

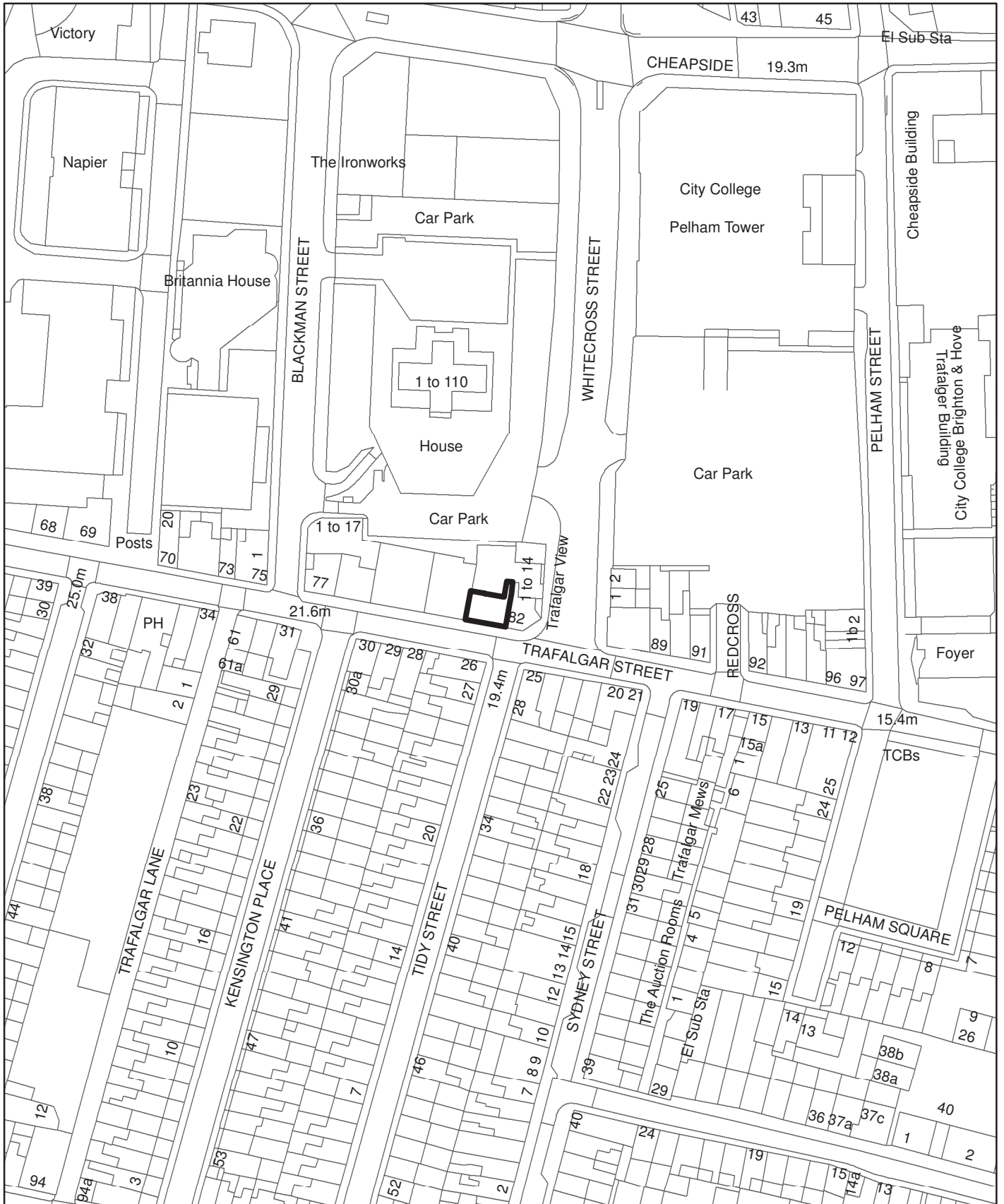
**PLANS LIST
ITEM H**

81 Trafalgar Street, Brighton

**BH2013/00307
Full Planning**

17 JULY 2013

BH2013/00307 81 Trafalgar Street, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2013/00307	<u>Ward:</u>	ST. PETER'S & NORTH LAINE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	81 Trafalgar Street Brighton		
<u>Proposal:</u>	Installation of extraction flue with roof mounted cowl. (Retrospective).		
<u>Officer:</u>	Andrew Huntley Tel 292321	<u>Valid Date:</u>	21/05/2013
<u>Con Area:</u>	North Laine Conservation Area	<u>Expiry Date:</u>	16/07/2013
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Respectable Outfit, 50 Coleman Street, Brighton, BN2 9SQ		
<u>Applicant:</u>	Mange Tout, Mr Vincent Lebon, 81 Trafalgar Street, Brighton, BN1 4EQ		

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 mixed use (part retail (A1), Café (A3) and hot food takeaway (A5)) unit called Mange Tout on the north side of Trafalgar Street. The unit forms part of a ground floor shopping parade within a recently constructed mixed use development.
- 2.2 The site is located within the North Laine Conservation Area and outside of the prime frontage of the defined regional shopping centre.

3 RELEVANT HISTORY

BH2007/03947 - Proposed variation to planning condition 6 of permission BH2005/06589, to extend opening hours to 0700-2300 Monday to Saturday and 0900-2300 on Sunday. Approved 30/01/2008.

BH2005/06589 - Change of use of retail unit (class A1) as approved under planning permission BH2000/02906/FP to mixed use comprising retail (A1), Cafe (A3) and hot food takeaway (A5). Approved 24/02/2006.

BH2000/02906/FP - Construction of four storey building with car parking to basement level, retail to ground floor and 33 no. flats to first, second and third floors. Approved 11/12/2001.

77 Trafalgar Street

BH2004/03023/FP - Change of use from A1 retail to A3 restaurant. Approved 25/11/2004.

4 THE APPLICATION

- 4.1 Retrospective planning permission is sought for the installation of extraction flue with roof mounted cowl.

5 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: 12 letters of representation have been received from Flats 1, 2, 3, 6, 7, 8, 9, 12, 13, 15 and 16 **Trafalgar View** objecting to the application for the following reasons:

- Noise from the extraction equipment.
- Food smells from the extraction equipment.
- Not consulted about the application.
- Did not ask or get permission from owners/management to install the equipment.

Internal:

5.2 Environmental Health: Support

Following complaints work has been carried out to reduce noise from the fan in the kitchen. Works are about to be carried out to fit odour control equipment. Approve with suggested conditions to restrict the operating times of the machinery/plant and installation of odour control equipment.

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)

Brighton & Hove Local Plan:

SU10 Noise nuisance

QD27 Protection of Amenity

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Guidance:

SPGBH1 Roof Alterations & Extensions

Brighton & Hove City Plan Part One (submission document)

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application are the impact of the extraction equipment upon the amenity of adjacent residential occupiers and the character and appearance of the site and wider conservation area.

Amenity:

- 8.2 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.
- 8.3 While there is a history of noise or odour complaints relating to the installed extraction the Council's Environmental Health Team has raised no objections to the application. This is because work has been undertaken to overcome the noise problems (new brackets fitted) and the applicant has agreed on a new carbon filter with Environmental Health, which should overcome the odour problems.
- 8.4 Environmental Health has recommended that two conditions be attached in regard to the hours of operation of the equipment and that a scheme of odour control be agreed and implemented.
- 8.5 Notwithstanding the objections from residents within the development, as Environmental Health have no objections, it is considered that a refusal on amenity grounds is not warranted and that the remaining issues in regard to hours of use and odour control can be satisfactorily achieved with appropriately worded conditions.
- 8.6 Due to the number of complaints citing odour as a problem, the condition on odour equipment should be agreed and implemented in the shortest reasonable time period. An email on the 4th June 2013 from Environmental Health states that they have agreed on a carbon filter. Therefore a period of two months to submit full details of the filter and have the details agreed in writing is considered reasonable. A period of two months from the approval of these details is considered reasonable to have the system installed.

Design:

- 8.7 Policy HE6 states that development within or affecting the setting of a conservation area should preserve or enhance the character or appearance of the area. Proposals that would have an adverse impact on the character or appearance of the area will not be permitted.
- 8.8 The extraction flue at the top of the building is of a modern functional design. The flue is not visible from public viewpoint and so does not harm the character or appearance of the North Laine Conservation Area. In any case, this is a modern mixed-use building and extraction and other plant is to be expected in such discreet locations.
- 8.9 Overall, the extraction equipment on the roof of 81 Trafalgar Street is acceptable in design terms and preserves the character and appearance of the North Laine Conservation Area.

9 CONCLUSION

- 9.1 The extraction equipment subject to the above mentioned conditions being complied with would not harm neighbouring amenity and overcome the existing problems at the site. The extraction equipment is not publicly visible and preserves the character and appearance of the North Laine Conservation Area. Therefore the extraction equipment is in accordance with Policies QD27 and HE6 of the Local Plan.

10 EQUALITIES

None identified.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

11.1 Regulatory Conditions:

- 1) No machinery and/or plant shall be used at the premises except between the hours of 9am and 5pm on Sundays to Wednesdays and 9am and 11pm on Thursdays to Saturdays.
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.
- 2) Within 2 months from the date of this permission, a scheme for the fitting of odour control equipment shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details and completed within 2 months following the approval of details. The approved odour control equipment shall thereafter be retained as such.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policy QD27 of the Brighton & Hove Local Plan.

11.2 Informatives:

- 1. The application has been determined in accordance with the drawings listed below.

Plan Type	Reference	Version	Date Received
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PLANS LIST - 17 JULY 2013

Location Plan	105 – 05		30.01.2013
Site Plan	106 - 06		30.01.2013
Proposed Ground and First Floor Plans	106 - 01		30.01.2013
Existing Ground and First Floor Plans	106 – 01A		30.01.2013
Proposed Second and Third Floor Plans	106 - 02		30.01.2013
Existing Second and Third Floor Plans	106 – 02A		30.01.2013
Proposed Roof Plan	106 - 03		30.01.2013
Existing Roof Plan	106 – 03A		30.01.2013
Proposed Elevation and Section	106 – 04		30.01.2013
Existing Elevation and Section	106 – 04A		30.01.2013
Extraction Specification			21.05.2013

2. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & 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 Planning Authority seeks to approve planning applications which are for sustainable development where possible.

3. 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 extraction equipment subject to the above mentioned conditions being complied with would not harm neighbouring amenity and overcome the existing problems at the site. The extraction equipment is not publicly visible and preserves the character and appearance of the North Laine Conservation Area. Therefore the extraction equipment is in accordance with Policies QD27 and HE6 of the Local Plan.

