

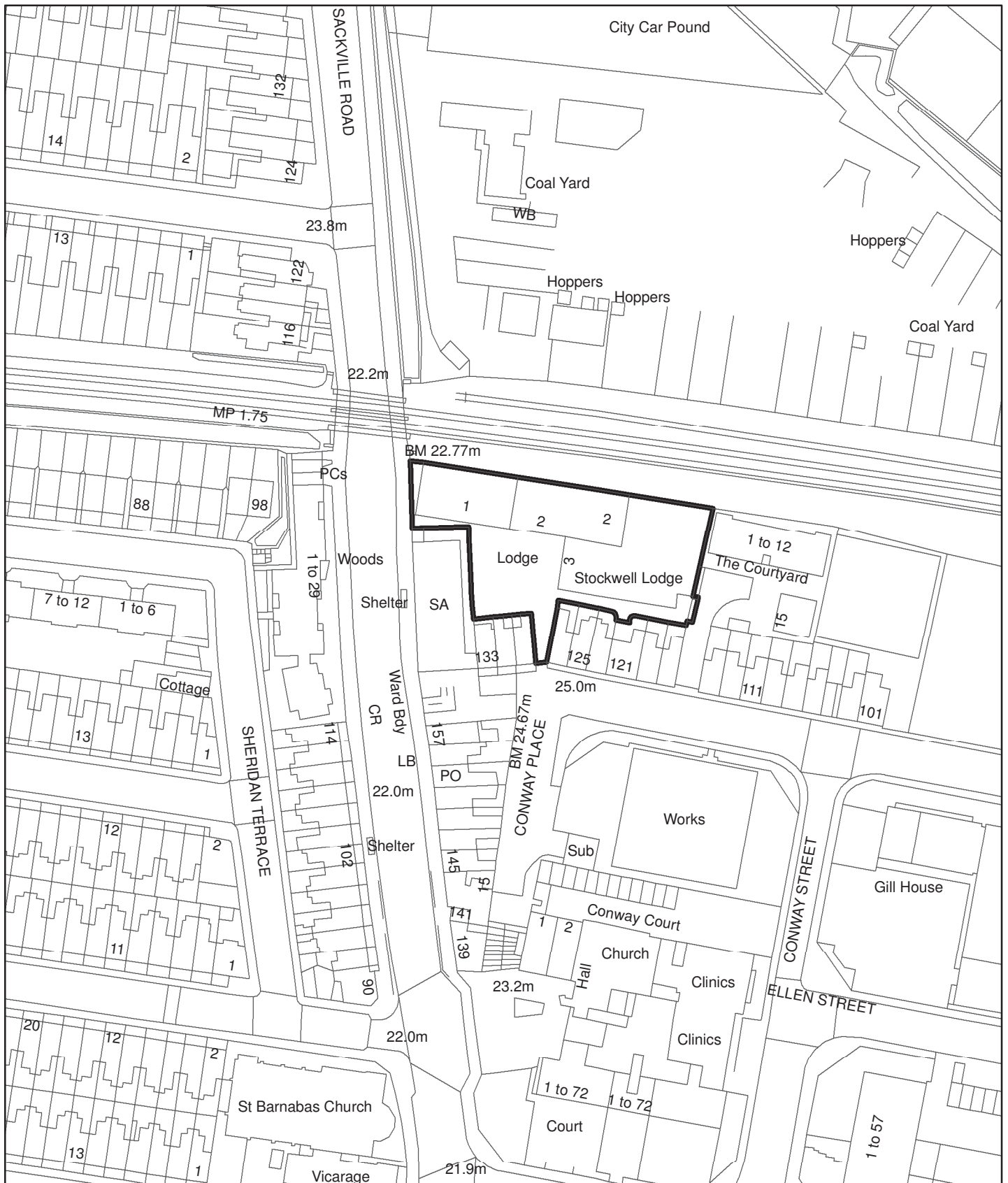
**PLANS LIST
ITEM F**

**Stockwell Lodge, rear of 121-131 Conway
Street, Hove**

**BH2013/00979
Removal or variation of condition**

05 JUNE 2013

BH2013/00979 Stockwell Lodge, rear of 121-131 Conway Street , Hove.



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2013/00979	<u>Ward:</u>	GOLDSMID
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	Stockwell Lodge Rear of 121 -131 Conway Street Hove		
<u>Proposal:</u>	Application for variation of condition 4 of application 3/87/0895 (Change of use to 3no business class B1 units from existing builders depot) that the use hereby authorised shall be limited to the hours of 0700 to 2000 Monday to Friday, 1100 to 1700 Saturdays and Bank Holidays, no working on Sundays.		
<u>Officer:</u>	Guy Everest Tel 293334	<u>Valid Date:</u>	27/03/2013
<u>Con Area:</u>	Goldsmid	<u>Expiry Date:</u>	22/05/2013
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Lewis and Co Planning SE Ltd, 2 Port Hall Road, Brighton		
<u>Applicant:</u>	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 **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located on the north side of Conway Street close to its junction with Conway Place. The site 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 which, together with an adjoining building in similar use, form an L-shape around a courtyard used for car parking / servicing.
- 2.2 To the north of the site are railway lines, to the west is a Salvation Army building and to the south two-storey residential buildings.

3 RELEVANT HISTORY

BH2012/03988: 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. Refused 20/03/2013 (following the Planning Committee meeting of 13th March 2013) for the following reason:-

- 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 and Hove Local Plan.

BH2012/03987: Change of use from Light Industrial (B1) to Stroke Care Facility (D1) and Martial Arts Facility (D2). Under consideration and included elsewhere on this agenda.

BH2012/01778: Change of use of zone 'A' unit 2 from Light Industrial (B1) to Stroke and Neurological Physiotherapy clinic (D1). Refused 14/08/2012.

3/87/0895: Change of use to 4 Business Class B1 units from existing builder's depot. Approved 15/01/1988.

M/13709/68: Proposed builder's depot with loading and unloading bays and parking for 19 cars. Approved 02/09/1968.

4 THE APPLICATION

- 4.1 Planning permission is sought to vary condition 4 of planning permission 3/87/0895 to enable use of the Class B1 units from 07.00 to 20.00 hours Monday to Friday, and 11.00 to 17.00 on Saturdays and Bank Holidays with no working being permitted on Sundays.
- 4.2 As part of the application process the applicant and agent have submitted 10 letters from existing tenants of the site; 38 letters from customers of existing tenants of the site; 28 letters from employees based on the site; and 9 letters from business providing services to existing tenants of the site outlining the need for increased operating hours. A petition of 188 signatures raising no objections to the proposed opening hours has also been provided.

5 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours: 11 (eleven)** duplicate letters of objection have been received from **35 Conway Court, Clarendon Road; 1, 15 Conway Place;** and **12, 103, 109, 111, 117, 121A, 123 & 133 Conway Street** objecting to the application as *'there are too many businesses operating after 6pm with cars and people coming and going to these units until well after 9pm'*.
- 5.2 A **petition with 29 (twenty nine) signatures** objecting to the application on the grounds of *'unacceptable noise from traffic and human traffic'*.
- 5.3 **125 & 127 Conway Street** object to the application for the following reasons:-
- The businesses, opening hours and number of vehicles creates excessive noise and disturbance;
 - The impact would be greater during summer months when windows are left open;
 - A number of businesses already operate until 9-10pm;
 - Intense use of the car parking area creates access difficulties to the rear of adjoining residential properties;
 - The application overstates the number of people employed on the site;
 - The existing opening hour conditions have been breached since June 2012;

- Future developments in the area, and the Deacon Labs site, would create noise to the front and rear of properties on Conway Street;
- The site includes Class D1 and D2 uses (*N.B. planning application BH2012/03987 seeks to regularise these uses*).

5.4 **119 Conway Street** comments that serious consideration should be given to the possibility of restricting Saturday and Bank Holiday working hours.

Internal:

5.5 **Environmental Health:** No objection. The site comprises relatively small units without any major impact on local residents. It is apparent that a historic complaint exists regarding allegations of noise from vehicles delivering to the premises and there is a current complaint regarding fan noise. None have been founded to date and sufficient powers are available to deal with any noise related problems through the application of the Environmental Protection Act 1990.

Given the close location of residential properties conditions are considered necessary to restrict servicing, i.e. deliveries to and from the site, and outside working.

5.6 **Sustainable Transport:** No objection. The extension of hours is outside of the traditional highway peak hours and is not forecast to have a negative impact on 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:

- Brighton and Hove Local Plan 2005 (saved policies post 2007);
- East Sussex, South Downs and Brighton and Hove Waste and Minerals Plan (Adopted February 2013);
- East Sussex and Brighton and Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton and Hove;
- East Sussex and Brighton and 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 and 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)

Brighton and 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
EM6	Small industrial, business units and warehouse units

Supplementary Planning Guidance:

SPGBH4	Parking Standards
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Brighton and Hove City Plan Part One (submission document)

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The proposal does not raise any significant issues in terms of parking provision or highway safety. The main consideration in the determination of this application therefore relates to the impact on amenity for neighbouring residential occupiers.
- 8.2 In 1988 planning permission was granted for a change of use at the site from a builder’s depot to 3 Class B1 Units. Condition 4 of this planning permission states:-

‘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.

Reason: 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.’

- 8.3 A previous application to extend these hours, to allow use between 0700 and 2100 Monday to Saturday and 1100 to 1500 hours on Sundays and Bank Holidays, was refused in March 2013. The reason for refusal reflected

concerns that the resulting noise and disturbance outside of normally accepted working hours would cause harm to neighbouring amenity (see section 3).

- 8.4 In response to this previous decision the current application now proposes significantly reduced operating hours of 07:00 to 20:00 Monday to Friday, 11:00 to 17:00 Saturdays and Bank Holidays with no working on Sundays. This represents an increase of 2 hours per day Monday to Friday with no increase on Saturdays (albeit with later opening hours).
- 8.5 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 adjacent users, residents or occupiers, or where it is liable to be detrimental to human health. Policy SU10 requires that proposals minimise the impact of noise on the occupiers of neighbouring properties and the surrounding environment.
- 8.6 The proposed opening hours have been reduced since the previous (refused) planning application on the site and do not now propose any Sunday working. The commercial units are sited along the rear and side boundaries of the site and noise from within the units themselves is not considered to be an issue of concern. On the basis of the representations received as part of the application it is instead noise and disturbance from access and egress to both the site itself and specific units which is the main cause of concern.
- 8.7 The lawful use of the application site is within Class B1 and this is controlled through condition. In order to fall within this Class a use must be capable of being carried on without detriment to the amenity of any residential area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. The Council's Environmental Health Team has commented on the application and has advised that although there is a history of noise complaints no statutory nuisance has been identified.
- 8.8 It is appreciated that the proposed hours of use has potential to cause intermittent noise from employees and visitors arriving at and leaving the site. The application site does though comprise relatively small commercial units with limited on-site parking available. It is considered that the impact of these units outside of what could be considered normal working hours, and primarily early evening Monday to Friday, and during the day on Saturdays would not be so significant as to warrant refusal of the application.
- 8.9 It is considered that the revised hours of operation now proposed represents an acceptable compromise that would enable the retention of the employment uses whilst adequately protecting residential amenity.

9 CONCLUSION

- 9.1 It is considered that the proposed extended hours of use would not lead to significant harm, by way of noise or disturbance, for occupants of adjoining residential properties. The proposed hours strike a balance between safeguarding neighbouring amenity and continued meaningful use of the site by

employment generating uses. If noise complaints are received in the future they could be investigated through separate Environmental Health legislation.

10 EQUALITIES

10.1 The proposed opening hours would not alter access arrangements to the application site.

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
Site Location Plan			27/03/2013

- 3) Notwithstanding the Town and Country Planning (Use Classes) Order 1987, as amended, use of the three units shall be restricted to Use Class B1 only of the Schedule to that Order and for no other purpose whatsoever unless planning permission is first granted for any alternative use.
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 and Hove Local Plan.
- 4) The use hereby permitted shall not be operated except between the hours of 07.00 and 20:00 on Mondays to Fridays, and 11:00 and 17:00 on Saturdays and Bank Holidays and shall not be operated at anytime on Sundays (including Bank Holidays which fall on a Sunday).
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton and Hove Local Plan.
- 5) The vehicle parking area shall be retained for the parking of motor vehicles belonging to the occupants of and visitors to the development hereby approved.
Reason: To ensure that adequate parking provision is retained and to comply with policy TR19 of the Brighton and Hove Local Plan.

11.2 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton and Hove City Plan Part One (submission document) the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local

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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 Development Plan, including Supplementary Planning Guidance:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-
The development would not lead to significant harm to amenity, by way of noise or disturbance, for occupants of adjoining residential properties.

