

Subject: 73-75 Trafalgar Street, Brighton
Request to discharge the Unilateral Undertaking dated 20 February 2008 signed in association with planning permission ref. BH2007/00862

Date of Meeting: 9 June 2010

Report of: Director of Environment

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Wards Affected: St Peter's and North Laine

FOR GENERAL RELEASE**1. PURPOSE OF THE REPORT:**

- 1.1 To consider discharging the Unilateral Undertaking signed in association with planning permission ref. BH2007/00862.

2. RECOMMENDATION:

- 2.1 That the Committee resolves to authorise officers to discharge the Unilateral Undertaking dated 20 February 2008 in association with planning permission ref. BH2007/00862.

3. BACKGROUND INFORMATION:

- 3.1 Application BH2007/00862 granted approval for the formation of additional floors to nos. 73 & 75 Trafalgar Street within new mansard roofs, together with the alteration and conversion of the existing residential accommodation on the first floors of 73 & 75 and first, second and third floors of 74, all to form one x two bedroom flat, one x two bedroom maisonette and one studio in addition to the existing studio on the first floor of 75. Approval was subject to a Unilateral Undertaking under s106 of the Town and Country Planning Act 1990, to fund the amendment of the relevant Traffic Regulation Order to prevent residents of the 2 additional units approved from being eligible for on-street residential parking permits. This agreement was completed and the relevant contribution paid.
- 3.2 Once works had been substantially completed it was established that the development as constructed deviated significantly from the approved plans. It was therefore determined that the scheme approved under application BH2007/00862 had not been implemented and the scheme as built was effectively unauthorised. A part-retrospective application

was subsequently submitted (ref. BH2009/01826), seeking consent for the works as built in conjunction with required improvements. This consent was granted on the 12th of May 2010 following the completion of a new Unilateral Undertaking linking the amendment of the relevant Traffic Regulation Order to permission ref. BH2009/01826.

4. PROPOSAL:

- 4.1 The developer has requested Deed of Release (i.e. effectively discharging the developer from the Unilateral Undertaking) from the original Unilateral Undertaking attached to permission ref. BH2007/00862.

5. COMMENT:

- 5.1 The works as built, subject to conditions requiring the carrying out of various alterations and improvements, have been granted part-retrospective consent under application BH2009/01450. A Unilateral Undertaking linking the amendment of the relevant Traffic Regulation Order (which secures the two additional units approved) has been completed in association with this consent. The planning permission originally granted under application BH2007/00862 was not implemented and in light of the new consent and Unilateral Undertaking, it is considered that the obligation attached to permission ref. BH2007/00862 is no longer required.

6. FINANCIAL & OTHER IMPLICATIONS:

6.1 Financial Implications:

There are no financial implications arising from this report.

Finance Officer Consulted: Peter Sargent Date: 19/05/2010

6.2 Legal Implications:

Section s106A of the Town and Country Planning Act 1990 provides that a planning obligation under s106 of that Act may be discharged by agreement between the local planning authority and the person against whom the obligation is enforceable. Insofar as the Report concludes that the planning permission BH2007/00862 was not implemented and is no longer capable of being implemented, the s106 planning obligation dated 20.02.08 relating to that permission is no longer necessary and may be discharged formally.

Lawyer Consulted: Alison Gatherer Date: 19/05/2010

6.3 Equalities Implications:

None identified.

6.4 Sustainability Implications:

None identified.

6.5 Crime & Disorder Implications:

None identified.

6.6 Risk and Opportunity Management Implications:

None identified.

6.7 Corporate / Citywide Implications:

None identified.

