

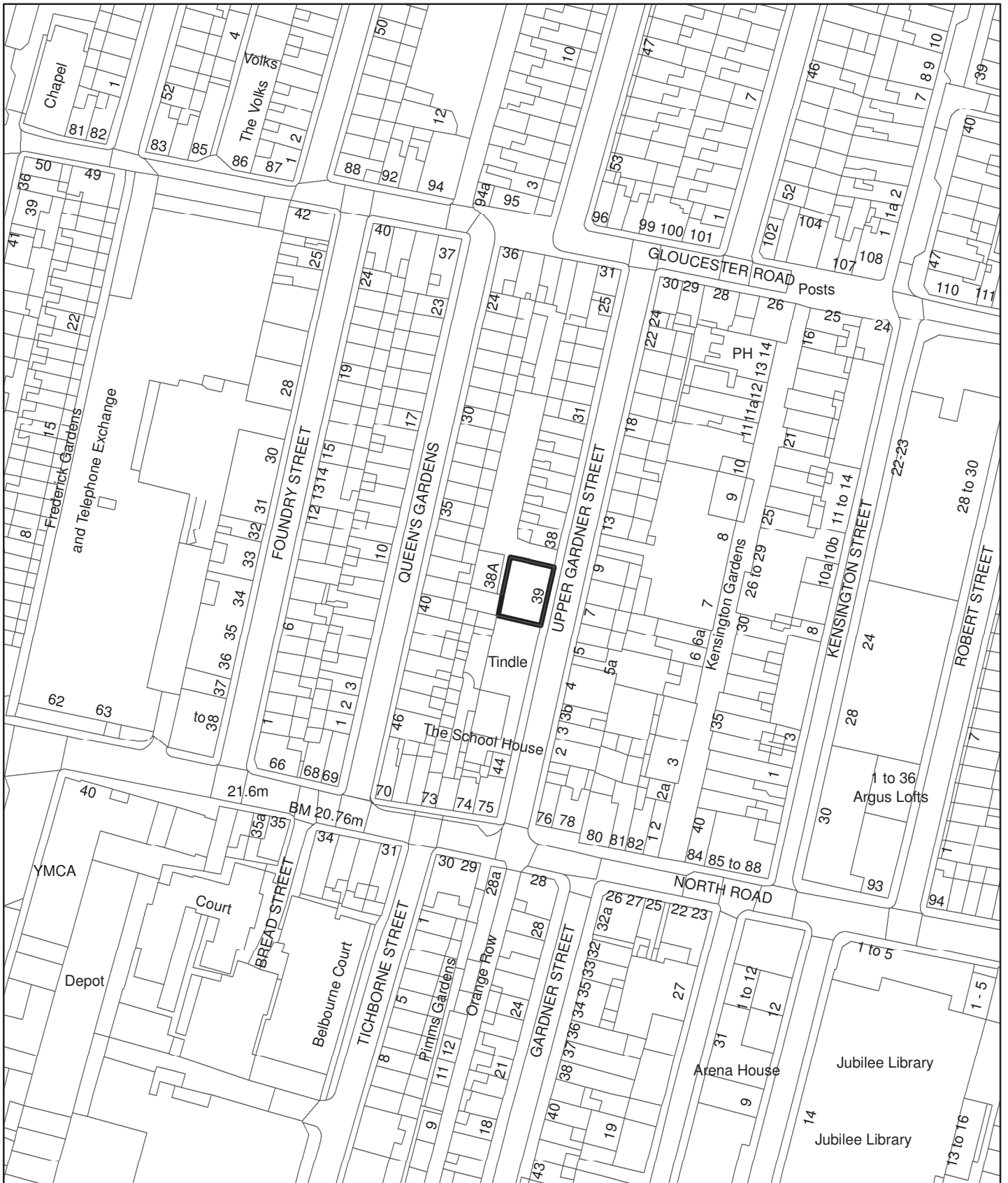
**PLANS LIST  
ITEM H**

**39 Upper Gardner Street, Brighton**

**BH2012/02173  
Full planning consent**

**24 APRIL 2013**

# BH2012/02173 39 Upper Gardner Street, Brighton.



**Brighton & Hove  
City Council**



**Scale: 1:1,250**

<b><u>No:</u></b>	<b>BH2012/02173</b>	<b><u>Ward:</u></b>	<b>ST. PETER'S &amp; NORTH LAINE</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>39 Upper Gardner Street, Brighton</b>		
<b><u>Proposal:</u></b>	<b>Change of use from mixed use retail/cafe (A1/A3) to café/restaurant (A3) on lower ground, ground and first floors and retrospective change of use from café (A3) to office (B1) on second floor, together with replacement of ground floor sliding doors and fenestration above.</b>		
<b><u>Officer:</u></b>	Christopher Wright, tel: 292097	<b><u>Valid Date:</u></b>	17/09/2012
<b><u>Con Area:</u></b>	North Laine	<b><u>Expiry Date:</u></b>	12/11/2012
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	Flint Architecture, 46 Shepherds Way, Ringmer, Lewes		
<b><u>Applicant:</u></b>	EU Recruitment, C/O Flint Architecture		

## 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 a three storey Victorian warehouse building on the west side of Upper Gardner Street.
- 2.2 The building is presently vacant except for the second floor which is in use as an office.
- 2.3 It is understood that for a brief period of some 6 months the building was used for mixed retail/café use following approval of application BH2011/01127 on 6 July 2011, but the business failed very quickly.
- 2.4 Upper Gardner Street incorporates a mixture of uses with the northern part of the street in residential use while the southern part is more mixed, with Class A1, D1 and A5 uses combined with residential.
- 2.5 The boundaries of the Regional Shopping Centre are close to the site, approximately 40 metres to the south along North Street, and the street to the east is completely within the Regional Shopping Centre. It is noted that a street market exists the length of Upper Gardner Street every Saturday.
- 2.6 The building is not listed, but it is situated in the North Laine Conservation Area.

### 3 RELEVANT HISTORY

**BH2011/01127:** Change of use from storage and distribution (B8) to mixed use retail (A1) and café/restaurant (A3) together with installation of new sliding glazed doors to the front elevation behind an existing timber door. Approved on 6 July 2011.

**BH2011/01561:** Display of externally-illuminated individual lettering sign and hanging sign and non-illuminated painted sign on existing external shutter. Approved 2 August 2011.

**81/1255:** Use of premises as wholesale warehouse. Refused 22 December 1987.

**80/1781:** Use of main building on Saturdays for the sale of antiques by auction (renewal of permission BH80/193). Approved 2 December 1980.

**80/193** – Use of main building for sale of antiques by auction on Saturdays. Approved for 6 months 20 May 1980.

**BN76.208:** Non-illuminated advert board on south elevation. Refused 16 March 1976.

**BN76.207:** Non-illuminated advert board on east elevation. Approved 16 March 1976.

**BN76.206:** Non-illuminated advert board on north elevation. Refused 16 March 1976

**BN75.1656:** Proposed construction of new window on front elevation. Approved 2 September 1975.

**73.24:** Change of use from storage and sale of antiques to sale of antiques from warehouse and stalls in ground on Saturdays. Refused 30 January 1973.

**69.1353:** Relay television distribution kiosk. Approved 29 July 1970.

**68.1845:** Retailing of goods on Saturday only in addition to normal work of garage. Refused 1 October 1968.

### 4 THE APPLICATION

4.1 Planning permission is sought for the change of use and external alterations to the building as follows:-

#### 4.2 Basement-

- Kitchen, storage and bin stores.

#### 4.3 Ground floor-

- Class A3 café use
- 66 square metres public floorspace
- W.C./baby change
- Lift
- Separate stair access to second floor

#### 4.4 First floor-

- Class A3 café use
- 90 square metres
- W.C./baby change
- Lift

4.5 Second floor-

- Class B1 office space
- Toilets/kitchenette
- Lift

4.6 External alterations-

- New hardwood doors and fanlights to replace existing sliding doors at access to B1 office.

4.7 The kitchen extraction system would be routed internally against the back wall of the building. A drawing of the external extraction outlet has not been submitted.

4.8 The former use, which is understood to have operated for around 6 months, comprised storage at basement level; retail at ground floor; office space at first floor level; and a restaurant at second floor level.

## 5 PUBLICITY & CONSULTATIONS

### External:

5.1 **Neighbours:** Eighteen (18) letters have been received from **114 (x2 – landlords of 2 properties in Upper Gardner Street) Holland Road; 45 Over Street; 31, 42 Queen’s Gardens; Flat 54 Argus Lofts Robert Street; 3a, 3b, 8 (x3), 13, 21, 26, 32, 34, 38 (x2), First Floor Flat North 40, 2<sup>nd</sup> Floor North 40, Upper Gardner Street, objecting to the application for the reasons summarised below:-**

- No benefit to the area.
- Inappropriate in a residential street.
- Sale of alcohol on the ground floor.
- Live music and recorded music.
- Smokers standing outside the front.
- Residents will not be able to sleep.
- There are bars at either end of the street.
- Increased noise and disturbance.
- Noise from morning bottle collections.
- The area is already noisy.
- Things should stay as they are.
- Late opening.
- Vandalism.
- Increased litter.
- Increased likelihood of violence.
- Street is used as a rat run for night-clubbers.
- Disintegration of North Laine community.
- The industrial building could be converted to other uses such as offices, flats or community use, without losing its character.
- Increased traffic.

- 5.2 **Eight (8) letters** have been received from **24 Belgrave Street; 81b Hanover Street; 11 Jew Street; 63 Princes Crescent; 55 Sackville Gardens; 4b, 38a Upper Gardner Street; Stowford, Withdean Road;** in support of the application for the reasons summarised as follows:-
- There is not much choice for a low-key venue that serves quality food in the North Laines area.
  - Independent nature of use as opposed to nationally run chains.
  - Positive addition to future development of Upper Gardner Street.
  - Shame that existing landmark building is not in use.
  - Restoration of building.
  - Will cater for families.
  - Will help regenerate the road.
  - Good for customers of existing businesses.
  - Great place to unwind with locally sourced food and drinks.
- 5.3 **North Laine Community Association: Objection.**
- The use of the ground and first floor as a café/restaurant, plus the lower ground floor, all with A3 use, is not suitable given that it is primarily a residential area.
  - The proposal will have a detrimental effect on the Upper Gardner Street market which is recovering following a period of poor performance.
  - The café style doors are inappropriate and not suitable for a building in a conservation area. The design does not reflect the previous use as an industrial building.
- 5.4 **Cllr Pete West objects** to the application (copy of letter attached).
- 5.5 **Sussex Police Crime Prevention Design Adviser: No objection.** It should be conditioned that alcohol is ancillary to food which is prepared on the premises and served at table by waiters/waitresses.
- Internal:**
- 5.6 **Licensing: No objection.** The proposed operation is a small restaurant operating well within hours defined in the Council's matrix for the Cumulative Impact Zone. Alcohol would only be served ancillary to a main table meal as a restaurant. The applicants have agreed with Environmental Health and Sussex Police condition to deal with noise, management of smokers, hours of operation and cumulative impact. The existing Licence will be surrendered prior to commencement of the new Licence.
- 5.7 **Sustainable Transport: No objection.** The applicant has stated they are not providing any on-site car parking spaces. The proposed level of car parking is below the maximum car parking standards and this is deemed acceptable.
- 5.8 Compared to the existing permitted uses the proposal will have little highway impact in terms of total person trip generation.

- 5.9 A minimum of 2 cycle parking spaces should be provided. Due to site constraint it does not appear that policy compliant cycle parking can be accommodated within the site. However, due to the temporary recession measures in place and the fact this development falls below the stated thresholds, the highway authority would not request a financial contribution on this occasion.
- 5.10 The proposals do not intend to change the servicing arrangements for the property. The proposed changes to the floor area are not forecast to have a detrimental impact upon the existing servicing arrangements for the units and there is not forecast to be a large increase in deliveries to and from the development above already permitted levels.
- 5.11 **Planning policy:** No objection. Given the site's location close to a wide range of shopping facilities and the failure of the recent retail (A1) business in the building, change of use from retail is acceptable under policy SR8. Subject to appropriate control over disturbance, noise and amenity issues, the proposed food and drink use would be acceptable. The provision of new office floorspace is welcomed in this city centre location and would reinstate an employment generating use to the building.
- 5.12 In this case the retail use granted in 2011 has already failed. In view of the brief and unsuccessful retail use and the location on a non-shopping street just outside the Regional Shopping Centre, it is not felt appropriate to require further demonstration of non-viability of the retail use. The proposed use is acceptable in principle within this city centre location and there are many other food and drink uses nearby. Alternative retail outlets are easily accessible and the proposal is considered to comply with policy SR8.
- 5.13 The proposed café floorspace exceeds 150 square metres and the four tests set out in policy SR12 need to be assessed.
- 5.14 There are many residential properties in close proximity and amenity issues should be carefully considered.
- 5.15 The existing café use on the second floor is not protected in planning policy terms. In principle the creation of new, modern office floorspace in a city centre location is to be welcomed. Policy EM4 includes a test of need that the applicant has not addressed. The NPPF has been published since that policy was adopted though, and requiring the demonstration of need could be viewed as restricting sustainable economic growth. The new office floorspace appears acceptable in other respects and would reintroduce an employment generating use to the building in partial replacement of the former warehouse.
- 5.16 **Heritage Team:** Seek amendments. The glazed screen within the large warehouse goods entrance would be replaced with a new one which is taller and has glazed lights above a transom in place of the non-original horizontal boarding infilling the top of the opening. The original large sliding boarded door

of this goods entrance screen to give independent access to the second floor offices. These alterations are acceptable, subject to satisfactory joinery details. However, the proposed stained hardwood finish is not appropriate to the character of the building and the joinery should be painted the same colour as the rest of the windows and doors and should be painted the same colour as the rest of the windows and doors and should have painted mild steel door furniture not stainless steel.

- 5.17 The existing timber framed shop window on the left hand side of the building would be replaced with a set of triple folding opening glazed windows. This type of window is inappropriate to the warehouse character of the building and would detract from its character and is considered unacceptable.
- 5.18 The drawings suggest that the ground floor of the building would be painted a different colour to the upper floors. This is not appropriate and the building should be painted a single colour (a pale cream, shade of white or magnolia).

## **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:
- Brighton & Hove Local Plan 2005 (saved policies post 2007);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
  - East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
  - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 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.
- 6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.



- 6.6 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) March 2012

Brighton & Hove Local Plan 2005:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD5	Design – street frontages
QD8	Shop shutters
QD10	Shopfronts
QD27	Protection of Amenity
EM3	Retaining the best sites for industry
EM4	New business and industrial uses on unidentified sites
SR8	Individual shops
SR12	Large Use Class A3 (food and drink) venues and Use Class A4 (pubs and clubs)
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Guidance:

SPGBH4 Parking Standards

Supplementary Planning Documents:

SPD02	Shop Front Design
SPD03	Construction and Demolition Waste
SPD08	Sustainable Building Design
SPD09	Architectural Features

Brighton & Hove City Plan Part One (submission document):

SS1	Presumption in Favour of Sustainable Development
CP3	Employment Land
CP12	Urban Design
CP13	Public Streets and Spaces
CP15	Heritage

## **8 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of the application relate to the principle of the proposed changes of use; the impact on the character of the existing building and the North Laine Conservation Area; transport considerations; amenity impact; and sustainability.

### **Principle**

8.2 The change of use of the former warehouse building for café/restaurant and office uses has previously been approved in principle under application BH2011/01127. The requirements of policy EM3 were met at that time and there is no requirement for further consideration of the loss of the warehouse use. At that time the previous use was considered to be genuinely redundant. This approval is understood to have been implemented and operated for some 6 months until the business failed.

8.3 The former warehouse (Class B8) use could have generated up to 10 full time equivalent (FTE) jobs, whereas the proposed use changes of use to café/restaurant (Class A3) and office space (Class B1) are proposed to employ 15 full time and 10 part time staff (18 FTE).

8.4 In this case the retail use previously granted in 2011 failed after a short period of six months. In view of the brief and unsuccessful retail use and the location of the site on a non-shopping street just outside the Regional Shopping Centre, it is not felt appropriate to require further demonstration of non-viability of the retail use to meet the requirements of policy SR8. This view is shared by the Planning Policy team. The proposed use is acceptable in principle within this city centre location and there are many other food and drink uses nearby. Alternative retail outlets are easily accessible and the proposal is considered to comply with policy SR8.

8.5 The proposed development would be accessible to those with mobility difficulties and there would be lift access onto all floors.

### **Character**

8.6 Policy QD14 of the Local Plan relates to extensions and alterations to buildings and requires them to be well sited, designed and detailed in relation to the recipient property and its surroundings. Policy HE6 more specifically applies to development proposals in conservation areas and requires development to preserve or enhance the historic character or appearance of the area.

8.7 There are a number of works proposed to the interior of the building, but because the building is not Listed, these works in themselves do not require planning permission.

8.8 The building has been substantially refurbished as part of the implementation of the previous planning permission.

8.9 The only external alterations to the building which are proposed include:

- Replacing the ground floor window to the A3 use.
- Replacing the sliding doors to the street entrance to the upper levels by way of three doors, transom and fanlights over.
- Painting the exterior of the building.

8.10 In response to consultation comments from the council's Heritage Team, the design of the doors to the warehouse goods entrance, which would form the access to the office space, has been amended to include transom and fanlights. The proposed finish has also been amended to match the joinery on the rest of the building, as opposed to the stained hardwood finish initially proposed.

8.11 The triple, folding shop window to the ground floor A3 use was not considered acceptable and amended plans submitted have deleted this proposal from the scheme. The existing shop window will remain and will not be replaced.

8.12 These amendments are considered acceptable and would help preserve and enhance the historic character and appearance of the building and would benefit the street scene and the wider conservation area.

#### **Transport**

8.13 In order to meet the requirements of policies TR1 and TR19 of the Local Plan, the proposal should provide for the transport demand generated by the development in accordance with the minimum cycle parking standards and maximum car parking standards set out in SPGBH4.

8.14 The application site is within the central area of the city where there are on-street parking controls. SPGBH4 requires, for Class A3 uses, 1 car parking space per 5 square metres of public area plus 1 car space per 4 full time equivalent staff members.

8.15 As such, the development could provide a maximum of up to 35 car parking spaces and still be compliant with planning policy.

8.16 In terms of cycle parking, SPGBH4 requires a minimum provision of 1 cycle parking space per 300 square metres of floor space or part thereof. In this instance a minimum of 1 cycle parking space would be required.

8.17 The application site is built right up to the public footway and has no access to any external area at the rear. The provision of either off-street car parking or cycle parking would not be possible for these reasons. The site is in a sustainable location in terms of transport, within walking distance of Brighton mainline station, a number of bus routes, and on the edge of the Regional Shopping Centre meaning combined trips are likely to be undertaken by persons visiting the town for other reasons other than solely to go to the proposed café.

8.18 It is noted that there is a large loading bay as existing outside the length of the property which allows for servicing between the hours of 09.00-18.00 Monday to

Saturday. This ensures that there is adequate potential to service the proposed development already in existence.

- 8.19 Sustainable Transport raises no objection to the proposal and considers that levels of trip generation to and from the site would not have a material impact on the highway in comparison with the previously approved uses of the land.
- 8.20 In addition, due to the temporary recession measures in place at the current time, the highway authority would not seek a financial contribution towards providing on-street cycle parking facilities to compensate for the shortfall of provision within the application site.
- 8.21 The proposal is therefore considered compliant with policies TR1 and TR19 of the Local Plan.

**Amenity Impact**

- 8.22 Policy QD27 of the Local Plan relates to protection of amenity and states permission will not be granted where development would cause material nuisance and loss of amenity to proposed, existing, and/or adjacent users, residents and occupiers, or where it is liable to be detrimental to human health.
- 8.23 Policy SU10 relates to noise nuisance and requires that proposals for new development minimise the impact of noise on the occupiers of proposed buildings, neighbouring properties and the surrounding environment. Development likely to generate significant levels of noise will be permitted only where appropriate noise attenuation measures are incorporated which would reduce the impact on the surrounding land uses, existing or proposed, to acceptable levels in accordance with Government guidance.
- 8.24 Where necessary planning conditions will be imposed and/or a planning obligation sought in order to specify and secure acceptable noise limits, hours of operation and attenuation measures.
- 8.25 The proposed development has the potential to cause nuisance to neighbouring residents through uses including extraction, the opening hours, deliveries and servicing.
- 8.26 The previous Licence granted in conjunction with the previous planning approval, BH2011/01127, would be relinquished prior to a new Licence coming into effect for the current proposal.
- 8.27 The previously approved Licence allowed for longer hours of opening and alcohol sales and consumption, until midnight Thursdays to Saturdays with alcohol sales permitted until 11.30pm and with recorded or live music being permitted until 11.30pm also. On all other days, Sundays through to Wednesdays, these activities were permitted until 10.30pm.

- 8.28 The previously approved Licence did not correspond the planning decision for application BH2011/00127, for which conditions 4 and 5 stated:
- A3 Use – 8.00am until 10.00pm Sundays to Thursdays; 8.00am – 11.00pm Fridays and Saturdays.
  - A1 Use – 8.00am until 9.00pm Sundays to Fridays; 8.00am – 10.00pm Saturdays.
- 8.29 In contrast the current application, together with the new Licence, will allow for recorded and live music and films until 9.45pm Thursdays to Saturdays and until 7.45pm Sundays to Wednesdays, whilst alcohol sales would be permitted until 8.00pm Sundays to Wednesdays and until 10.00pm Thursdays to Saturdays. The ground floor A3 use would be closed after 8.30pm every day and only the first floor portion of the A3 use would be in use. The first floor would be open until 8.30pm Sundays to Wednesdays and until 10.30pm Thursdays to Saturdays.
- 8.30 As such, the recently approved Licence and the proposed hours and use of the planning application would be less than as previously authorised, and as such any potential adverse impact on residential amenity should be reduced accordingly.
- 8.31 A number of objections have been received from neighbouring occupiers referring to the issue of increased noise and disturbance from the proposed use. The applicant has made clear the proposal is for a restaurant/café use, not a pub, and that alcohol will be served only with food consumed on the premises.
- 8.32 In respect of policy SR12 of the Local Plan, an exception to the requirements of this policy can be made if service is to seated customers only, in the manner of a restaurant or café. To ensure this, a condition is recommended to ensure that no alcohol can be sold or supplied except to persons who are taking meals on the premises and who are seated at tables.
- 8.33 In any case, a change of use from restaurant/café (Class A3) to a drinking establishment (Class A4) would require planning permission in its own right.
- 8.34 The site is in a location close to the edge of the Regional Shopping Centre and on a mixed use road which is predominantly residential to the north, but commercial to the south. The application site is located towards the end of the commercial part of the street and there is an antiques warehouse immediately to the north side of the site. The street to the rear of the site backs onto the building and is predominantly residential in nature.
- 8.35 The proposed opening hours are considered appropriate and in keeping with the opening times of similar uses in the area. The proposed opening hours also neatly tie in with the Licence, which would allow alcohol sales up to a period of 30 minutes prior to the premises closing. This is not considered unreasonable or incongruous with the character of the area considering it is a mixed use area and just outside of the defined commercial centre. As such the proposed

opening hours are considered acceptable without causing harm to neighbouring occupiers and would ensure the premises would close earlier than as previously approved under the previous application, BH2011/01127.

- 8.36 Deliveries to the premises could be undertaken from the dedicated loading bay directly outside the building. Early or later night deliveries and servicing could cause disruption and adverse effects on neighbour amenity. Accordingly a condition is recommended restricting deliveries and servicing to between 7.30am and 7.00pm Mondays to Saturdays and 8.00am until 6.00pm on Sundays and Bank Holidays. This is consistent with the view taken on the previous application, BH2011/01127.
- 8.37 No new windows or other openings are proposed on the building which could compromise neighbour privacy and amenity.
- 8.38 In view of the above it is considered the proposal would have a less adverse impact on residential amenity than the previously approved development and as such no conflict with policies QD27 or SR12 is identified.
- 8.39 The applicant states the extraction system for the basement kitchen would be routed internally to an outlet on the roof. The internal routing of the extraction ducting should minimise both the visual and noise impact of the system. However, no details of the outlet on the roof top have been submitted. A condition is therefore recommended requiring these details prior to the commencement of development.
- 8.40 The applicant should be advised by way of an Informative, that a replacement extraction outlet on the roof may require planning permission in its own right, and if this is the case, the application should be submitted with a noise impact report so that the potential impact on neighbour amenity can be evaluated.

### **Sustainability**

- 8.41 Policy SU2 of the Local Plan requires development to be efficient in the use of energy, water and materials. SPD08 requires non-residential development, including changes of use, of 235 square metres or less, to demonstrate a reduction in energy and water use.
- 8.42 No information has been submitted in relation to energy efficiency or a reduction in water use. However, it is considered details of these requirements can be secured by imposing a planning condition seeking further information, for example use of energy efficient lighting, A+ rated appliances, low flow/aerated taps and dual flush toilets for example.

## **9 CONCLUSION**

- 9.1 The building is vacant at present and the proposal would help bring it back into use and preserve and enhance this prominent former industrial building, to the benefit of the local area. The proposed use of the building would retain a good

level of employment space and the creation of a restaurant use on the edge of the Regional Shopping Centre which would not compromise the continued viability or vitality of other similar uses within the city. The proposed management of activities and opening hours would be reduced in comparison with the previously approved café/bar use and it is considered the impact on neighbour amenity would not be significantly harmful.

9.2 Accordingly approval is recommended.

## 10 EQUALITIES

10.1 The proposal will be required to meet current Building Regulations and includes lift access to all levels.

## 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	Revision	Date Received
Site Location Plan			12 Jul 2012
Existing Layout Plans	01	A	12 Jul 2012
General Arrangement Existing Plans	02		12 Jul 2012
General Arrangement Existing Elevation	03	D	20 Nov 2012
General Arrangement Proposed Plans	11	A	12 Nov 2012
General Arrangement Proposed Plans	10	D	7 Mar 2013
General Arrangement Proposed Elevations	12	A	7 Mar 2013

3. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues, shall be fixed to any elevation facing a highway.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and the conservation area and to comply with policies QD1, QD27 and HE6 of the Brighton & Hove Local Plan 2005.
4. The ground floor and first floor restaurant use (Use Class A3) hereby permitted shall not be open to customers except between the hours of

7.30am and 8.30pm Sundays to Wednesdays and between 7.30am and 10.30pm Thursdays to Saturdays.

**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan 2005.

5. No deliveries, servicing, loading or unloading of vehicles associated with the premises shall take place except between the hours of 7.30am and 7.00pm Mondays to Saturdays and between 8.00am and 6.00pm on Sundays.

**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan 2005.

6. The premises shall only be used as a restaurant/café (Use Class A3) on the ground and first floors, and as offices (Use Class B1) on the second floor, and for no other purposes (including any other purposes within Classes A3 and B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

**Reason:** The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policy QD27 of the Brighton & Hove Local Plan.

7. The kitchen mechanical extract system shall not be in use outside the opening hours for the A3 restaurant use hereby permitted, as set out in condition 4 of this consent.

**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan 2005.

8. No alcohol shall be sold or supplied within the Use Class A3 premises hereby approved except to persons who are taking meals on the premises and who are seated on chairs at tables. 'Meals' means food that has been cooked or prepared and purchased within the premises. Any bar area shall be ancillary to the approved A3 restaurant use.

**Reason:** In the interest of general amenity and public order and to comply with policies QD27 and SR12 of the Brighton & Hove Local Plan.

9. The joinery of the new entrance doors and transom windows hereby approved shall be black in colour as seen externally, and shall be retained as such thereafter.

**Reason:** To ensure successful integration with the existing building and to limit the impact of the development on the wider North Laine Conservation Area and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan 2005.

#### 11.2 Pre-Commencement Conditions:

10. No development shall take place until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.



- Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan.
11. The development hereby permitted shall not be commenced until details of sustainability measures have been submitted to and approved in writing by the Local Planning Authority. These details shall demonstrate how the development would be efficient in the use of energy, water and materials in accordance with Supplementary Planning Document SPD08 Sustainable Building Design. The development shall be carried out in strict accordance with the approved details.
- Reason:** To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.
12. Prior to the installation of the new entrance doors and transom windows to the front elevation, a 1:1 scale horizontal section of the proposed fenestration in situ detailing the set back within the opening reveal shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in strict accordance with the approved details and maintained as such thereafter.
- Reason:** To ensure successful integration with the existing building and to limit the impact of the development on the character of the building and the wider North Laine Conservation Area, and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan 2005.
13. Prior to the installation of the proposed external extraction outlet, a roof plan detailing its exact location shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in strict accordance with the approved details and maintained as such thereafter.
- Reason:** To ensure successful integration with the existing building and to limit the impact of the development on the character of the building and the wider North Laine Conservation Area, and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan 2005.

### 11.3 Informatives:

1. 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.
2. 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 Brighton & Hove Local 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 building is vacant at present and the proposal would help bring it back into use and preserve and enhance this prominent former industrial building, to the benefit of the local area. The proposed use of the building would retain a good level of employment space and the creation of a restaurant use on the edge of the Regional Shopping Centre which would not compromise the continued viability or vitality of other similar uses within the city. The proposed management of activities and opening hours would be reduce in comparison with the previously approved café/bar use and accordingly the impact on neighbour amenity would not be significantly harmful.
3. It is the responsibility of the applicant to submit the necessary applications to the Licensing Authority to ensure compliance with the Licensing Act 2003.
  4. The applicant should be aware that notwithstanding the above planning conditions, the future investigation of nuisance under the above legislation is not mitigated against. Should future investigations identify a Statutory Nuisance this could result in further noise control measures.
  5. The applicant is advised to register the development with the Food Safety Team at least 28 days prior to opening.

**From:** Pete West  
**Sent:** 14 September 2012 15:51  
**To:** Richard Elder  
**Subject:** 39 Upper Gardner Street Brighton BH2012/02173



Dear Richard Elder

I would like to object to the above planning application which is of considerable concern to my constituents in North Laine and in particular neighbouring residents of the premises in Upper Gardener Street.

The application proposes the loss of the current retail A1 element, the doubling of A3 café restaurant, with A3 to be at ground and first floor when it is currently only on second floor. Local Plan Policy SR8 resists loss of retail unless proven to be unviable, which has not been demonstrated in this case. SR8 is also concerned with the impact on the amenity of neighbouring residents. The loss of A1 and increase in A3 will very much change the nature of the activities of the premises; the nighttime footfall, customers in the street smoking, and with the proposed introduction of café doors an inevitable increase in noise breakout - all of which will negatively impact on the amenity of residents. I understand that many of the residential properties have main bedrooms at the front so the impact of nighttime noise will be particularly hard felt. I am also concerned that the café doors are inappropriate in terms of conservation of the building. It is also a conservation concern that the application will further and dramatically change the street scene of this quiet mainly residential street.

With best regards

Pete West

**Cllr Pete West**

**Green City Councillor for St Peter's & North Laine Ward, Brighton & Hove City Council.**

**BHCC committee positions: Chair of Environment & Sustainability Committee, Member of Policy & Resources Committee, Member of Transport Committee**

**BHCC appointee to: City Sustainability Partnership, B&H Estates Conservation Trust, Brighton Race Course Trust, LGA Rural Commission, City in Bloom Board.**

**Member of the South Downs National Park Authority (BHCC appointee)**

**SDNPA committee positions: Member of Resource & Performance Committee**

