2<sup>nd</sup> September 1968 and 16.4.1969 (for a revised proposal) planning permission was granted for the builder's depot with loading and unloading bays and parking for 19 cars.

#### **4 THE APPLICATION**

- 4.1 Condition 4 of the planning permission for the use of the site as 3 Class B1 units (ref: **3/87/0895**) states that the permitted opening hours are 07.00 to 18.00 Monday to Friday and 07.00 to 13.00 on Saturdays (with no working on Sundays or Bank Holidays).
- 4.2 This application seeks to extend the hours of operation to enable the premises to be used between 07.00 to 21.00 hours Monday to Saturday and 11.00 to 15.00 on Sundays and Bank Holidays. There is a discrepancy between the application forms and the supporting letter for this application. The application states that the variation is for 11.00 to 15.00 on Sundays and Bank Holidays but the supporting letter indicates 11.00 to 17.00. For the avoidance of doubt, this application is being considered on the basis of the description of development on the application forms, and the application has been publicised on this basis.

#### **5 PUBLICITY & CONSULTATIONS**

##### **External**

- 5.1 **Neighbours:** **Four (4)** letters of objection and **one (1)** petition with 25 signatories have been received as set out in Appendix A attached to the report. Concern has been expressed on the following grounds:
- disturbance from cars and people coming and going from the premises,
  - residential properties in very close proximity,
  - given the road system all the traffic has to pass and repass houses,
  - the access is a narrow driveway,
  - some sessions operate outside the stated times and inappropriate for residential location especially on evenings, Sundays and Bank Holidays.
- 5.2 **Forty Eight (48)** letters of support have been received as set out in Appendix B attached to the report. Support has been expressed on the following grounds:
- the proposal is in-keeping with a light industrial area,
  - provides flexibility for local and start-up businesses,
  - users are respectful of neighbours,
  - positive benefits to the current business occupiers,
  - proposal is in line with operation of neighbouring train station, most people arrive on foot, adjacent to railway line and nearby bus depot and not open to the public.
- 5.3 **Councillor Rob Jarrett** has expressed concern that the proposal would cause considerable disturbance to residents in Conway Street (copy attached).

**Internal:**

- 5.4 **Environmental Health:** No objection subject to conditions restricting deliveries, requiring no open storage and no industrial activity to take place outside the building.
- 5.5 **Highway Authority:** No objection. The proposed extension of hours is outside of the traditional peak hours (Monday – Friday 8-9am and 17-18pm) and is not forecast to have a negative impact on the operation of the highway network.

**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
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU10	Noise nuisance
QD27	Protection of amenity

Supplementary Planning Guidance:

SPGBH4	Parking Standards
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Draft City Plan – Part 1

None relevant

**8 CONSIDERATIONS & ASSESSMENT**

8.1 On 26<sup>th</sup> October 1987 planning permission was granted for a change of use to 3 no. Business Class B1 Units from existing Builders' Depot. Condition 4 attached to that permission states that *'The use hereby authorised shall not be permitted on Sundays or Bank Holidays and shall be limited to the hours of 7a.m. to 6p.m. Monday to Friday and 7 a.m. to 1 p.m. on Saturdays'*. This application seeks to vary that condition to allow the light industrial units to operate from 7.00a.m. until 9p.m. from Monday to Saturday and 11a.m. to 3p.m. on Sundays and Bank Holidays.

8.2 Section 73 of the Town and Country Planning Act (as amended) provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. Such applications can be granted unconditionally or subject to different conditions or they can be refused if it is considered that the original conditions should continue. The reason for imposing the requisite condition was *'To ensure that the amenities of the neighbouring properties are preserved the occupiers of which might suffer disturbance or annoyance if the condition was not complied with'*. The proposal does not raise any significant issues in terms of parking provision or highway safety, so the main consideration in the determination of this application relates to the impact on the amenity of neighbouring residential occupiers.

**Impact on the amenity of the surrounding area**

8.3 Policy QD27 states that planning permission for any development or change of use 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. Policy SU10 requires that proposals for new development will be required to minimise the impact of noise on the occupiers of proposed buildings, neighbouring properties and the surrounding environment.

8.4 Residential properties on Conway Street back onto the application site and the access to the application premises is through a narrow gap between two houses (nos. 127 and 129 Conway Street). Given the constrained nature of the site and its close proximity to neighbouring residential occupiers, it is reasonable for residents to expect no activity during the evenings, on Saturday afternoons and at no time during Sundays and Bank Holidays. It is understood that this was the rationale for applying the condition attached to the 1987 permission.

8.5 4 letters of objection and 1 petition with 25 signatories have been received, expressing concern has been expressed on the following grounds: disturbance from cars and people coming and going from the premises, residential properties in very close proximity, given the road system all the traffic has to pass and repass houses, the access is a narrow driveway, some sessions

operate outside the stated times and inappropriate for residential location especially on evenings, Sundays and Bank Holidays. Overall, it is considered that neighbouring residential occupiers would experience a significant loss of amenity as a result of the extended hours of operation, in particular as a result of the comings and goings to and from the premises by car. The situation is exacerbated by the narrow access to the site between residential properties and the fact that a number of residential units have rear gardens that back directly on to the employment site.

- 8.6 48 letters of support have been received on the following grounds: that the proposal is in-keeping with a light industrial area, provides flexibility for local and start-up businesses, users are respectful of neighbours, positive benefits to the current business occupiers, proposal is in line with operation of neighbouring train station, most people arrive on foot, adjacent to railway line and nearby bus depot and the premises are not open to the public. In the supporting letter for this application, it has been outlined that the proposed would increase surveillance of this site and thereby security. The potential economic benefits from extending hours of operation are recognised, however, these are not considered to outweigh the harm to residential amenity. The movements in connection with the application premises would pass through a gap between two houses and by residential properties and thereby would be intrusive outside of normal working hours. The car parking area for the B1 units is immediately behind residential properties that front Conway Street. Environmental Health have suggested other conditions to mitigate the impact (suggesting conditions restricting deliveries, requiring no open storage and no industrial activity to take place outside the building) but it is considered that these would not overcome the noise and disturbance from the extended hours of operation.

## **9 CONCLUSION**

- 9.1 On 26<sup>th</sup> October 1987 planning permission was granted for a change of use to 3 Business Class B1 Units from existing Builder's Depot. One of the conditions attached to that permission requires the hours of operation to be limited 7am to 6pm Monday to Friday, 7am to 1pm on Saturdays and at no time on Sundays or Bank Holidays.
- 9.2 This application seeks to extend the hours of operation beyond these to 9pm Monday to Saturday and 11am and 3pm on Sundays and Bank Holidays. The application premises are accessed through a narrow gap between two houses and are in close proximity to a number of residential properties fronting Conway Street who have private rear gardens backing on to the site. The proposal would result in more comings and goings from the application premises outside normal working hours, when residents should expect a reasonable level of peace and quiet. Therefore, the proposal would cause unacceptable noise and disturbance, contrary to policies QD27 and SU10.



**10 EQUALITIES**

10.1 None identified.

**11 REASON FOR REFUSAL / INFORMATIVES**

11.1 Reason for Refusal:

1. The proposed extended hours of use would result in additional comings and goings to and from the commercial premises, both pedestrian and vehicular, outside of normally accepted working hours thereby leading to additional noise and disturbance to the detriment of the amenities of the occupiers of residential properties that adjoin the site. The proposal is thereby contrary to the provisions of policies QD27 and SU10 of the Brighton & Hove Local Plan.

11.2 Informatives:

1. This decision is based on the drawings listed below:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Site location plan			14 <sup>th</sup> December 2012

2. 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.



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**Appendix A - Letters of Objection**

Property Name	Street	Town	Postcode
On behalf of residential houses on Conway Street			BN3
127	Conway Street	Hove	BN3 3LA
125	Conway Street	Hove	BN3 3LA
119	Conway Street	Hove	Bn3 3LA
<b>Petition with the following signatories:</b>			
125	Conway Street	Hove	BN3 3LA
133	Conway Street	Hove	BN3 3LA
123	Conway Street	Hove	BN3 3LA
127	Conway Street	Hove	BN3 3LA
145A	Sackville Road	Hove	BN3 3LA
15	Conway Place	Hove	BN3 3DW
1	Conway Place	Hove	BN3 3DW
1	Conway Place	Hove	BN3 3DW
121	Conway Street	Hove	BN3 3LA
115	Conway Street	Hove	BN3 3LA
111	Conway Street	Hove	BN3 3LA
103	Conway Street	Hove	BN3 3LA
127	Conway Street	Hove	BN3 3LA
Flat 14	The Courtyard, Conway Street	Hove	BN3 3LA
Flat 6	The Courtyard, Conway Street	Hove	BN3 3LA
Flat 8	The Courtyard, Conway Street	Hove	BN3 3LA
Flat 7	The Courtyard, Conway Street	Hove	BN3 3LA
Flat 9	The Courtyard, Conway Street	Hove	BN3 3LA
Flat 10	The Courtyard, Conway Street	Hove	BN3 3LA
Flat 11	The Courtyard, Conway Street	Hove	BN3 3LA
Flat 4	The Courtyard, Conway Street	Hove	BN3 3LA
109	Conway Street	Hove	BN3 3LA
105	Conway Street	Hove	BN3 3LA
35	Conway Court	Hove	BN3 3NR
131	Conway Street	Hove	BN3 3NR

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**Appendix B - Letters of Support**

<b>Property Name / Number</b>	<b>Street</b>	<b>Town</b>	<b>Postcode</b>
39	Lowther Road	Brighton	BN1 6LF
14 Gladstone House, 70	Stroudley Road	Brighton	BN1 4BH
Unit 3, Stockwell Lodge,	Conway Street	Hove	BN3 3LW
	Conway Street	Hove	BN3 3LW
Flat 12, Jasmine Court, 136	Holland Road	Hove	BN3 1WA
Flat 3, 22	Salisbury Road	Hove	BN3 3AE
64		Hove	BN3 1NG
21 (x 2)	Oakapple Road		BN42 4YL
Unit 1E Stockwell Lodge, 121-131	Conway Street	Hove	BN3 3LW
32	Hangleton Road		BN3 7GE
39 Marlin Court			BN43 5EQ
72	Stanmer Villas		BN1 7HN
281	Dyke Road	Hove	BN3 6PD
Unit 1F, Stockwell Lodge	Conway Street	Hove	BN3 3LW
17	Lennox Road	Hove	BN3 5HY
59B	Ditchling Rise	Brighton	BN1 4QN
33	Cobton Drive	Hove	BN3 6WF
5	Norman Road	Hove	BN3 4LS
46	Westfield Crescent	Brighton	BN1 8JB
48	Fawn Rise		BN5 9SR
136	Maypole Road		Rh19 3RE
19	Juniper Close	Worthing	BN13 3PR
18	West Hill Place	Brighton	BN1 3RU
176A	High Street	Lewes	BN7 1YE
4 King John Court	Emerald Court		BN43 5JQ
Flat 10, 57-58	Brunswick Road	Hove	BN3 1DH
3A	First Avenue	Hove	BN3 2FG
8	Freshwell Avenue		RM6 5DT
67	Monument Lane	Lickey	B45 9QJ
163 ( x 2)	Hangleton Lane	Hove	BN3 7SF
2	Shaftesbury Place	Brighton	BN1 4QS
182	Upper Shoreham Road		BN43 6BG
51	Dakin Close		RH10 7LL
Flat 3, 8	Bedford Square	Brighton	BN1 2PN
14	Waterloo Street		BN3 1AQ
119	Newick Road	Brighton	BN1 9JJ
52 ( x2)	Highdown Road		BN3 6ED
107	Dean Court Road	Rottingdean	BN2 7DL

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Flat 10, 25	Lansdowne Road	Hove	BN3 1GB
4	Shakespeare Road		BN11 4AL
Flat 3, 22	Salisbury Road	Hove	BN3 3AE
24	Hill Brow	Hove	BN3 6QF
1	Kirdford Close		BN16 2LW
38 (x 2)	Cheltenham Place	Brighton	BN1 4AB



**Brighton & Hove  
City Council**

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COUNCILLOR REPRESENTATION

**From:** rob.jarrett@brighton-hove.gov.uk  
**Sent:** 02 January 2013 22:12  
**To:** Planning Comments  
**Subject:** Planning Application BH2012/03988 - comment

## **Planning Application - BH2012/03988**

I object to the Planning Application

### **Sender's details**

Cllr Rob Jarrett  
c/o Kings House, Grand Avenue, Hove  
BN3 2LS  
01273 291148  
rob.jarrett@brighton-hove.gov.uk

### **Comment**

This variation will cause considerable disturbance to residents in Conway Street. I have no confidence that the applicants or their tenants will abide by any time limits.