

<u>No:</u>	BH2019/00199	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	The Astoria 10 - 14 Gloucester Place Brighton BN1 4AA		
<u>Proposal:</u>	Application for variation of condition 1 of application BH2017/04022 (Construction of a new part 3/part 7 storey building (plus basement) to form 70 no. one, two, three and four bedroom self-contained residential units (C3) and incorporating commercial units (A1/A2/B1) in the basement and on the ground floor fronting Gloucester Place, a community room (D1) on the ground floor fronting Blenheim Place together with refuse/recycling facilities, cycle storage and other associated works) to make amendments to the lower ground floor and front and rear elevation.		
<u>Officer:</u>	Sonia Gillam, tel: 292265	<u>Valid Date:</u>	23.01.2019
<u>Con Area:</u>		<u>Expiry Date:</u>	24.04.2019
<u>Listed Building Grade:</u>		<u>EOT:</u>	03.10.2019
<u>Agent:</u>	DMH Stallard Griffin House 135 High Street Crawley RH10 1DQ		
<u>Applicant:</u>	Astoria Brighton LLP C/o DMH Stallard Griffin House 135 High Street Crawley RH10 1DQ		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a Deed of Variation to the s106 agreement dated 8th December 2016 and the following Conditions and Informatives, SAVE THAT should the s106 Deed of Variation Planning Obligation not be completed on or before the 2nd October 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section X of this report:

Conditions:

1. 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
Proposed Drawing	3137-DR-1009	P6	16 May 2019
Proposed Drawing	3137-DR-1220	P7	26 March 2019
Proposed Drawing	3137-DR-1223	P6	23 January 2019

Proposed Drawing	3137-DR-1010	P6	16 May 2019
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2. Not used - Development commenced

3. Unless otherwise agreed in writing by the Local Planning Authority, 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 to comply with policy QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

4. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

5. The flat roofs shall not be used as a roof garden, terrace, patio or similar amenity area.
Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

6. The south facing windows to Bedroom 2 to Units 01-07, 02-01, 03-01, 04-01 and 05-01, the west facing first and second floor windows to Unit 00-01, and the second floor west facing windows of Units 01-03 and 01-06 shall be obscure glazed up to 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such. The west facing window serving the corridors to the rear of units 01-03 shall be obscure glazed in their entirety and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

7. The inner courtyard shall be used only for the purposes of gaining access to the Flexible Space and Gymnasium, lower ground floor residential units, and for maintenance or emergency purposes. The inner courtyard shall not be used as a communal garden, patio or similar amenity area.
Reason: To safeguard the privacy of the occupiers and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

8. No loading or unloading of vehicles shall take place to the commercial premises except between the hours of 07.00 and 19.00 Mondays to Saturdays and 08.00 and 18.00 on Sundays, Bank and Public Holidays.
Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with polices SU10, QD27 and TR7 of the Brighton & Hove Local Plan.
9. Any noise from all plant or machinery shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB(A) below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997.
Reason: To safeguard the amenities of the occupiers of the development and of neighbouring properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
11. A minimum of four wheelchair accessible dwellings shall be provided to be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.
Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
12. Notwithstanding the plans hereby permitted, prior to first occupation of the development, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

13. The development hereby permitted shall not be first occupied until a scheme shall be submitted to the Local Planning Authority for approval to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.
Reason: This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.
14. The development hereby permitted shall be implemented in full in accordance with Acoustic Stage 4 Report, Document Ref. 101988-MLM-22-XX-RPU-0003, written by Mark Scaife and dated 05.04.18 approved under application ref: BH2018/02349 prior to the first occupation of the residential properties and retained as such thereafter.
Reason: To safeguard the amenities of the occupiers of occupiers and adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
15. Notwithstanding the external lighting on the southern and western elevations, no external lighting shall be installed without the prior approval of details that shall be submitted to and agreed by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and shall be retained as such thereafter.
Reasons: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD25 and QD27 of the Brighton and Hove Local Plan
16. The development hereby approved shall be implemented in accordance with the scheme of landscaping approved under application ref: BH2018/02349.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.
17. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development is occupied.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

18. The development hereby permitted shall be implemented in accordance with the materials approved under application ref: BH2018/02349.
Reason: To ensure a satisfactory appearance to the development and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.
19. The development hereby approved shall be implemented in strict accordance with the large scale elevation drawings showing the architectural elements of each elevation of the development, approved under application ref: BH2018/02349.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.
20. The development hereby permitted shall be implemented in accordance with the Scheme to Enhance Nature Conservation approved under application ref: BH2018/02349, prior to the first occupation of the development.
Reason: To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
21. The development hereby permitted shall be implemented in accordance with the Scheme for the the provision of surface water drainage works permitted under application ref: BH2018/02349. The drainage and sewerage works shall be completed in accordance with the details and timetable agreed.
Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.
22. Prior to first occupation of the development a Travel Plan (a document setting out a package of measures tailored to the needs of the site and aimed at promoting sustainable travel choices and reduce reliance on the car) for the development shall be submitted to and approved by the Local Planning Authority. The Travel Plan shall be approved in writing prior to first occupation of the development and shall be implemented as approved thereafter. The Travel Plan must be reviewed on an annual basis by undertaking a travel survey and updating the travel plan where appropriate.
Reason: To ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
23. No photovoltaic panels shall be installed until full details have been submitted to and approved in writing by the Local Planning Authority. The installation shall be carried out in accordance with the approved details and thereafter retained as such.
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and

to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One.

24. Unless otherwise agreed in writing by the Local Planning Authority, the nonresidential development hereby approved shall not be occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.

25. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).

Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.

26. None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.

Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.

27. Notwithstanding the details shown on the approved drawings, none of the residential units hereby approved shall be first occupied until details of the privacy screens on the southern elevation have been submitted to and approved in writing by the Local Planning Authority and implemented. The scheme shall be implemented fully in accordance with the approved details and thereafter retained in that form.

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.

28. No part of the development shall be first occupied until details of a security gate and any associated fencing/railings which shall be constructed between the proposed building and No 4 Blenheim Place, have been submitted to and approved in writing by the local planning authority and implemented. The details shall include the mechanism for operating/locking/releasing the gate in normal use and in the case of an emergency. The scheme shall be implemented in full accordance with the agreed details and thereafter retained in that form.

Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

29. Prior to first occupation of the development details of the external lighting for the southern and western elevations shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details prior to first occupation and thereafter retained in that form.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan.

30. The community use and commercial uses (retail, cafe) hereby approved shall not be used except between the hours of 09:00hrs to 20:00hrs Mondays to Saturdays.

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

31. The ground floor community/commercial units shown on Plan refs: 3137-DR-1009-P6 and 3137-DR-1010-P4 shall be used in accordance with the uses stated on the plan (community; retail; reception/cafe; concierge/post room/retail; associated storage) and for no other purpose without prior written agreement from the Local Planning Authority, to ensure the appropriate provision of community use within the site and to protect the amenity of residents.

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

32. No alcohol shall be sold or supplied in any café or restaurant which has a public floorspace in excess of 150 square metres within the development hereby permitted except to persons who are taking meals on the premises and who are seated at tables.

Reason: To prevent noise, nuisance, disturbance and public disorder, to protect the amenities of the occupants of residential accommodation within the development and within the vicinity of the site and to comply with policies QD27 and SR12 of the Brighton & Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One 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. The applicant is advised that this planning permission does not override the need to go through the Highway Authority's Approval in Principle (AIP) process for all necessary works adjacent to and within the highway and gain any appropriate licences, prior to the commencement of any construction works. The applicant is further advised that they must contact the Council's Civil Engineering team (transport.projects@brighton-hove.gov.uk 01273 294570) and Streetworks team (permit.admin@brighton-hove.gov.uk 01273 290729) for further information at their earliest convenience to avoid delay.

3. The applicant is advised that the application of translucent film to clear glazed windows does not satisfy the requirements of this condition)
4. The applicant is advised that the scheme required to be submitted by Condition 13 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers of the restrictions upon the issuing of resident parking permits.
5. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
6. The water efficiency standard is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
7. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites (www.breeam.org).
8. The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: ehl.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing).
9. The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' for Zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The Astoria site lies within the Valley Gardens Conservation Area and abuts the North Laine Conservation Area. The Valley Gardens Conservation Area is characterised by mostly grand Regency and Victorian terraces fronting onto public gardens. Gloucester Place has been much more significantly redeveloped in the 20th century than other frontages in the area, with buildings of generally larger scale. The North Laine Conservation Area is characterised by contrastingly smaller scale, mixed-use buildings on a tight urban grain of mainly north-south streets.
- 2.2. The Grade II listed building has been recently demolished after lying vacant since circa 1996/97 when the previous use as a Bingo Hall (D2) vacated. Prior to operating as a Bingo Hall the building operated as a cinema between 1933 and 1977.
- 2.3. The surrounding area is contained within a Controlled Parking Zone (CPZ). Gloucester Place is a three lane one way road heading north and to the front of the building is an existing layby containing pay and display, disabled and taxi spaces. Blenheim Place is a narrow no through road with double yellow lines to either side.
- 2.4. **BH2015/01471** sought consent for the demolition of the previous Grade II listed building (approved under BH2013/03927) and construction of a new part 3/part 7 storey building (plus basement) to form 70no one, two, three and four bedroom self-contained residential units (C3) and incorporating commercial units (A1/A2/B1) in the basement and on the ground floor fronting Gloucester Place, a community room (D1) on the ground floor fronting Blenheim Place together with refuse/recycling facilities, cycle storage and other associated works.) The application was allowed under appeal.
- 2.5. A subsequent s73 (BH2017/04022) application was approved for a variation of condition 2 of application BH2015/01471 to enable the substitution of plans to accommodate a revised design for the scheme.
- 2.6. This application seeks to vary condition 2 of application BH2017/04022 to allow amendments to the lower ground floor and front and rear elevation. The basement area to the lower ground floor would be increased in size by some 200sqm to provide extra seating and storage areas for the approved ground retail/ café/ community uses.
- 2.7. Minor amendments to the design and clarification of layouts have been received during the life of the application; there was no increase in height, massing or footprint.

3. RELEVANT HISTORY

- 3.1. BH2018/02349 Application for Approval of Details Reserved by Conditions 14,16,18 19,20 and 21 of BH2017/04022. Approved 06.12.2018.

- 3.2. **BH2017/04022** Application for variation of condition 2 of application BH2015/01471 (Demolition of existing Grade II listed building (approved under BH2013/03927) and construction of a new part 3/part 7 storey building (plus basement) to form 70no one, two, three and four bedroom self-contained residential units (C3) and incorporating commercial units (A1/A2/B1) in the basement and on the ground floor fronting Gloucester Place, a community room (D1) on the ground floor fronting Blenheim Place together with refuse/recycling facilities, cycle storage and other associated works.) to enable the substitution of plans to accommodate a revised design for the Scheme. Approved 23.02.2018
- 3.3. **BH2015/01471** Demolition of existing Grade II listed building (approved under BH2013/03927) and construction of a new part 3/part 7 storey building (plus basement) to form 70no one, two, three and four bedroom self-contained residential units (C3) and incorporating commercial units (A1/A2/B1) in the basement and on the ground floor fronting Gloucester Place, a community room (D1) on the ground floor fronting Blenheim Place together with refuse/recycling facilities, cycle storage and other associated works. Refused 28.01.2016 for the following reason:
- 3.4. The proposed development includes a significant number of single aspect dwellings that would provide for a sub-standard form of accommodation by reason of insufficient access to natural light, an unduly enclosed outlook, potential noise disturbance from use of the inner courtyard, and lack of suitable privacy. The proposal therefore results in an unacceptable standard of residential accommodation for future occupiers, contrary to policy QD27 of the Brighton & Hove Local Plan.
- 3.5. Allowed under appeal 11.01.2017.
- 3.6. **BH2015/01871** Application for Approval of Details Reserved by Condition 2 of application BH2013/03927. Approved 07.2015.
- 3.7. **BH2013/03926** Demolition of existing Grade II listed building and construction of new building consisting of 3no storeys in height at rear and 6no storeys in height at front (including basement) incorporating retail/café/restaurant (A1/A3) on the ground floor fronting Gloucester Place and community rooms (D1) on the ground floor fronting Blenheim Place with offices (B1) above and to the rear, together with 6no residential units (C3) on the fifth floor. Approved 05/03/2015.
- 3.8. **BH2013/03927** Listed Building Consent for demolition of existing Grade II listed building. Approved 05/03/2015.
- 3.9. **BH2010/03760** Listed Building Consent for demolition of existing Grade II listed building. Approved 15/05/2012.
- 3.10. **BH2010/03759** Demolition of existing Grade II listed building and construction of new office block consisting of 2no storeys at rear and 6no

storeys at front incorporating café and community rooms on ground floor at front of development. Approved 14/05/2012.

- 3.11. BH1997/02007/FP Change of use from bingo hall (class D2) to music/dance venue and public house (class A3) including internal alterations. Approved 13/03/1998.
- 3.12. BN75.2505 Change of use from Cinema to Cinema Class XVII and for indoor games including bingo and ancillary social club. Approved 16/12/1975.

4. REPRESENTATIONS

- 4.1. Fourteen (14) letters of representation have been received objecting to the proposed development for the following reasons:
 - Concerns re retail space - increased area, type, hours, noise, loading etc
 - Increase traffic
 - Parking issues
 - Design
 - Overdevelopment
 - Impact on surface water drainage and flood risk
 - Potential damage to properties from basement
 - Increased disruption from build
 - Impact on conservation area
 - Complaints about issues re ongoing build

5. CONSULTATIONS

Heritage:

- 5.1. 14/02/2019 - Comments The amendments to the front (east) elevation introduce metal louvres to the outer panels of each glazed bay, in place of the glazing originally shown. In addition, the design and glazing proportions of the set-back top storey has been revised. There is no objection to these.
- 5.2. The submitted elevations also now show a handrail at roof level which was not on the approved elevation. It is not clear how far back this handrail would be set from the street frontage, but a visible handrail should be avoided if possible, for example by using a Mansafe system instead.
- 5.3. The rear elevation has not been previously discussed but the top storey has also been amended here. The omission of the dogtooth brick columns at this level is disappointing as the upper part of the building will be visible from Cheltenham Place.
- 5.4. There is no objection to the extended basement area.
- 5.5. 27/03/2019 following receipt of amendments. No objection The revised elevation and supporting details for the mansafe type system have overcome the concern about the proposed handrail. The reason for omitting the brick

columns at top floor level to the rear is noted. On balance approval is now recommended for this application.

- 5.6. **Planning Policy:** No objection The proposal is not considered to raise any concerns in respect to adopted retail policy.
- 5.7. **Sustainable Transport:** No objection subject to condition re cycle parking and a £10,300 contribution to be secured in addition to the original sustainable transport contribution re application BH2017/04022.
- 5.8. **Ecology:** No objection The proposed variation is unlikely to have any impacts on biodiversity.
- 5.9. **County Archaeologist:** No objection No significant archaeological remains are likely to be affected by these proposals.
- 5.10. **Environmental Health:** No objection subject to a contaminated land condition.
- 5.11. **Sussex Police:** No Objection
- 5.12. **Sustainable Drainage:** No Objection

6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP1	Housing delivery
CP3	Employment land
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP13	Public streets and spaces
CP14	Housing density
CP15	Heritage
CP19	Housing mix
CP20	Affordable housing
SA3	Valley Gardens

Brighton & Hove Local Plan (retained policies March 2016):

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU3	Water resources and their quality
SU9	Pollution and nuisance control
SU10	Noise Nuisance
SU11	Polluted land and buildings
QD5	Design - street frontages
QD14	Extensions and alterations
QD15	Landscape design
QD25	External Lighting
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HO20	Retention of community facilities
EM4	New business and industrial uses on unidentified sites
SR7	Local parades
SR12	Large Use Class A3 (food and drink) venues and Use Class A4 pubs and clubs)
HE1	Listed buildings
HE2	Demolition of a listed building
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE8	Demolition in conservation areas

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD09	Architectural Features
SPD11	Nature Conservation
SPD14	Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1. This s73 application seeks permission to vary condition 2 of application BH2017/04022 to allow amendments to the lower ground floor and front and rear elevations.
- 8.2. The merits of the scheme have been substantially discussed as part of the preceding applications. The principle of development and planning issues relating to design, footprint, scale, residential amenity, sustainability, highways issues, standard of accommodation, affordable housing and developer contributions have been previously considered at Appeal (BH2015/01471); the Inspector allowed the development and applied conditions and agreed the recommended S106 agreement obligations.
- 8.3. The quantum, siting and scale of the development have not been significantly altered and the assessment of this application will therefore mainly relate to those aspects of the current scheme that differ from the previous applications.
- 8.4. The main considerations in the determination of this application therefore relate to the minor design changes to the elevations and the re-instatement of a larger basement area to provide ancillary space to the approved retail/ café use at ground floor level.

Planning Policy:

- 8.5. There is no objection in principle to the enlargement of the basement area per se. The proposed size would be in line with the size of the floorspace allowed at appeal.
- 8.6. Essentially it is considered that this amended floorspace is ancillary to the overall residential development in creating an active ground floor use with ancillary space in the lower ground floor level. As such the proposal is not considered to raise any concerns in respect to adopted retail policy. The Council's Planning Policy officer has raised no concerns.

Appearance and Design:

- 8.7. Amendments to the design include:
- Front elevation - Metal louvres to the outer panels of each glazed bay in place of the glazing originally shown; glazing proportions of the set-back top storey have been revised
 - Roof maintenance system - mansafe type with minimal visibility from the street.
 - Rear elevation - The omission of the dogtooth brick columns at top storey
- 8.8. The amendments are relatively minor in nature. Taking into account the design, scale and massing of the building previously approved, the Council's Heritage Officer has no objections to the scheme and it is considered that proposed building would remain appropriate to the character of the area.

Impact on residential amenity:

- 8.9. Policy QD27 of the Brighton & Hove Local Plan 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.

8.10. It is recognised that the increase in floorspace could potentially bring additional customers to the site; however it is considered that as the additional basement seating and storage areas would be ancillary to the approved commercial uses at ground floor level, this would not lead to a significant increase in activity to warrant refusal of the application. It is recommended that, as per the previous permissions, the use is conditioned in respect of opening hours and delivery times to protect the amenity of adjoining residential properties.

8.11. The café use has the potential to be in excess of 150sqm of floorspace and is therefore subject to policy SR12 of the Brighton & Hove Local Plan 2005 which seeks to ensure that large a A3 space does not serve except to persons who are taking meals on the premises and who are seated at tables. This can be secured by condition.

Sustainable Transport:

8.12. Despite the proposed increase in active floorspace, no additional cycle parking provision for visitors and staff has been proposed. However this can be secured by condition.

8.13. Due to the potential increased trip generation the Council's Highways officer has recommended that an additional Sustainable Transport Contribution of £10,300 will need to be added to the original amount set through the s106 agreement ref: BH2017/04022. This can be secured through a deed of variation.

8.14. It is recommended that previous conditions relating to 'car free' housing, submission of a Travel Plan and loading/ delivery restrictions are applied to this permission.

Section 106:

8.15. The previous application was subject to a Section 106 agreement to secure:

- Developer contributions: Affordable Housing, Education, Local Employment Scheme, Recreational facilities, Sustainable Transport
- Construction Training and Employment Strategy
- Construction Environmental Management Plan
- Planting Scheme
- Community Room
- Records and restoration

8.16. These financial contributions as due under the agreement have been duly provided. A Deed of Variation is proposed to the original Section 106 Agreement in terms of a further highways contribution of £10,300 (in addition to the £42,500 received in respect of application ref: BH2017/04022).

In the event that the draft s106 agreement has not been signed by all parties, the application shall be refused for the following reasons:

- 8.17. The proposed development fails to address the additional impacts on sustainable transport infrastructure contrary to policies CP7 and CP9 of the City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.

9. EQUALITIES

None identified