

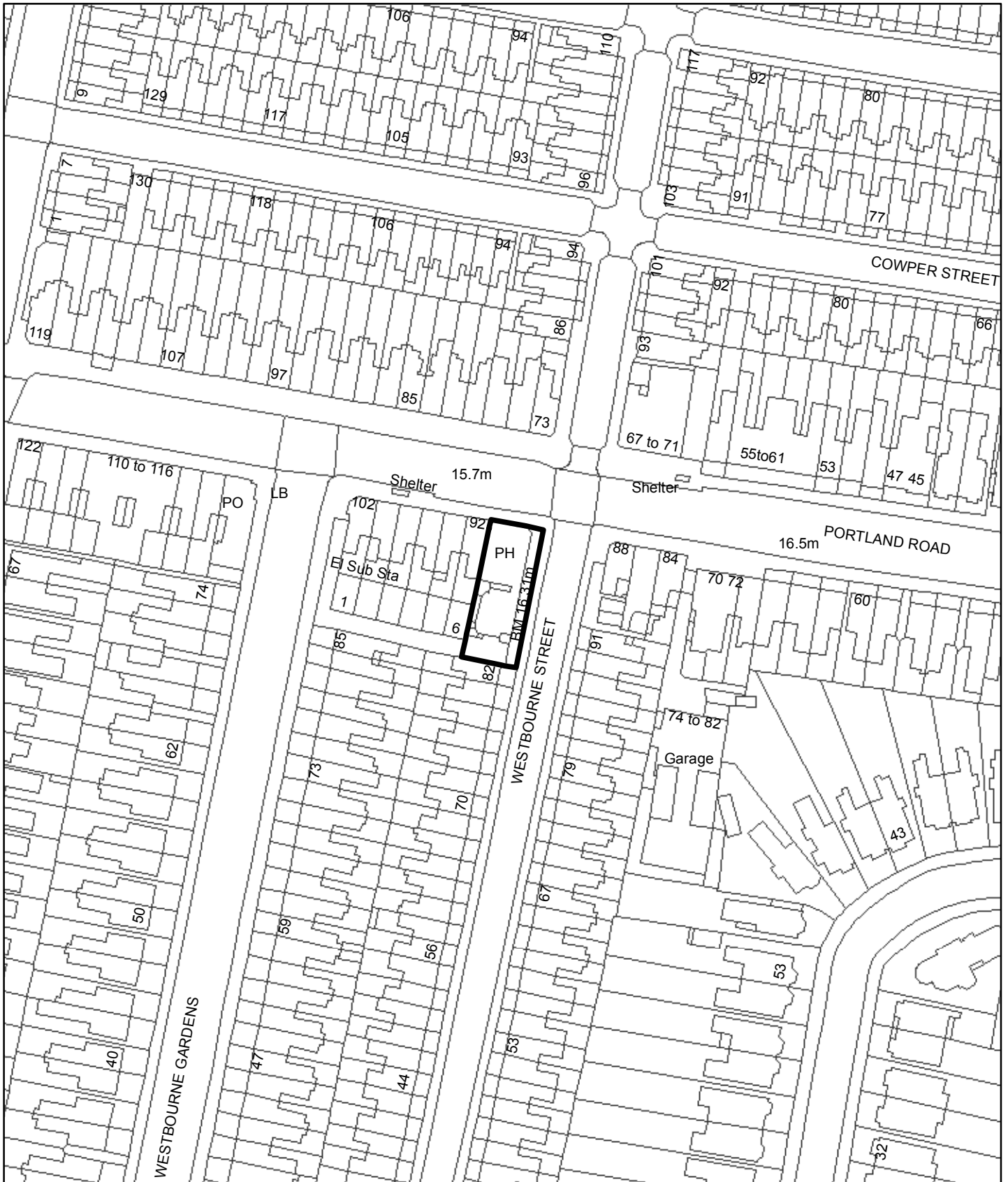
# **ITEM E**

**The Westbourne, 90 Portland Road, Hove**

**BH2013/03624**  
**Full planning**

**02 APRIL 2014**

# BH2013/03624 The Westbourne, 90 Portland Road, Hove



**Brighton & Hove  
City Council**



**Scale: 1:1,250**

PLANNING COMMITTEE LIST- 02 APRIL 2014

<b><u>No:</u></b>	<b>BH2013/03624</b>	<b><u>Ward:</u></b>	<b>WESTBOURNE</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>The Westbourne 90 Portland Road Hove</b>		
<b><u>Proposal:</u></b>	<b>Alterations to layout of doors and windows, new canopies to front elevation, raised garden level and installation of fixed aluminium planters to west elevation of garden.</b>		
<b><u>Officer:</u></b>	Liz Arnold Tel 291709	<b><u>Valid Date:</u></b>	28 October 2013
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	23 December 2013
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	ABIR Architects Ltd, Unit 1 Beta House, St John's Road, Hove BN3 2FX		
<b><u>Applicant:</u></b>	Ms Emma Lundin, The Westbourne, 90 Portland Road , Hove BN3 5DN		

**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 public house situated on the western corner of Portland Road and Westbourne Street. The building is two storeys, and forms the end of the terrace comprising 90-102 Portland Road. The rear wing of the building and the sunken rear garden is situated adjacent to properties on Westbourne Grove to the south and west, and the garden provides a separation between the application property and no. 82 Westbourne Street the adjacent property to the south.

**3 RELEVANT HISTORY**

**BH2013/02574** - Alterations to layout of doors and windows, new canopies to front elevation, raised garden level and erection of timber screen on West elevation of garden. Refused 09/10/2013. This application was refused because of the visual impact of the timber screen and new windows.

**4 THE APPLICATION**

- 4.1 Planning permission is sought for the raising of the rear garden level through the construction of raised decking and incorporating the erection of a bamboo screen on the west side of the garden area. Consent is also sought for new/replacement windows/doors, the installation of a canopy to the front (north) elevation and other associated works.

## 5 PUBLICITY & CONSULTATIONS

### External

5.1 **Neighbours: Ten (10)** letters of representation have been received from **Flat 2, 71, 78A, 82A, 83A** and **Top Flat 91 Westbourne Street** and **75, 83 (x2), 85 (x2) Westbourne Gardens** objecting to the application for the following reasons:

- Due to the raising of the garden level, do not believe that raising it to meet the existing floor level of the pub is raising it 'slightly' as stated in the application,
- Increased noise to garden. In an already heavily built up residential area feel it's unnecessary to bring more noise to the area. Use of bottle recycling is already a disturbance to daily life,
- Loss of privacy and increased overlooking,
- Not much has changed since the last application, the previous objections have not been addressed,
- The proposed alterations would have a massive impact on the sound transference from the pub, especially at night,
- The plans describe openings in the rear elevation which currently do not exist; they are in fact small non-opening windows which to some extent retain the noise of the bar within the building. The proposed external openings would create a totally different environment for the surrounding residential neighbours,
- The rear bar is a very large area with the potential for very significant noise, request that it be maintained in the building,
- Bamboo screening surely cannot be considered to be a suitable screen in terms of overlooking or sound transfer,
- There would be greater area for the pub customers to scatter outside the pub, could be unbearable to pedestrians, and
- The pub already has ample space in its pavement areas to accommodate smokers,

### Internal

5.2 **Environmental Health:**

(Original comment) Have no comments subject to the attachment of informatives regarding the Environmental Protection Act and Licensing Act.

5.3 (Further comments) The last significant complaint about noise was regarding a live band back in 2008. This was resolved by the Councils Noise Patrol service that night. There have been no complaints about noise from the beer garden over the last 10 years.

5.4 Currently there are no conditions on the premises licence restricting the hours of use of the garden.

5.5 If the hours of use of the garden are restricted, the premises licence would need to be changed. This would require either the licence holders voluntarily submitting a minor variation to the licence or the Council trying to force a variation by calling a review of the premises licence and requesting to a panel of councillors that a reduction in hours of use is necessary under the licensing

objective of the prevention of public nuisance. But the fact is that currently there are no grounds or the evidence required to be successful in trying to do this.

- 5.6 With regards to the proposed access doors in the Southern elevation, when for instance live bands are playing in the pub, it may be necessary to have these doors closed to prevent the breakout of music noise disturbing local residents. But it is believed that the current lack of complaints suggests that it would not be necessary to restrict their opening/use by condition. The operators of the premises should be able to manage the doors themselves, having regard to preventing public nuisance and not causing unreasonable disturbance to local residents.
- 5.7 In any case, as advised in original memo, whilst the requisite planning permission may be granted, this does not preclude this department from carrying out an investigation under the provisions of the Environmental Protection Act 1990, should any complaints be received with regards to disturbance caused by any of the alterations.
- 5.8 **Sustainable Transport:** Support the application as have no objections to the application. The canopy would be 2.4m above the footway service level and more than 450mm from the kerb edge.

## 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) is a material consideration.
- 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  
QD14 Extensions and alterations  
QD27 Protection of amenity

#### Supplementary Planning Documents:

- SPD12 Design guide for extensions and alterations

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

- SS1 Presumption in favour of sustainable development

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main issues of consideration relate to the impact of the development on the character and appearance of the building and the wider area, and the effect on the residential amenity of neighbouring properties.

### **Design:**

#### Raised Garden

- 8.2 The application seeks consent for the raising of the level of the rear garden area, by approximately 1.1m, so that it is level with the altered internal floor area of the pub (such internal works are not subject of the application). The new garden level would comprise a new beam and block structural floor with a resin bound gravel finish. It is stated that the raising of the garden area is to allow level access for wheelchair users from the bar area.
- 8.3 This element of the proposal in itself would have a limited impact on the character and appearance of the recipient building or the wider area. The design, materials and scale of the proposed structure is not considered incongruous in this location, and would nevertheless be largely screened from the surrounding area by existing solid boundary treatments.
- 8.4 The existing stairs located adjacent to the southern elevation of the property would be relocated to run along the western boundary of the site in order to accommodate the proposed increase in height of the garden level.
- 8.5 Bamboo screens (comprising Fargesia Rufa/Fountain Bamboo) within a fixed aluminium planter, with a combined height of approximately 1.7m would be installed on the western side of the raised garden area in order to safeguard the amenities of properties/ gardens to the west of the garden area. It is not considered that the proposed screening would be of detriment to the visual amenities of the parent property, the related street scenes or the wider area

despite it being acknowledged that its height would exceed that of the western boundary of the garden by approximately 0.7m.

- 8.6 An existing gated opening in the southern part of the eastern boundary of the garden area would be removed and the opening in-filled to match the rest of the retained wall.
- 8.7 The access into the garden area from Westbourne Street located on the northern part of the eastern boundary of the garden would also be altered as part of the proposal namely the reduction in height of part of the existing wall and the provision of new piers and a new gate. A new step would also be located on the eastern side of the wall with mild steel handrails and guarding provided.
- 8.8 Overall it is not considered that the above proposed external alterations to the property would have a detrimental impact upon the visual amenities of the parent property, the Portland Road, Westbourne Street or Westbourne Grove street scenes or the wider area.

#### North East Corner

- 8.9 A partially glazed timber panelled door and related fixed fanlight would be inserted in the north-eastern corner of the building to provide access from the front bar onto the corner of Portland Road and Westbourne Street. The existing ramp/pavement area in front of the proposed new doorway would be altered in order to allow for the provision of a level threshold into the front bar area. It is not considered that this would have a detrimental impact upon the visual amenities of the parent property, the related street scenes or the wider area.

#### New/Replacement Windows and Doors

- 8.10 Two new sets of out-ward opening glazed doors are proposed to the rear elevation to provide access to the proposed raised garden area. These doors would relate well to the size and proportions of doors elsewhere on the building, and the use of timber frames would relate well to the host property. Similarly, the alterations to windows and doors to the east side elevation would be compatible with the proportions and materials/ finish of existing fenestration.

#### New Canopy

- 8.11 As part of the proposal the applicant seeks consent to install a canopy to the northern elevation of the property, which fronts Portland Road. This new canopy would match the existing canopies located on the eastern elevation of the property, fronting Westbourne Street. It is not considered that this would have a detrimental impact upon the visual amenities of the parent property, the related street scenes or the wider area.

#### **Impact on Amenity:**

- 8.12 Currently the hours of use of the existing beer garden area not restricted and can be used when the pub is open (10am to 00:30am). The last noise complaint was received by the Council in 2008 and was resolved by the Councils Night Time Noise Patrol service at the time.

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- 8.13 The alterations to the rear garden would provide for a raised platform where patrons of the public house could congregate. The elevated position could potentially allow increased noise to emanate from the application site to occupiers of nearby properties. Nevertheless, it is not considered that the proposal would present a likelihood of a significant increase in noise and disturbance beyond the existing arrangement.
- 8.14 It is considered that the provision of the screen towards the western side of the garden would mitigate overlooking and loss of privacy from the raised height garden area towards neighbouring properties.
- 8.15 The proposals for new and replacement windows and doors would not provide for harmful new views towards nearby residential properties.
- 8.16 Although the proposal would result in the provision of additional access doors into the raised height beer garden it is not considered that any noise outbreak from the pub would be significantly harmful to the amenities of the neighbouring properties given the presence of the existing beer garden and related access door.
- 8.17 Despite third party objections, it is considered that the proposed development would not have a significant adverse impact upon the amenity of occupiers of neighbouring or nearby residential properties. Further, should a level of noise disturbance occur amounting to a statutory nuisance, this could be investigated under the provisions of the Environment Protection Act 1990.

### **Other Considerations:**

- 8.18 The Council's Highway Authority raises no objections to the proposed installation of a canopy to the northern elevation of the building as the expanse of the canopy when open would be located 2.4m above the adjacent footpath and would be located more than 450mm from the kerb edge.

## **9 CONCLUSION**

- 8.19 In conclusion it is not considered that the proposed development would have a detrimental impact upon the visual amenities of the parent property, the Portland Road, Westbourne Street or Westbourne Grove street scenes or the wider area. Furthermore, subject to the compliance with the attached conditions it is not considered that the proposal would have a significant adverse impact upon the amenities of occupiers of neighbouring or nearby residential properties.

## **10 EQUALITIES**

- 10.1 Some elements of the proposal would improve access to the premises.

## **11 CONDITIONS / INFORMATIVES**

- 11.1 Regulatory Conditions:



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- 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
Existing Plans	0267.EXG.0 01	Rev. A	23 <sup>rd</sup> October 2013
Existing Plans Section and Elevations	0267.EXG.0 02	Rev. C	23 <sup>rd</sup> October 2013
Proposed	0267.PL.00 1	Rev. D	21 <sup>st</sup> January 2014
Proposed Sections, Elevations and Details	0267.PL.00 2	Rev. B	23 <sup>rd</sup> October 2013

### Pre-Occupation Conditions:

- 3) The raised garden area hereby approved shall not be brought into use until the bamboo screening shown on the drawings hereby approved has been installed. The screening shall thereafter be permanently retained as such.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

### Informatives:

1. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the Council's Environmental Health Department from carrying out an investigation under the provisions of the Environmental Protection Act 1990, should any complaints be received with regards to disturbance caused by any of the alterations.
2. The applicant is advised that this planning permission does not override the need to make any necessary changes to the premises license in accordance with the Licensing Act 2003. Please contact the Council's Licensing team for further information (01273 294429)
3. 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.

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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 and Supplementary Planning Documents:  
(Please see section 7 of the report for the full list); and
  - (ii) for the following reasons:-

It is not considered that the proposed development would have a detrimental impact upon the visual amenities of the parent property, the Portland Road, Westbourne Street or Westbourne Grove street scenes or the wider area. Furthermore, subject to the compliance with the attached conditions it is not considered that the proposal would have a significant adverse impact upon the amenities of occupiers of neighbouring or nearby residential properties.