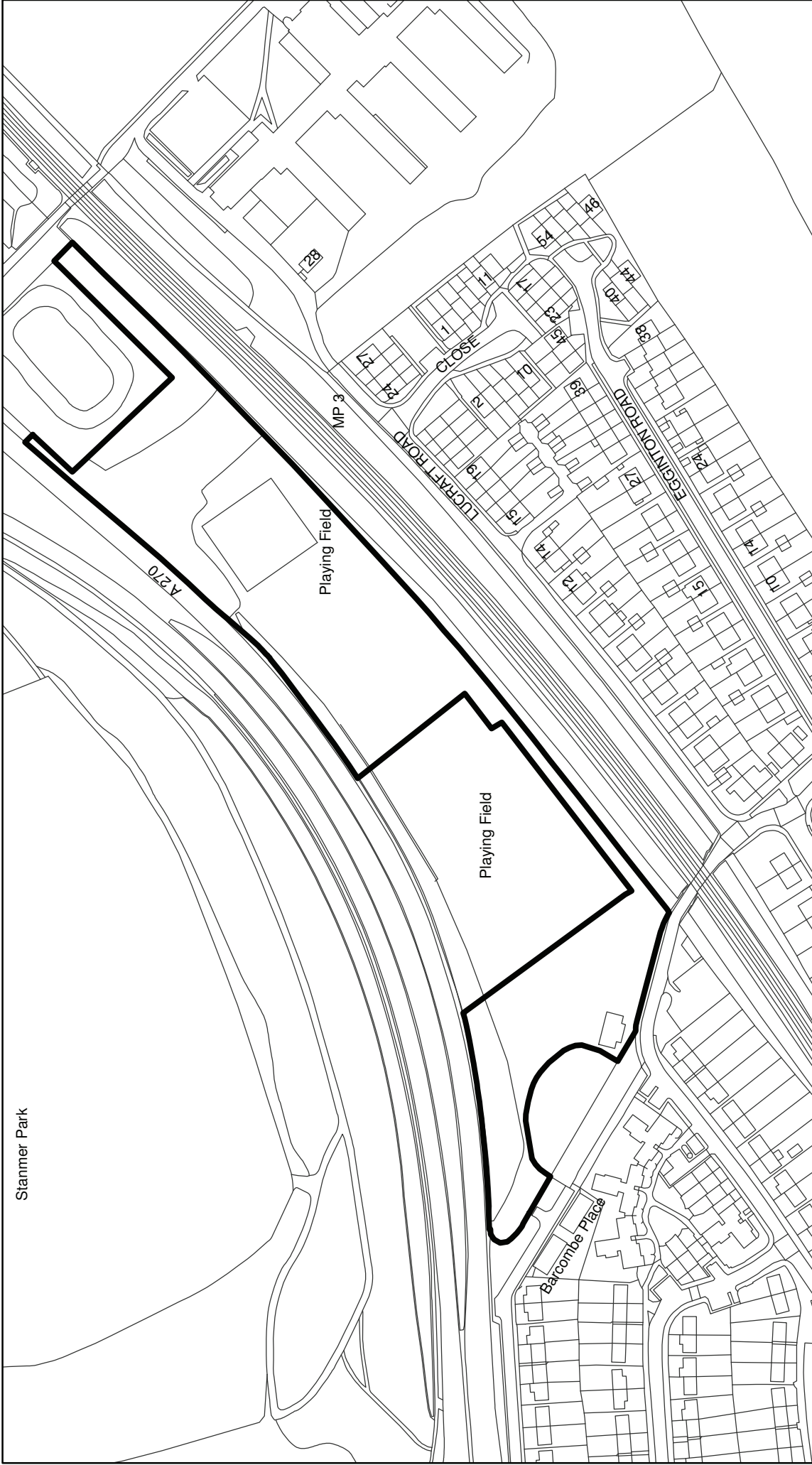


BH2010/03259 The Keep, Woolards Field, Falmer



Scale: 1 / 2000



<u>No:</u>	BH2010/01684	<u>Ward:</u>	SOUTH PORTSLADE
<u>App Type</u>	Removal or Variation of Condition		
<u>Address:</u>	Aldi Store, 2 Carlton Terrace, Portslade		
<u>Proposal:</u>	Application for variation and removal of conditions to application BH2006/00834 to vary condition 5 to allow an extended delivery period at the store, vary wording of condition 4 to allow the premises to trade to the public between 8.00 and 20.00 hours and for ancillary activities to take place outside of these hours when the store is closed to the public, vary condition 16 to reduce free car parking to all visitors of the Portslade Shopping Centre from 3 hours to 1 hour, removal of condition 15 in order not to provide 5 resident parking spaces.		
<u>Officer:</u>	Paul Earp, tel: 292193	<u>Valid Date:</u>	8 June 2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	7 September 2010
<u>Agent:</u>	Planning Potential, 148 Magdalen House, Tooley Street, London.		
<u>Applicant:</u>	Aldi Stores Ltd, c/o Planning Potential, 148 Magdalen House, Tooley Street, London		

1 RECOMMENDATION

Split decision:

- A) That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission to vary conditions 4 and 5 subject to the following Conditions and Informatives:

Condition 4 – extension of opening hours:

- The store shall not be open for trading to the public except between the hours of 08.00 and 20.00 hours on Monday to Saturday, and 10.00 to 16.00 on Sundays and Bank holidays. Staff may be within the premises between the hours of 07.30 and 21.30 hours on Monday to Saturday, and 09.30 to 17.30 on Sundays and Bank Holidays.
Reason: To allow satisfactory operation of the store and to protect the residential amenities of the occupiers of the flats above the store and to comply with policy QD27 of the Brighton & Hove Local Plan.
- The compactor machine shall only be operated during the actual store trading hours to the public and at no other times.
Reason: To protect the residential amenities of the occupiers of the flats above the store and to comply with policy QD27 of the Brighton & Hove Local Plan.

Condition 5 - to allow deliveries on Sundays and Bank Holidays:

- No vehicular movements nor any loading or unloading of vehicles associated with the permitted retail use shall take place outside of the

hours of 07.30 to 20.30. Deliveries on Sundays/Bank Holidays shall be limited to one main delivery and a milk delivery only between the hours of 09.30 and 17.30.

Reason: To allow satisfactory operation of the store and to protect the residential amenities of the occupiers of the flats above the store and to comply with policy QD27 of the Brighton & Hove Local Plan.

Plus the following conditions:

1. The approved and implemented refuse and recycling facilities shall 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 policies SU2 and QD27 of the Brighton & Hove Local Plan.
2. The existing wall along the western boundary of the site shall be increased in height to a minimum of 2.4m within 3 months of the date of this approval. The wall shall be maintained as such to the satisfaction of the Local Planning Authority.
Reason: To effectively screen the development from adjacent residential properties and to reduce the effect of noise and disturbance from the development in the interests of amenity and to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan.
3. The windows on the ground floor of the east elevation of the main store fronting Carlton Terrace shall be clear glazed only, and shall be kept free of internal or external advertisements unless otherwise agreed in writing by the Local Planning Authority.
Reason: To ensure there is an interesting and attractive frontage at street level, to comply with policy QD10 of the Brighton & Hove Local Plan.
4. Any planting from the approved and implemented landscaping scheme which dies, becomes seriously damaged or diseased within a period of 5 years from being set out, shall be replaced in the next planning season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: To enhance the appearance of the development in the interests of the visual amenities of the area and to comply with policy QD15 of the Brighton & Hove Local Plan.
5. The approved and implemented cycle parking facilities shall be retained for such use at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided to encourage travel by means other than the private car and to comply with policy TR14 of the Brighton & Hove Local Plan.
6. The approved Travel Plan shall be implemented to the satisfaction of the Local Planning Authority at all times.
Reason: To promote sustainable travel choices for employees of the main store to reduce reliance on the private car, to comply with policies TR1, TR2 and TR14 of the Brighton & Hove Local Plan.
7. The first floor kitchen and living/dining room windows on the southern elevation serving Flat 1 above the main store, and the first floor glazing to

the entrance to the flats on the southern elevation, shall not be glazed otherwise than with obscure glass and either fixed shut or top hung and thereafter permanently retained as such.

Reason: To safeguard the privacy of the occupiers of adjacent properties in Victoria Road, to comply with policy QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision to grant permission to vary conditions is based on the site plan, planning statement and noise survey submitted on 27 May 2010.

i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, and to all relevant material considerations:

Brighton & Hove Local Plan

QD1	Design – quality of development and design statements
QD10	Shopfronts
QD15	Landscape design
QD27	Protection of amenity
SU10	Noise nuisance
TR1	Development and the demand for travel
TR4	Travel Plans
TR14	Cycle access and parking
TR17	Shopmobility
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water & materials
SU10	Noise nuisance
SR5	Town and district shopping centres

Supplementary Planning Guidance Notes:

SPGBH: 4 Parking standards, and

ii) for the following reasons:

Subject to the proposed conditions, it is considered that to allow the store to open for staff before and after trading, and to allow limited deliveries on Sundays/Bank Holidays, is necessary for the efficient running of the store and would not be unduly detrimental to the amenity of adjacent residents.

B) That the Committee has taken into consideration and agrees with the reasons to refuse planning permission to remove and vary conditions 15 & 16 respectively for the following reasons:

Refuse to remove:

Condition 15, loss of residents parking spaces:

The none provision of 5 parking spaces for residents use is detrimental to the amenities of the occupiers of the building and contrary to policy TR19 of the Brighton & Hove Local Plan.

Refuse to vary:

Condition 16, to reduce the time of free parking:

The reduction in the period of free parking from 3 hours to 1 hour is detrimental to the vitality and viability of the Boundary Road District Shopping Centre and contrary to policy SR5 of the Brighton & Hove Local Plan.

2 THE SITE

The application relates to a detached building forming Aldi store at ground floor level with 12 flats above at first floors above. A separate building consisting of a ground floor retail units with two flats above at first and second floor levels forms part of the development. The site is situated north of the railway line, opposite Portslade Station. The southern part of the site is designated in the Local Plan as being outside of the prime retail frontage of the Boundary Road District shopping centre. The immediate area is characterised primarily by 2 storey Victorian terraced development, commercial at ground floor level with residential above.

3 RELEVANT HISTORY

BH2010/01690: Application for approval of details reserved by conditions 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24 & 25 of application BH2006/00834. Application approved 25 November 2010.

BH2006/00834: Mixed use development comprising food retail unit & separate shop unit, 14 residential units with associated parking. (Revision of BH2004/00571/FP). Approved 31.5.06.

BH2004/00571/FP: Mixed use development comprising food retail unit and separate shop unit with 5, 2 bedroom flats and 9, 1 bedroom flats at first floor level, associated parking and highway works (existing buildings to be demolished). Granted 15/10/04.

4 THE APPLICATION

The application seeks to vary / remove the following conditions of approval BH2006/00834:

- Vary wording of condition 4 to allow the premises to trade to the public between 08.00 and 20.00 hours and for ancillary activities to take place outside of these hours when the store is closed to the public. As approved the condition restricts opening to between the hours of 08.00 and 20.00 hours on Mondays to Saturdays and 10.00 to 16.00 on Sundays and Bank Holidays.
- Vary condition 5 to allow an extended delivery period at the store.
- Vary condition 16 to reduce free car parking to all visitors of the Portslade Shopping Centre from 3 hours to 1 hour.
- Removal of condition 15 in order not to provide 5 resident parking spaces.

5 CONSULTATIONS

External:

Neighbours: 15 letters of representation have been received from **flats 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 Ronuk House, 4 Carlton Terrace; 9, flat 6 11-12, 14b Carlton Terrace; objecting** to the proposal for the following reasons:

Parking:

- Reduction in free parking, whilst sufficient for shoppers to Aldi, may well prevent them from shopping elsewhere.
- Before payment for the parking after 1 hour was introduced, did not witness problems with the car park being full (with the exception of a few days leading up to Christmas).
- Residents of Ronuk House are in agreement that the residents parking spaces should have been purchased; a number had parking spaces outlined in the original deeds of sale which were omitted from the final contracts. Key workers carry out shift work and need to be assured of parking availability close to home.
- As a resident of Ronuk House, have parked in the car park since October 2007 Residents spaces are not marked out but have never encountered any problems finding a space; there is no pressure on parking spaces.
- The lack of residents parking causes people to park on Boundary Road, which is dangerous.

Impact on residential amenity:

- The flats are for Key Workers, with some bedrooms overlooking the car park. Aldi have breached planning conditions by making deliveries earlier than the permitted 7.30am. Deliveries have been made from 6am until midnight. Have contacted the store Manager about the noise and disturbance.
- Bought the flat on the basis that Aldi would adhere to planning conditions in relation to deliveries, which has never happened. To date there have been three occasions when Aldi have arranged noisy contractual work with no prior notice to residents. The works were carried out overnight and in the early hours of the morning which was very disruptive.
- As a Key Worker often have to work outside of ordinary working hours, working late evenings on a regular basis and at weekends. Extended delivery and opening hours will cause further disturbance.
- The noise from deliveries is audible within flats above the warehouse area. The noise from deliveries, with the beeping of Lorries reversing and trolley noise and noise from trolleys bumping over the joints in the ceramic tiles to the store floor at night has been extremely disturbing.
- Extending deliveries to Sundays and Bank Holidays will cause further disturbance. The store is open and deliveries are allowed 13 hours, 6 days a week. It is not unreasonable to have one day a week without deliveries / noise disturbance.
- The Philips report strongly suggests that the sound insulation between Aldi and the flats is poor and that the deliveries are very likely to be a significant disturbance to residents.

Other issues:

- The proposal would devalue the properties.

The Guinness Trust: Object for the following reasons:

- The flats provide homes for Key Worker shared ownership leaseholds, all of whom have had to purchase a share in their home. The development of the flats was funded by The Guinness Trust and Housing Corporation. Do not wish to see deterioration in the quality of residents' quality of life as a result of the proposal.
- The nature of some of the Key Workers employment is such that they work shift patterns that make them particularly susceptible to noise disturbance either early or late in the day. The variation to conditions 4 & 5 will compromise the residents' right to quiet enjoyment of their homes.
- Aldi have already regularly ignored condition 5 in relation to deliveries ever since the store opened, with deliveries taking place and activity within the store outside of permitted times, which has caused significant disturbance to residents.
- The Trust have commissioned a review, by Philip Acoustics Ltd, of the acoustic report, produced by Noise Solutions Ltd, submitted in support of the planning application. Consider that the applicants report is flawed and own assessment shows conclusively that to vary conditions 4 & 5 will be detrimental to the amenity of the residents of the flats directly above Aldi by way of noise disturbance.
- Concerned that the right to use the disabled parking spaces will be lost. It is essential that there is disabled parking within close proximity of Ronuk house should a disabled resident purchase a flat in the building.
- A reduction in the amount of free parking time will cause further inconvenience to both residents of Ronuk House and their visitors.
- The current consent provided 13 hours per day, 6 days a week is sufficient time to arrange deliveries to the store. Aldi's original acceptance of these conditions demonstrates that they were confident the store could be managed on this basis.

A letter from **Parker Dann** (Town Planning Consultants) on behalf of the Guinness Trust reiterates the comments the Trusts concerns, primarily:

- Extended hour of opening and deliveries on Sundays and Bank Holidays would be detrimental to the living condition of the occupiers of the flats above the store.
- 6 of the 12 residential units have windows directly facing onto the car park and loading bay area. The flats do not have mechanical ventilation and rely on open windows in the summer months. Bedroom windows are Juliette balcony doors which make the rooms particularly susceptible to noise from deliveries when opened.
- Understand that the application has been amended so not to extend the weekend delivery period and only seeking permission for one delivery on Sunday/Bank Holidays between 9.30am and 4.30pm. Noise Solutions Ltd have provided a response to the applicants submitted noise report, and concludes that deliveries to the store exceed measures background noise levels. Good store management should negate the need for Sunday/Bank Holiday deliveries.
- Internal ancillary activities taking place within the store for an extended period has the potential to harm residential amenity.

- There is a contractual obligation on Aldi to retain two dedicated car parking spaces for the exclusive use of the Guinness Trust or the Trust's tenants. It is therefore inappropriate to remove the need to provide residents' parking.
- In the absence of any evident that the car park is full there is no justification to reduce the period of free parking.

Petition of 13 signatures from local businesses in Boundary Road and Carlton Terrace, objecting to the reduction in time for free parking from 3 to 1 hour. This leaves insufficient time for people to visit the smaller shops in the parade as will not support local businesses.

Sussex Police: No comment.

Internal:

Sustainable Transport: No objection to the extension of the delivery period as this matter that does not affect the safety of public using the roads or highway capacity.

There is no information provided, other than that in the Planning Statement that would support the removal/amendment of conditions 15 & 16. The statement suggests that car parking is being abused. More robust enforcement on the part of the land owner could resolve the matter. The provision of time limited parking was to help support the local economy & vitality of the local shopping areas. The loss or further restriction of this parking would make the overall provision of parking in the vicinity of the site worse than it currently is.

Other than the statement that the Guinness Trust agreed that the parking spaces for residents were not required there is no other supporting information. Additional information should be provided that establishes how any car parking demand generated by the flats is being or is to be managed.

Environmental Health: Condition 5 - Deliveries: Residents consulted as part of the planning process have given clear evidence of breaches of the existing planning conditions with regard to delivery times. Some deliveries have allegedly taken place at nighttimes and others during the early morning. Such breaches of planning conditions are dealt with by planning enforcement procedures.

Two acoustic reports have been produced in respect of this application. Both use the methods set out in BS4142 to assess delivery noise. This is the current standard for assessing such noise but it is used for convenience in the absence of a more tailored method, rather than for its proven accuracy. One report was produced on behalf of the applicant, the other on behalf of Guinness Developments, the landlord of Ronuk House- the name given to the flats above the store.

The reports differ in technical detail and methodology but agree that the proposed Sunday delivery will have a noise impact against the background level of noise in the car park. The car park may be in use by shoppers during the proposed delivery times.

The applicant's report states that the one proposed Sunday delivery will have 'minor' noise impact and the landlord's report concludes that the noise impact will be 'above marginal significance'.

By either measure the proposed delivery will be audible in the flats above and to the side of the loading bay. The perceived level of noise in the flats will of course depend on the activities going on at the time. The delivery times on Sunday are proposed to be between 09.30 and 17.30.

The legal principle which has to be taken into account by Environmental Health is that occupiers of residential premises should make themselves aware of legitimate activities going on in the vicinity of where they might decide to live and in doing so should take account of any changes which may take place as a result of changing circumstances.

The practice of many supermarkets is to require deliveries of fresh produce on a daily basis and it on that principle that Aldi have made this application.

Environmental Health are of the view that the additional noise caused by one delivery on a Sunday (and Bank Holiday) during the central part of the day is not unreasonable and is justifiable in the circumstances.

In addition, one delivery of milk which is in a smaller, lighter vehicle on a Bank Holiday (but not on Sunday) can be permitted between the same hours of 09.30 and 17.30.

Although Environmental Health has received no direct complaints about the day-to-day activities within the store, the consultation process has revealed noise concerns that are related to the movement of trolleys during deliveries and shelf stacking. Some noise may be due to the compactor in the storage area and shopper's trolleys as well as noise from the checkout tills.

No complaints had been received about these sources of noise prior to the notification of the current planning application. These concerns may be classified as potential noise nuisance allegations and the correspondents who mentioned them have been contacted to see if an investigation under the Environmental Protection Act 1990 is being requested. Noise Disturbance Diaries have been sent to 10 residents who had made representations during the planning consultation process asking for evidence of disturbance from within the store. Four diaries have been returned and analysis of the diaries, which in total were kept for almost the whole of the month of October 2010 indicates that Aldi deliveries are taking place occasionally outside of the permitted times, usually earlier in the morning than permitted (4 times before

07.30, earliest 06.43) and once after the 20.30 evening deadline. These breaches of condition have been passed to Planning Enforcement for investigation. However the frequency is not enough to warrant an investigation under the Environmental Protection Act 1990 but that will be kept under review. Other complaints include the opening of the front door shutters as early as 06.10 which is outside the time that the premises should be occupied is also being investigated. The trolley noise will be investigated by Environmental Protection to determine under the Environmental Protection Act 1990 if a nuisance in law exists.

Condition 4 - Limits the times during which the premises can be occupied:

In principle there is no Environmental Health objection to extending the hours allowing the premises to be occupied to those requested but keeping the trading times to existing.

In the current situation the premises occupation time is permitted from 08.00. That does not allow deliveries to be received at the delivery permitted time of 07.30.

It would be rational to allow the staff to help receive deliveries and prepare the shop in line with the opening times that are already permitted.

Any unreasonable disturbance to the residents of the flats above would be investigated under Environmental Health legislation.

Economic Development: Object to the reduction in free parking from 3 to 1 hour as the facility provides the opportunity for customers who use the Aldi store to also use the other retail / commercial business in Boundary Road. A reduction in the hours of free parking does not support the viability of this shopping centre or the jobs that it provides.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

QD1	Design – quality of development and design statements
QD10	Shopfronts
QD15	Landscape design
QD27	Protection of amenity
SU10	Noise nuisance
TR1	Development and the demand for travel
TR4	Travel Plans
TR14	Cycle access and parking
TR17	Shopmobility
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water & materials
SU10	Noise nuisance
SR5	Town and district shopping centres

Supplementary Planning Guidance Notes:
SPGBH: 4 Parking standards.

7 CONSIDERATIONS

This application is for the discharge of four conditions pertaining to approval BH2006/00834 for the development of the site. A separate application, BH2010/01690, was submitted to discharge the remainder of the 25 conditions. These relate to materials, the provision of refuse and recycling facilities and glazing. Internal consultees, including the Traffic Engineer and Environmental Health, considered the submitted information to be sufficient to discharge the conditions, and the application was approved on 25 November 2010.

The main considerations in the determination of this application relate to the impact of extending delivery times and allowing non-retail activity when the store is closed to the public on residential amenity, and the impact of reducing the free use of car parking on the viability of the Boundary Road / Station Road district shopping centre, and the acceptability of the loss of residents parking and the impact of displaced parking on the surrounding area.

The store and 12 flats above have been occupied since July 2007. The proposal to vary /remove conditions is to provide more efficient running of the store.

Condition 4 – opening hours:

The current condition reads “ *The premises shall not be open or in use except between the hours of 08.00 and 20.00 hours on Mondays to Saturdays, 10.00 to 16.00 on Sundays and Bank Holidays.* ”

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

The proposal seeks to extend the operational times from 07.30 to 21.30 hours Monday to Saturdays, and from 09.30 to 17.30 hours on Sundays and Bank Holidays, to allow employees to set up / close after trading.

The store is open to the public from 09.00 to 20.00 Monday to Friday, from 08.30 to 20.00 Saturdays and from 10.00 to 16.00 on Sundays/Bank Holidays. Presently, deliveries take place from 07.30 (permitted by condition 5) but due to the restrictions of condition 4 which states that the building shall not be in use before 08.00, drivers have to let themselves into the store to unload. Staff arrive at 08.00 to prepare the store opening at 09.00; the store closes at 20.00. Staff have been working after the permitted operation hours of 20.00 to close the store, for cleaning, shelf filling etc. Aldi’s justification for operating outside of the permitted hours is that they interpreted the condition as meaning the hours in which the supermarket can be open to the public, and that the condition does not restrict ancillary activities such as stock taking which cannot be undertaken whilst the store is open. Following public complaints about noise and disturbance late evening and during the night

caused by a store refit, and the revving of engines in the car park associated with goods deliveries, the Council confirmed to Aldi that the term “*shall not be open or in use*” includes any activity carried out at the premises, for example, cleaning, shelf filling etc.

The store employs 12 people, a mix of full and part time. The proposed amendment is to allow 2 or 3 employees to be in the store for up to 2 hours outside of current permitted trading hours, from 07.30 to 21.30 hours Monday to Saturdays, and from 09.30 to 17.30 hours on Sundays and Bank Holidays.

Public objections state that noise from deliveries and from within the store, can be heard within the flats above, and that extended hours of opening would increase noise and disturbance.

The Guinness Trust has commissioned a review, by Philip Acoustics Ltd, of the acoustic report, produced by Noise Solutions Ltd, submitted in support of the planning application. The Trust consider the report to be flawed and their own assessment shows that to vary conditions 4 & 5 will be detrimental to the amenity of the residents of the flats above Aldi by way of noise disturbance.

Environmental Health comment that both reports use the methods set out in BS4142 to assess delivery noise. This is the current standard for assessing such noise but it is used for convenience in the absence of a more tailored method, rather than for its proven accuracy.

In relation to extended opening times, although Environmental Health has received no direct complaints about the day-to-day activities within the store, the consultation process has revealed noise concerns that are related to the movement of trolleys during deliveries and shelf stacking. Some noise may be due to the compactor in the storage area and shoppers’ trolleys as well as noise from the checkout tills. Copies of the objections were sent to Environmental Health who sent Noise Disturbance Diaries to the residents of the flats who had made representations during the planning consultation process asking for evidence of disturbance from within the store. Four diaries have been returned which indicate that some deliveries are taking place occasionally outside of the permitted times, usually earlier in the morning than permitted (4 times before 07.30, earliest 06.43) and once after the 20.30 evening deadline. These breaches are being investigated by Planning Enforcement Team.

The legal principle which has to be taken into account by Environmental Health is that occupiers of residential premises should make themselves aware of legitimate activities going on in the vicinity of where they might decide to live and in doing so should take account of any changes which may take place as a result of changing circumstances. Despite public objections it is not considered unreasonable to allow staff to enter the store at 07.30 rather than the existing 08.00 to receive deliveries, which are currently permitted by condition. Neither is it regarded as unreasonable to permit staff to occupy the

building after trading for cleaning etc. until 21.30pm weekdays and 17.30 on Sundays and Bank Holidays. Should noise from stock trolleys running over tiled floors etc prove to be a nuisance certain measures such as the installation of rubber mats in the store room could be considered as ways to reduce impact.

It is suggested that the condition be amended to clearly state both public trading times and times staff may be within the building, and to specify that the compactor, which crushes boxes etc, is noisy and has the potential to create disturbance, be used during trading hour only.

Condition 5 – vehicular movement, loading/unloading:

The current condition reads *“No vehicular movements nor any loading or unloading of vehicles associated with the retail uses hereby permitted shall take place between 20.30 and 07.30 Monday to Friday, and not at any time on Sundays or Bank Holidays.*

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

The application has been amended to allow two deliveries on Sunday and Bank Holidays between 09.30 and 16.30 hours. As originally submitted the application also sought to extend delivery hours on weekdays. The proposed deliveries are for one large delivery which would take no longer than 40 minutes to dispatch and leave, and a milk delivery which should take a maximum of 10 minutes.

Aldi state that it is usual practice for fresh goods such as milk, bread, fruit and vegetables, which customers expect to be fresh, to be delivered on a daily basis. They are also of the view that as a Sunday delivery would be taking place generally between the hours that the store is open, the impact of one main lorry would not have a significant effect on residential amenity given the general vehicular/customer activity taking place within the site.

The applicants have also submitted planning decision notice which allows 24 hour delivery at the Lidl Store, Arundel Road, application BH2002/2885/FP, approved 20 December 2002. The applicants consider the ability to deliver on Sunday and Bank Holidays allows Lidl a more flexible delivery regime and this store needs similar arrangements to compete. Planning applications are assessed on merit taking into account individual circumstances and in the case of the Lidl store in Arundel Road, Brighton, there are no residential accommodation above. They have also cited approvals in the Harlow and Bromley where decisions do not restrict delivery times, which they argue demonstrates the important operational requirement to ensure the effective and efficient running of a store.

Public objections state that deliveries have caused nuisance from the movement of lorries and trolleys and that Sunday is the only respite from deliveries. The complaints stating that deliveries have been taking place at

unsocial times are being investigated by the Planning Enforcement Team.

The objection from Parker Dann state that 6 of the 12 residential units have windows directly facing onto the car park and loading bay area, and as they do not have mechanical ventilation, rely on open windows in the summer months. Bedroom windows are Juliette balcony doors which make the rooms particularly susceptible to noise from deliveries when opened. For these reasons they consider that deliveries on Sundays/Bank Holidays would be detrimental to residential amenity. They agree with the Noise Solutions Ltd conclusion that deliveries to the store will exceed measures background noise levels and are of the view that good store management should negate the need for Sunday/Bank Holiday deliveries.

The store trades on Sundays/Bank Holidays between 10.00 and 16.00 and it is recommended by condition 4 above that the operational hours be extended to between 9.30 and 17.30 for staff. It is considered that to allow one main delivery and a smaller milk delivery between the hours of 09.30 and 16.30, which would give staff time to received deliveries before and after the store opens/closes, would not be sufficiently detrimental to residential amenity to warrant refusal given that a statutory nuisance has not been established, and that the deliveries would take place generally between hours of commercial activity on the site.

Condition 15 – provision of residential parking bays:

The current condition reads *“The 5 resident parking bays indicated on the submitted plans shall not be used other than for occupiers of the residential units hereby approved. The residents’ car parking spaces shall be clearly signed/labelled as such, and details of signage shall be submitted to and approved in writing to the Local Planning Authority before the flats hereby permitted are first occupied. The agreed scheme shall be implemented to the satisfaction of the Local Planning Authority.*

Reason: *To ensure adequate car parking provision to serve residential occupiers of the development, to comply with policies QD1, TR1, TR4, TR18 and TR19 of the Brighton & Hove Local Plan.”*

The proposal is to remove the need to provide the residential parking spaces.

The applicants state that when The Guinness Trust Housing Association purchased all the flats on the upper floor of the store it was agreed with them that the car parking spaces for the residents were not required and therefore they are now for public use. On this basis the proposal seeks to remove this condition.

The store provides 65 parking spaces of which 11 are disabled. The development consists of a total of 12 flats above the Aldi foodstore and 2 flats above a retail unit fronting Carlton Terrace. Five residents parking bays, two of which are disabled bays were identified on the approved drawings. Residents state that the bays have never been marked for residents parking

and that in the past residents have parked anywhere. The flats are for Key Workers and as such many work unsocial hours and need to be assured of parking availability close to home. The Guinness Trust particularly object to the loss of the two disabled parking bays which may be required by future occupants.

The application is not accompanied with any information regarding the occupancy of the parking spaces to demonstrate that without the use of the 5 residential parking spaces, customers cannot park and therefore shop elsewhere which would be to the detriment of the viability of the store, and the shopping centre.

Development on the site comprises the Aldi store and an independent retail unit - which have a gross floor area of 1,316m², together with a total of 14 flats (12 above the Aldi store, 2 above the independent retail unit). Based on the car parking standards set out in Supplementary Planning Guidance Note 4, a maximum of 44 car parking spaces should be required for the retail floor space, 5 spaces for employees, and 21 residential parking spaces. A total of 65 spaces have been provided, of which 60 are for the retail units and 5 for residents.

On the basis of the approval, residential parking is far less than the maximum standard with approximately 24% being provided, and commercial parking exceeds the maximum standard by approximately 21%. The Traffic Engineers comments on the original application BH2004/00571/FP stated that the amount of parking is higher than the parking standards, but as the applicants argue that there is an existing shortage of shoppers' parking at the district centre and advise that they will help reduce this by making available for short-term shoppers even if they do not shop at the proposed store would normally allow, it was considered the level of parking to be acceptable. Additionally, should the original scheme had been for a car free residential development, a contribution towards the Council's sustainability measure would have been sought.

The residential accommodation is for Key Workers, some of whom work shifts when public transport may not run and need to be assured of a parking space. On-street parking is heavily used by travellers using the adjacent Portslade Railway Station and shoppers to the district shopping centre. The Guinness Trust is particularly concerned about the loss of the disabled parking spaces given that the flats are served by a lift and are wheelchair accessible.

Given the reduced level of residential parking and lack of evidence to demonstrate a lack of commercial parking and surplus of residential, it is considered that the applicants have failed to adequately demonstrate why the planning condition, should be revoked. It is considered that the none provision of the parking spaces for residents is detrimental to the amenities of the occupiers of the building.

Condition 16 – visitor parking:

The current condition reads *“The main retail store hereby permitted shall not be brought into use until a car park management scheme for the car park associated with the main retail store has been submitted to and approved in writing by the Local Planning Authority. The car park management scheme shall ensure that the first three hours of parking will be free of charge for visitors of the Portslade Shopping Centre, and shall include details of the signage to clearly indicate the terms of parking for visitors. The approved car park management scheme shall be implemented to the satisfaction of the Local Planning Authority upon first use of the main retail store.*

Reason: *To ensure parking provision is made available to shoppers not using the main store as there is an identified shortage of shopper’s parking spaces within the Portslade District Shopping Centre, in the interests of enhancing the vitality and viability of the Centre, to comply with policies SR6 and TR17 of the Brighton & Hove Local Plan.”*

The applicants consider that one hour’s free parking is sufficient to allow customers to visit and undertake their shopping at the Portslade Shopping Centre and seek to amend the condition to reduce the length of visitor parking from 3 hours to 1 hour.

Concerns over the reduction in the time for free parking has been expressed in a petition signed by 13 people with businesses in the immediate area stating that a reduction to one hour does not provide sufficient time for shoppers to visit small shops in the parade.

The Planning Policy Team and Economic Development Officer object to the reduction in free parking time on the basis that it would be harmful to the viability of the district centre. The condition was to encourage linked shopping trips to other shops in the District Centre and in view of the excess parking provision. The Traffic Engineer states that if car parking is being abused as the applicants claim, that more robust enforcement on the part of the land owner could resolve the matter. The loss or further restriction of this parking would make the overall provision of parking in the vicinity of the site worse than it currently is.

It is considered that the applicants have failed to provided evidence to satisfactorily demonstrate that the required 3 hours of free parking is harming their trade and would not be detrimental to the viability of the district centre. It is also noted that Tesco’s Metro in Boundary Road has a car park with no time limit and Sainsbury’s West Hove to the north of Aldi (out of centre) has a time restriction of two hours. For these reasons it considered that the request to amend the planning condition should be refused.

Conclusions:

For the reasons stated it is considered that to allow the store to open for staff before and after trading, and to allow limited deliveries on Sundays/Bank Holidays is necessary for the efficient running of the store and not

unreasonable given that a statutory nuisance has not been established. Most complaints relate to deliveries taking place outside of the permitted times which are being investigated. The applicants, however, have not adequately demonstrated that the need to provide residents' parking bays and retain the current level of free parking is detrimental to the viability of the store, and therefore there is no justification for removing/amending these conditions.

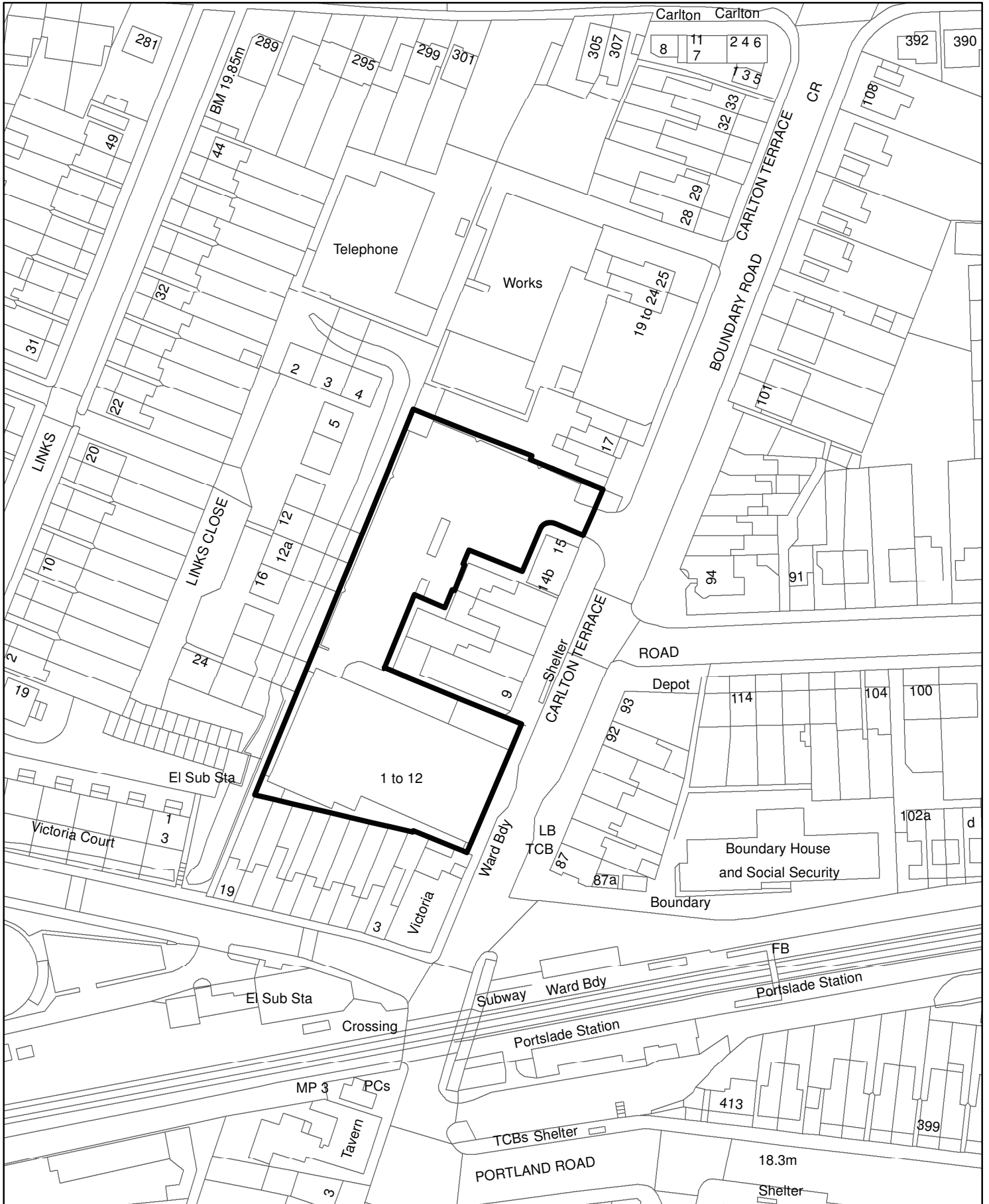
8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

Subject to the proposed conditions, it is considered that to allow the store to open for staff before and after trading, and to allow limited deliveries on Sundays/Bank Holidays is necessary for the efficient running of the store and would not be unduly detriment to the amenity of adjacent residents.

9 EQUALITIES IMPLICATIONS

None identified.

BH2010/01684 Aldi Store, 2, Carlton Terrace, Portslade



Scale: 1:1,250

LIST OF MINOR APPLICATIONS

<u>No:</u>	BH2010/03061	<u>Ward:</u>	WITHDEAN
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	25 Hazeldene Meads, Brighton		
<u>Proposal:</u>	Proposed roof extension incorporating additional rooflight to front (Part Retrospective).		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Valid Date:</u>	12/10/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	07 December 2010
<u>Agent:</u>	N/A		
<u>Applicant:</u>	Miss Dinah Rae, 25 Hazeldene Meads, Brighton		

This application was deferred at the last meeting on 24/11/10 for a Planning Committee site visit.

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. BH03.03 Materials to match Non-Cons Area.
2. The development hereby permitted shall be carried out in accordance with the approved drawing no. 29762/1 submitted 27th September 2010 and approved drawings labelled 'Drawing 1' & 'Drawing 2' submitted 7th October 2010.

Reason: For the avoidance of doubt and in the interests of proper planning.

Informatives:

- 1) This decision to grant planning permission has been taken:-
 - i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:
 - QD1 Design - quality of development and design statements
 - QD2 Design - key principles for neighbourhoods
 - QD14 Extensions and alterations
 - QD27 Protection of amenity

Supplementary Planning Guidance

 - SPGBH1 Roof alterations and extensions; and
 - ii) for the following reasons:-
 - The roof extension retains sufficient separation from the adjoining

property and would not therefore lead to a harmful terracing effect in this section of Hazeldene Meads. The gable end and front rooflight would not unbalance the existing property and is appropriate in this location. The development would not result in harm to neighbouring amenity through loss of light or outlook.

2 THE SITE

The application relates to a detached bungalow on the western side of Hazeldene Meads, a residential development off Dyke Road Avenue.

3 RELEVANT HISTORY

BH2010/03062: Certificate of Lawfulness for proposed solar panels to South, East and West. Under consideration.

BH2010/02834: Certificate of Lawfulness for proposed application for front porch, side garage and crossover, rear/side dormer and side flue. Approved.

BH2010/01610: Roof extension to south end over existing garage, 2 front dormers and installation of 7 solar panels. Refused for the following reasons:-

- 1. The two dormers, by reason of their size, bulk and positioning on the roof slope, would introduce features which would be alien and incongruous in the context of the immediately surrounding street scene, furthermore the shape and form of the roof extension would imbalance and fundamentally change the appearance of the dwelling, contrary to policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan.*
- 2. The solar panels, by reason of their proliferation and level of projection above the ridgeline, would appear cluttered and incongruous features of the property, contrary to policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan.*

BH2010/00973: Installation of 7 no. solar panels to roof of existing rear dormer. Withdrawn.

BH2010/00242: Hip to gable roof extension to south end including 2 No. dormers, 1 No. rooflight and pitched roof porch extension at front elevation. Installation of 9 No. Solar Panels to rear over existing dormer. Refused for the following reasons:-

- 1. The extended rear dormer would create an excessively sized and unduly bulky structure to the roof that would dominate the rear of the property and pay little regard to the existing scale and proportions of the building at ground floor level. In addition, the solar panels, by reason of their proliferation and level of projection above the ridge line, would appear incongruous features of the property and the wider area. The proposal would therefore detract*

from the character and appearance of the site and surrounding area and be contrary to policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan, and to the provisions of the Council's adopted Supplementary Planning Guidance Note 1 'Roof alterations and extensions'.

2. *The extended gable to the southern end of the property would result in a harmful reduction in the existing visual gap between the application site and adjoining two-storey property (No.23). This would lead to an uncharacteristic terracing effect in this section of Hazeldene Meads and would materially detract from the spatial quality, character and appearance of the site and surrounding area, contrary to policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan.*

A subsequent appeal against this decision was dismissed in September 2010 with the Inspector noting:-

- *"the difference in the shape and form of the two properties, combined with the set back of the extended pitched roof would reduce the appearance of a terracing effect arising from the reduction in the gap between the buildings.....(am) not persuaded that this element of the proposal would result in harm to the character and appearance of the area;*
- *the existing [rear] dormer does not comply with the current guidance, notwithstanding that the enlargement already undertaken is permitted development.....of the opinion that any further extension of this dormer window would be harmful to the character and appearance of the host property and the surrounding area;*
- *the insertion of three [front] dormer windows would fundamentally change the appearance of this bungalow, making it look much more like a two storey house and introducing features which would be alien and incongruous in the context of the immediately surrounding street scene. Added to this.....the proposed rooflight would be too deep as it would sit immediately below the ridge of the roof and its glazing would be prominent in its position above the front porch;*
- *the positioning of 9 such panels across the full width of the dormer would accentuate their visibility above the ridge line and would make the roof appear cluttered.....of the view that the introduction of so many solar panels along the ridge of this bungalow would be harmful."*

The planning application was refused on the basis of 2 front dormers; the appeal was however dismissed on the basis of 3 front dormers. The Planning Inspectorate has since confirmed that the correct plan indicating 2 front dormers was not taken into account as part of the appeal and that it is not possible to amend the decision or reconsider the proposals.

4 THE APPLICATION

Planning permission is sought for a gable roof extension over an existing single-storey side garage to the southern section of the property, building works have commenced on the roof extension. A rooflight is proposed to the extended front roofslope.

5 CONSULTATIONS

External

Neighbours: Representations have been received from **7, 9, 15, 18, 20, 22, 27 & 29 Hazeldene Meads**; and **2, 4, 6, 8, 14, 17, 19 & 21 The Beeches** objecting to the proposal for the following reasons:-

- have previously objected to the extended gable as it would further reduce the remaining gap between nos. 23 & 25 Hazeldene Meads, with an increasing blocking out effect that would materially detract from the spatial quality, character and appearance of the site and surrounding area;
- a previous appeal (*ref: BH2010/01610*) was dismissed as the roof extensions would have been harmful to the area;
- consider that the visual impact of the recently constructed rear dormer and the extended gable roof (proposed by this application) should be considered together. To do otherwise would support the enlargement of the property through a series of minor developments when taken as a whole the works detract from the appearance of the property and surrounding area;
- notwithstanding any consideration of the proposed gable roof extension the unduly bulky rear dormer should be reduced in size to conform to current guidance;
- designs of extensions at the application site are not always disclosed before building works commence. This sequence of events has denied residents the opportunity of reviewing the proposed development prior to construction.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

QD1	Design - quality of development and design statements
QD2	Design - key principles for neighbourhoods
QD14	Extensions and alterations
QD27	Protection of amenity

Supplementary Planning Guidance

SPGBH1 Roof alterations and extensions

7 CONSIDERATIONS

The key issues of consideration in the determination of this application are the impact of the proposed extensions on the appearance of the building and surrounding area, and the impact of the proposed development on amenity for occupiers of adjoining properties.

Design

The existing rear dormer represents 'permitted development' and no planning permission was therefore required for its construction. This application does not propose any further extension to the existing rear dormer and on this basis it is not necessary to consider the rear dormer further.

A previous application (ref: BH2010/00242) for an extended side gable was refused as it was considered the resulting roof would appreciably and harmfully reduce the existing gap at first floor level between the site and adjoining property. The resulting separation was considered insufficient to prevent an uncharacteristic terracing effect in this section of Hazeldene Meads which would harm the spatial quality and visual amenities of the wider area.

As part of a subsequent appeal against this decision it was considered that:-

"The proposed hip to gable extension would be above and the same width as the existing garage of No 25. It would further close the gap between the two properties but there would still be a distance of approximately 3.5m between the buildings. Such a separation distance is not dissimilar to others on the estate. Furthermore.....the difference in the shape and form of the two properties, combined with the set back of the extended pitched roof would reduce the appearance of a terracing effect arising from the reduction in the gap between the buildings.....am therefore not persuaded that this element of the proposal would result in harm to the character and appearance of the area."

These findings are a material consideration in the determination of this planning application which proposes a gable roof extension the same as that considered as part of the appeal. On the basis that the extended gable was found to be acceptable by an Appeal Inspector it is considered refusal of the application on design grounds would not be warranted and could not be sustained at appeal.

A previous application for a barn-end roof extension was refused by Planning Committee on 3 November 2010 as it was considered to unbalance the property (ref: BH2010/01610). The roof extension would replicate the existing property and could not therefore be considered to unbalance or fundamentally change the existing appearance of the building.

Front rooflight

A rooflight would be inserted into the extended front roofslope. The rooflight is considered to be modestly sized in relation to lower levels of the building and would not appear highly prominent in long or short views along Hazeldene Meads. It is noted that the proposed rooflight would replicate the proportions and siting of rooflights to the existing front roofslope which were confirmed as permitted development as part of application ref:

BH2010/02834.

Impact on residential amenity

The extended roof would adjoin the side elevation of 23 Hazeldene Meads which does not feature any window openings that would be affected through loss of light. There are no other properties that would be affected through loss of light or outlook.

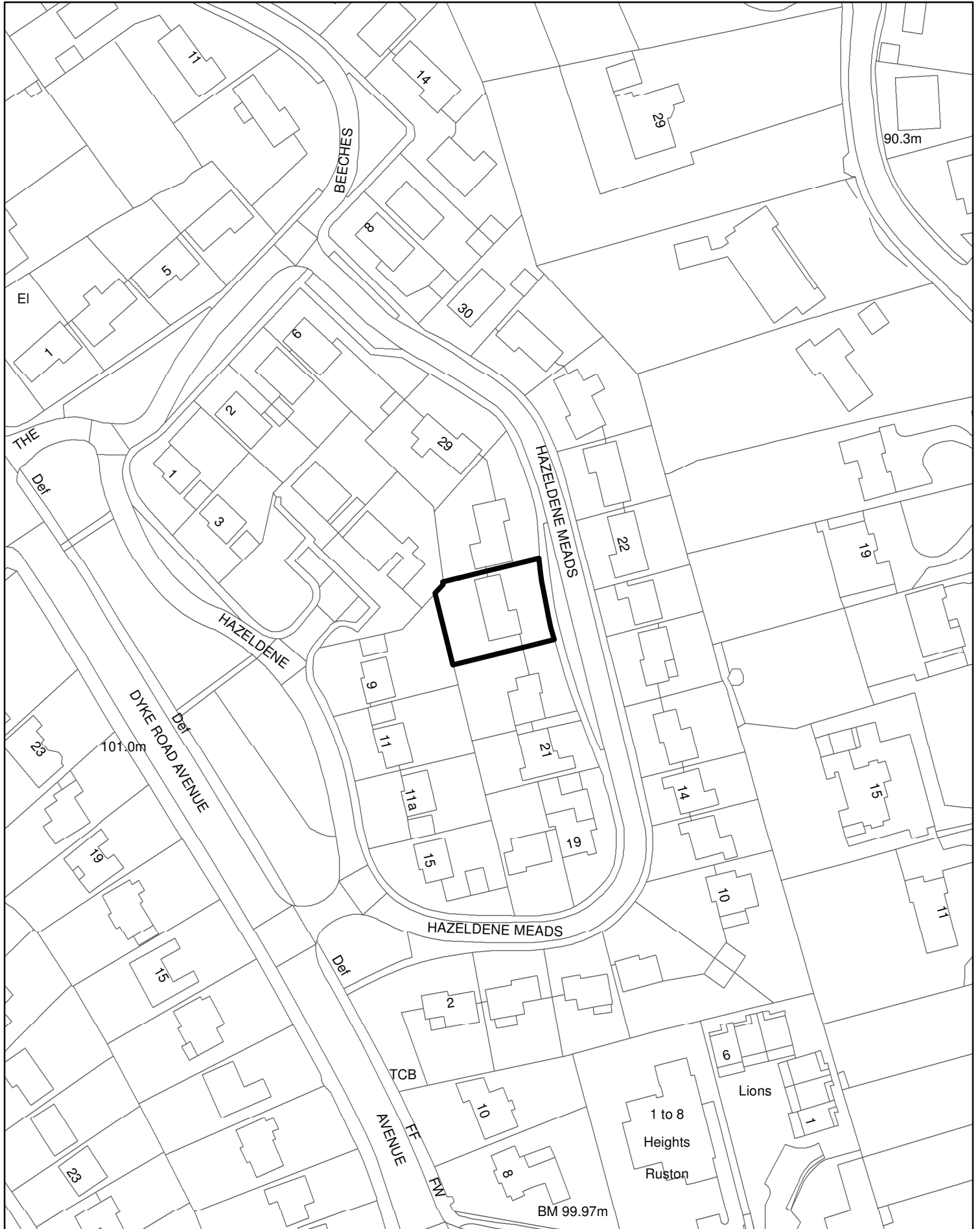
8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The roof extension retains sufficient separation from the adjoining property and would not therefore lead to a harmful terracing effect in this section of Hazeldene Meads. The gable end and front rooflight would not unbalance the existing property and is appropriate in this location. The development would not result in harm to neighbouring amenity through loss of light or outlook.

9 EQUALITIES IMPLICATIONS

None identified.

BH2010/01610 25, Hazeldene Meads



<u>No:</u>	BH2009/03105	<u>Ward:</u>	CENTRAL HOVE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Medina House, Kings Esplanade		
<u>Proposal:</u>	New build 10 storey development including 9 residential units, ground and first floor restaurant and basement parking.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Valid Date:</u>	18/12/2009
<u>Con Area:</u>	Cliftonville	<u>Expiry Date:</u>	12 February 2010
<u>Agent:</u>	Camillin Denny Architects Limited, Unit D/E Level 8, New England House, New England Street, Brighton		
<u>Applicant:</u>	Mr Sirus Taghan, Globe Homes, C/O Camillin Denny Architects Limited		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in this report and resolves to **REFUSE** planning permission for the following reasons:

1. The development would appear excessively out of scale and create a visually overbearing relationship with adjoining development to the north on Sussex Road and Victoria Cottages. This relationship would fail to preserve or enhance the character or appearance of the Cliftonville Conservation Area. The proposal is thereby contrary to policies QD1, QD2, QD4, HE3 and HE6 of the Brighton & Hove Local Plan.
2. The proposed development by reason of its height and scale would lead to a significant overbearing effect and increased sense of enclosure to neighbouring properties to the detriment of their living conditions. The proposal is therefore contrary to policies QD1, QD2 and QD27 of the Brighton & Hove Local Plan.
3. There is no evidence that efforts have been made to market the site for either the existing office / industrial use or for alternative types of industrial and business use. It has not therefore been demonstrated that the site is genuinely redundant and unsuitable for modern employment needs. The application is therefore contrary to policies EM3 and EM5 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 241 (10) 001, 002 A & 003; 241 (20) 001 A, 002 A & 003 A; 241 (11) 002 A and 241 (30) 001, 002, 003, 004, 005, 006, 007 & 008 submitted 18th December 2009; drawing nos. 241 (21) 001 C, 002 C, 003 C, 004 C, 005 C, 006 C, 007 C, 008 C, 009 C, 010 C & 012 B; 241 (31) 001 C, 002 D, 003 B & 004 B, 040 B, 041 B, 042 A, 043 A; and 241 (41) 001 B & 002 B submitted 22nd July 2010.

2 THE SITE

The application site relates to the Medina House site which is sited at the

southern end of Sussex Road and Victoria Cottages which are made up of small two storey terraced houses leading down to Hove seafront. The site fronts onto Kings Esplanade which in this section is a mixture of building types; broad, bulky 7 and 9 storey high purpose built blocks of flats (Bath Court, Benham Court and Spa Court), the narrow frontage of the 3 storey restaurant adjacent to the site (Morrocco's), the King Alfred Sports Centre to the West, and the more open section to the East bounded by the listed buildings of Medina and Courtenay Terraces.

The Medina House site comprises a two-storey gabled building with an external yard area to the side currently housing caravans and enclosed by temporary fencing. The site is within the Cliftonville Conservation Area.

3 RELEVANT HISTORY

An application for conservation area consent for demolition of the existing building was also withdrawn (ref: **BH2008/03983**). An application for planning permission for a 16 storey development including 11 residential units, ground and first floor restaurant, second floor office and basement parking - with conversion of no. 3 Victoria Cottages from 1 no. dwelling house to 2 no. affordable maisonettes was withdrawn in 2009 (ref: **BH2008/03963**).

An application for 'new build 18 storey seafront development comprising 23 apartments with ground floor restaurant and basement parking' was withdrawn in 2006 (ref: **BH2002/03108/FP**).

Planning permission, and an accompanying application for conservation area consent, were refused in 2000 for 'demolition of existing buildings and erection of 4/5 storey block of 9 flats (6x2 bedroom and 3x1 bedroom) and 9 no. basement car parking spaces' (ref: **BH2000/03196/FP & BH2000/03208/CA**). The reasons for refusal were:-

1. The proposal would detract from the character and appearance of Cliftonville Conservation Area by reason of the loss of a building which positively contributes to the Area and by reason of the bulk, massing and design of the proposed building. It is therefore contrary to policies BE8, BE9 and BE11 in the Hove Borough Local Plan and B16 and B17 in the Brighton & Hove Local Plan First Deposit Draft and Guidance in PPG15: Planning and the Historic Environment.
2. The proposed block of flats would result in loss of residential amenity to adjacent residents by reason of loss of sunlight, overshadowing, loss of daylight, overlooking and sense of enclosure contrary to policies BE1 in the Hove Borough Local Plan and QD27 in the Brighton & Hove Local Plan First Deposit Draft.

Planning permission, and an accompanying application for conservation area consent, were granted in 1999 for 'demolition of existing single storey

structure, conversion of Medina House to form 3 no. s.c. flats and erection of 2 no. new houses' (ref: **BH1999/01456/FP & BH1999/01482/CA**). The conservation area consent did not require the approved replacement development to be commenced and the single-storey side structure was demolished c.2000.

4 THE APPLICATION

The application is for demolition of the existing Medina House building and the erection of a 9-storey building sited on the south-western corner of the site with a lower two-storey section covering the remainder of the site. The development includes basement parking for 9 vehicles accessed from Sussex Road; a ground and first floor restaurant; and 9 residential units.

An accompanying application for conservation area consent has been submitted to accompany this application and is included elsewhere on this agenda (ref: **BH2009/03120**).

5 CONSULTATIONS

External:

Neighbours: Representations have been received from:- **Brunswick Terrace - 29, Clifton Terrace - 9A, Compton Avenue - 6, Connaught Terrace – 23, Courtenay Terrace - Courtenay Beach, 6 Courtenay Gate, Flag Court (nos. 23), 234 Eastern Road, 30 Hove Street, King's Esplanade - No. 8, Bath Court - 2, 6, 7, 8 (x2), 10, 12 (x3), 14, 16, 19, 20, 25 (x2), 28, 34, 36, 37 (x2), 39A, 46, Benham Court – 1, 9, 12 (x2), 17 (x2), 18, 19, 21 (x2), 22, 23, 24, 25, 26 & Benham Court Residents Association, Spa Court – 17, St Aubyns Mansions - Flat 7 (x2), Medina Terrace - 3 (x3) (flat 3), 5, 8, Norton Road – 26 (flat 3), Old Shoreham Road – 96, Osborne Villas - 4, 6, 13 (x2), 19a, 22, Selborne Road – 47, Shelley Road – 26, Springfield Road – Wellend Villas (flat 62), Sussex Road - 3 (x2), 4, 12, 13, 15, 18, 19, St Andrews Road – 32, St Aubyns Mansions – 7, Victoria Cottages – 7, Victoria Terrace - Verner House (flats 7 & 8A), 11 (basement flat), 12, 12a saveHOVE, 7 Campen Close & 18 Gipsy Hill, London, Neal House, Greatworth, Parker Dann on behalf of 25 Benham Court, Kings Esplanade and 1 letter of no address objecting to the proposal for the following reasons:-**

Design

- the height and scale of the development is not in keeping with adjoining buildings or guidelines for the conservation area;
- the proposals are bland and neither in keeping or revolutionary;
- an overhanging element to the western side of the building is unacceptable;
- the development is a further erosion of the historic merits of the area and the importance of Sussex Road as an example of its time;
- the site is not large enough to accommodate such a high block, any development should not exceed the height of the existing building;
- the elevational treatment is out of character;
- an aluminium exterior would represent a significant maintenance problem

- in such an exposed seafront location;
- the existing building positively contributes to the character and appearance of a conservation area, but has been left to deteriorate over a number of years;
- the principle of tall buildings is not promoted or justified in SPGBH15 in the location of this site;
- when Bath Court was built it was not allowed to exceed 5-storeys in height;
- the Medina House site is right in the middle of a residential area, as opposed to the King Alfred which was a stand-alone site;
- draw attention to a refused application in 2006 for a tall building on the Kingsway Texaco Service Station site;
- the development does not comply with PPS5, which was adopted following the application originally being submitted;

Amenity

- the proposed height will severely restrict light to adjoining properties;
- a daylight assessment prepared in 2008 is not appropriate to the current proposal;
- overlooking of adjoining properties, particularly from the penthouse balconies;
- the development will lead to a tunnelling of wind along Sussex Road;
- increased noise pollution from residents and the proposed restaurant, which may spill onto the promenade;
- increased air / noise pollution from cars queuing along Sussex Road to access the basement car park;
- the overhanging floors will facilitate the tunnelling of wind in a very exposed area;
- the proposal lacks amenity space;
- the flats at lower levels of the building would suffer low light levels and potentially unsatisfactory living conditions arising from being overshadowed and overlooked by Bath and Benham Courts;

Transport

- Sussex Road is unsuitable as a main access point for the development. Already cars have no option but to drive illegally on the pavement, creating a hazard for residents;
- existing parking places in Sussex Road will be lost to provide access to the proposed development worsening the existing parking situation;
- the proposed car lift will undoubtedly produce small queues of cars at peak times up Sussex Road;
- there is no provision for wheelchair users along Sussex Road due to vehicles using the pavement for access;
- increased traffic flow along King's Esplanade would become a major nuisance to existing residents, particularly in the summer when it is already busy with traffic and pedestrians;
- insufficient off-street parking is provided;
- access to the basement car lift will be problematic and does not work;

- cycle stores are limited throughout the development;

Other

- no attempts have been made to find a user of the existing building;
- the developer has circumnavigated the need to provide affordable housing to maximise profit with no consideration of the community;
- increased density of housing should not be at the expense of the environment;
- question whether existing service supply pipes and channels can cope with the additional demand;
- properties on Medina Terrace were excluded from the neighbour letter notification process;
- community consultation over a year ago appeared to result in a total objection to proposals for a tall building;
- draw attention to a number of other sites within the conservation area which have been refused for design and amenity related reasons;
- the applicant has not demonstrated a high standard of efficiency in the use of resources;
- no flood risk assessment has been carried out.

Letters have been received from **10 (flat 2) Buckingham Place; 5 Chichester Terrace; 92 Coleman Street; 74 Coombe Lea; 14 (basement) Devonshire Place; 48 Guildford Street; 16 Hove Park Villas; 36 Kensington Place; 56A Livingstone Road; 66 (flat 75 – Park Royal) Montpelier Road; 45 Tisbury Road; 1 Byland Close (Eastbourne)** and **2 letters of no address** supporting the application for the following reasons:-

- the design is an improvement on the derelict Medina House;
- the restaurant will add life on Hove's King's Esplanade;
- well matched in height to surrounding buildings;
- the proposals include the restoration of key historical features of the original baths;

A letter has been received from a resident in **Spa Court** supporting the proposal and considering that any improvement is better than the present building.

19 Old Shoreham Road have no objection to the proposal.

Brighton Society: The proposed building is disproportionately high and would overshadow the small houses behind in the Cliftonville Conservation Area. Demolition would result in the loss of an interesting and historic building with fine interior detailing, including ceramic tiles which deserve to be retained, converted to a new use and restored.

English Heritage: No objections. Previously objected to an earlier proposal (*for a 15-storey building*) as it was felt that the height and form of the proposed building was out of scale with the character of this part of the Cliftonville Conservation Area. It was however noted that in view of the

relative height of immediately adjacent seafront buildings, the Council's adopted policies on the location of tall buildings, and the assessment of the character and appearance of the conservation area that *'the site (was) capable of providing an elegant taller element of a more understated building, one that healed the gap in the seafront perimeter yet visually terminated the north-south terraces'*.

The current application goes a considerable way towards achieving this by proposing a building that more closely reflects the adjacent building heights and that addresses the seafront appropriately. It attempts to mediate between the scale of the residential terraces to the rear and King's Esplanade, by siting the higher element towards the frontage of the site. The historic street pattern and grain is reflected by retaining breaks in the building line along the seafront alignment with the particular streets. In light of this no objection to the application in terms of the impact on the historic environment.

Hove Civic Society: Objection. Consider the proposal is piecemeal development making poor use of the site. The height of the proposed building might not be an issue if a more comprehensive development was proposed: suggest a planning brief including Marroccos be considered. The façade as proposed is unattractive, but a modern treatment need not be out of place provided it is done sensitively. In terms of access limitations the site would in part lend itself to reduced car parking requirements.

The proposed building is too tall, will dwarf and dominate the neighbouring cottages and rob them of light; will not enhance the character or appearance of the conservation area, despite the argument that architectural styles on the seafront are mixed. The proposal does not justify the demolition of Medina House, and the suggestion that parts of the old buildings could be incorporated into the new one may be impracticable to achieve.

Natural England: No comments.

Sussex Police: The applicants intend to remain committed to the requirements of policy QD7 and the principle of Secured by Design, in view of this no objection.

Internal:

Conservation & Design: Objection. The principal requirement of any development of this site is that it must preserve or enhance the character of the conservation area. It is not considered that the scale of the tower element respects the character of the conservation area to the north of the Esplanade. In addition, the proposal for a tall building on this site is contrary to Council policy and has still not been sufficiently justified.

It is therefore considered that despite recent amendments, which make the development acceptable in relation to its surroundings on Kings Esplanade, the negative effects on the small scale streets to the north have not been

overcome and as a result this application should be refused.

Environmental Health: No comment.

Planning Policy: The applicants need to submit evidence to support any case for redundancy of the existing office use in accordance with policy EM6. The site is within a flood zone 1 (minimal risk of flooding) and a greenway passes along the frontage.

Sustainable Transport: The Highway Authority believes that the level of car and cycle parking provided as part of this planning application is appropriate to meet the demand that the proposal will create. It therefore complies with Local Plan policies TR1, TR14, TR19 and SPG4.

To ensure that the access to the underground car park can be used safely the proposal is to alter the layout of the highway at the southern end of Sussex Road. To achieve a safe access will require the relocating of 3 permit parking bays and inclusion of on street cycle parking, as shown on drawing 55710101-02. Drawing 55710101-03 has indicated 3 locations with the vicinity of the site that these spaces could be located.

Whilst the Highway Authority has no concerns regarding the principle of the proposal the identified locations do cause some concern, particularly those that affect the cycle lane at the far western end of King's Esplanade. However, having visited the immediate area around the site there are numerous locations where these spaces could be relocated that would be safer than those shown. The requirement to amend the relevant Traffic Regulation Order can be included as a part of a highway works schedule of a s106 Agreement.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe Development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU3	Water resources and their quality
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
SU15	Infrastructure
QD1	Design - quality of development and design statements
QD2	Design - key principles for neighbourhoods
QD3	Design - efficient and effective use of sites
QD4	Design - strategic impact
QD5	Design - street frontages

QD6	Public art
QD18	Species protection
QD27	Protection of amenity
QD28	Planning Obligations
HO2	Affordable housing - 'windfall' sites
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO6	Provision of outdoor recreation space in housing schemes
HO9	Residential conversions and the retention of smaller dwellings
SR12	Large Use Class A3 (food and drink) venues and Use Class A4 (pubs and clubs)
HE6	Development within or affecting the setting of conservation areas
HE8	Demolition in conservation areas

Supplementary Planning Guidance

SPGBH15 Tall Buildings

Supplementary Planning Document

SPD03 Construction and Demolition Waste

SPD08 Sustainable Building Design

7 **CONSIDERATIONS**

The main issues of consideration in the determination of this application relate to whether the proposals would preserve or enhance the character or appearance of the Cliftonville Conservation Area; the impact on amenity for occupiers of adjoining properties; and issues relating to housing, transport, and sustainability.

Existing use of Medina House

The existing Medina House building has been largely vacant since c.1993 with the last formal use of the premises for light-industrial processes within Use Class B1. However, in more recent years the building has been intermittently occupied for informal residential use.

Throughout the time in which the building has been vacant there appears to have been no serious attempts to market the building for either B1 use, or alternative uses. The existing building provides approximately 300m² of B1 floorspace and no information has been submitted, by way of marketing information or analysis of the building and its location, to demonstrate that the premises is unsuitable for modern employment needs.

It is recognised that there are limitations with the existing building, in terms of the internal layout and highway servicing arrangements, and that as a result it may be unsuitable for modern employment use. However, as a result of the failure to actively market the building for the current use, or alternative industrial or business use, it cannot be demonstrated that the premises is genuinely redundant. The provision of a restaurant within the proposed

development is not considered to overcome the absence of any active marketing for the existing use of the site.

Tall buildings assessment

The Council has adopted specific and detailed guidance in relation to applications for tall buildings in the form of Supplementary Planning Guidance Note 15 (SPGBH15), which defines tall buildings as those of 18 metres and above. The proposed building on the Medina House site, at 9-storeys and approximately 28.5 metres in height, constitutes a tall building.

SPGBH15 identifies parts of the City where opportunities for tall buildings may exist, one of which is the Western Seafront / Kingsway corridor; the applicant considers that the application site lies within this corridor. Whilst a precise boundary for the Western Seafront / Kingsway tall building corridor has not been defined it is referred to in the SPG as being sites on the northern side of the Kingsway overlooking Western Lawns (para 8.12.1) and the part of the western seafront which forms an end stop to the Western Lawns (para 8.12.2). Medina House does not overlook Hove Lawns or provide an 'end stop to Hove's Western Lawns'.

It is therefore considered that the application site does not lie within an area identified where taller development may be appropriate; the tall buildings guidance also advises that Conservations Areas are not generally regarded as appropriate locations for tall buildings unless they would be preserved or enhanced. Despite this it is recognised that in order to reflect adjoining buildings on Kings Esplanade a taller form of development could be justified, particularly in relation to Bath Court, Benham Court and Spa Court (which are 7 and 9 storeys in height excluding the service tower). These buildings would all be classed as 'tall buildings' under SPGBH15.

In relation to adjoining development on Kings Esplanade (and in townscape terms only) it is considered that the scale of development would not necessarily be inappropriate. The proposed building would not appear significantly higher than its seafront surroundings, particularly as the visual impact of the top (penthouse) storey is reduced by its set back from the main facades. The Conservation & Design Team considers that in relation to Kings Esplanade the proposed development would work well within the street scene and is acceptable in relation to its surroundings on Kings Esplanade,.

It is accepted that any building on the Medina House site in excess of 18 metres (and approximately 6-storeys) would create some conflict with adopted guidance on tall buildings. It is though considered that the intention along the Kings Esplanade was that new development should not be significantly taller than surrounding buildings. In order to reflect existing seafront development a taller building would be required, and on this basis there is some justification for a building of the scale proposed.

The impact of the development must though also be considered in relation to

the wider Conservation Area setting and particularly adjoining development to the north.

Character and appearance

The principal requirement of any development on the Medina House site is that it must preserve or enhance the character of the Conservation Area. The contrast between Kings Esplanade and the small residential terraces of Victoria Cottages and Sussex Road creates a widely differing character and makes the site a very challenging one to develop. The success of any development would though depend upon its sensitive merging with low rise terraced housing to the north and upon successful integration into street views along Sussex Road and Victoria Cottages.

The two storey northern section of the proposed building, fronting Victoria Cottages and Sussex Road, attempts to provide buffer zones and create a transition to the taller seafront element of the development. There would though remain an extreme contrast in height between the eaves of terrace housing to the north (approximately 7m) and the proposed tower element (of approximately 22m to the first step at 7th and 28m to the roof). Despite the reduction in height from previous schemes the towering presence of the proposed 9-storey building would have an overbearing effect on views down these narrow intimate streets to the seafront.

It is considered that the justification for a tall building on the site is driven by the scale of existing buildings on Kings Esplanade. The impact and relationship of the development with adjoining buildings to the north is not directly addressed by the application and the development relies solely on a 2-storey plinth to resolve the contrast and impact on terraced properties to the north.

The development would have an overbearing effect when viewed from the narrow more intimate streets to the north and the proposed change in scale, character and appearance is too great. This harm would be particularly evident in both short and long views along Sussex Road and Victoria Cottages.

This change in scale is not reflected elsewhere in this part of the Conservation Area. The Bath Court development comprises a transition from 3-storey terraces on Sussex Road to 7-storeys fronting Kings Esplanade, with land to the rear not readily comparable to Sussex Road and Victoria Cottages. The proposed change in scale is also not considered to be justified by the examples provided by the applicant of other situations where tall buildings have been built at the seafront end of smaller scale residential streets (with the junction of Kingsway with Carlisle Road and Albany Villas a stated example).

For the reasons outlined the scale of the development is considered to be excessive and would create a visually overbearing relationship with adjoining

development on Sussex Road and Victoria Cottages. This relationship would fail to adequately preserve or enhance the character or appearance of the Cliftonville Conservation Area.

Notwithstanding these fundamental concerns it is considered that the proposed building is well designed and detailed, with the curved glazing to the south-western corner an attractive feature, and the proposed mix of materials well suited to the local palette.

Proposed residential accommodation

The development would create 7 x 2-bed flats (one flat per floor from ground to 6th floor level) and 2 x 1-bed duplex penthouses (at 7th & 8th floor level). The proposed flats would provide extremely spacious accommodation and there is no objection to the proposed mix. All units would benefit from adequate outlook, natural light and ventilation and the private amenity space, mainly in the form of roof terraces, is appropriate to the scale and character of the development.

A checklist and accompanying large scale plan have been submitted to demonstrate that Lifetime Home standards will be incorporated in the proposed design. Due to the size of the proposed units there are no reasons why they could not meet all the relevant standards and if necessary this could be secured by condition.

Impact on neighbouring amenity

The main concern regarding neighbouring amenity is the impact of the development on light and outlook from adjoining properties on Sussex Road, Victoria Cottages, Bath Court and Benham Court. A number of representations have been received from occupiers of adjoining properties objecting to the proposal on this basis.

Loss of light

The application is accompanied by a daylight assessment for an earlier scheme for a 15-storey building on the site (ref: BH2008/03963). This assessment has been supplemented by additional information relating to the current scheme and the difference in impact between the previous scheme and that now proposed. A report on daylight and sunlight has also been submitted by the residents of Bath Court and Benham Court.

The information in both reports is based on guidance in the Building Research Establishment (BRE) publication 'Site Layout Planning for daylight and sunlight: a guide to good practice'. Whilst this publication is not enshrined in local plan policy it is recognised as being good practice in the assessment of development proposals and the impact on light.

The assessments in both reports highlight that development on the Medina House site would cause a noticeable loss of daylight to a large number of adjoining windows, with the resulting level in a number of instances below that

recommended by the BRE. Whilst the precise reduction in daylight varies between both sets of reports the overall trend and magnitude of the impact is broadly consistent and sufficient for conclusions to be drawn.

The reports indicate that of the windows assessed to properties on Sussex Road, Victoria Cottages and within Bath Court the majority would receive a reduction in day and sun light, with the impact on windows nearest the application site generally the greatest. The reports both acknowledge instances where loss of light would not be noticeable; locations where light levels resulting from the development would fall below BRE recommended levels; and where windows are already below BRE recommended levels and would suffer further loss of light. Based on the submitted reports it is apparent that the development would result in a loss of light to adjoining properties.

The supporting information provided by the applicant does though suggest that the impact on daylight to adjoining properties from a lower building would not be appreciably better than that which would result from this application. For example, the loss of daylight (in the form of VSC) to a window in Bath Court was 33.5% with a 15-storey building on the Medina House site, and 32.8% with the current proposal for a 9-storey building (with these figures taken from representations received from neighbouring residents). This difference in impact between 15 and 9 storeys would not be a significant improvement for occupants of the affected property.

It is therefore considered that in this instance compromise is required in terms of strict compliance with the BRE guide, and a higher degree of obstruction is unavoidable in order to achieve a development of an appropriate scale in relation to existing buildings on King's Esplanade.

There is a conflict between securing a scale of development that is appropriate to Kings Esplanade (whilst providing a transition from Sussex Road and Victoria Cottages) and ensuring that the impact is within the day and sun light thresholds recommended by the BRE. This is supported by the planning history of the site where an application for a 4 / 5-storey building on the site was refused partly due to loss of light to adjoining properties (ref: BH2000/03196/FP). In addition to earlier representations from residents which indicated that if BRE recommended levels were strictly followed on the Medina House site it would result in a development that would rise to no more than 10.6 metres adjoining Bath Court (approximately 3 storeys); it is questionable whether this scale of development would be desirable in townscape terms.

The development would result in loss of light to adjoining properties in this location. However, having regard to the prevailing scale of development on King's Esplanade a higher degree of obstruction would be justified in this instance. The siting of the main built form on the south-western corner of the site would minimise as far as is reasonably practicable the impact of the

development on light to adjoining properties and the southerly aspect of adjoining properties to the east and west would be unaffected by the development.

Loss of outlook

Notwithstanding the findings in respect of light the impact of the development on outlook from adjoining window openings and amenity spaces must also be considered. The development would result in a step change from two-storey terraces to a nine-storey tower along Sussex Road and Victoria Cottages: in contrast Bath Court comprises a three-storey terrace on Sussex Road and six-storey frontage building on King's Esplanade.

It is considered that the proposed development by reason of its height and bulk would cause a severe overbearing effect and heighten the existing sense of enclosure that exists for adjoining properties, particularly those to the north where rear garden areas are already enclosed by two-storey rear sections of the buildings.

In this regard the application site is considered to be more sensitive than Bath Court and Benham Court which are adjoined to the north by surface parking and other non-residential uses. This provides a 'buffer zone', reducing the immediate impact on amenity resulting from the scale and bulk of these buildings, that is not repeated to the rear of the Medina House site.

Overlooking

The development would incorporate window openings to the side and rear elevations with potential to cause overlooking to adjoining properties.

The side facing windows can either be considered secondary openings or relate to non-habitable rooms. It is considered that these windows could be obscurely glazed without harming the living conditions of the proposed flats and this would prevent any intrusive overlooking of adjoining properties. Similarly whilst rear (north) facing window openings are the only source of light and outlook for the affected rooms there are no reasons why the lower half could not be obscurely glazed. This arrangement would prevent potentially harmful downward overlooking, or the perception of overlooking from adjoining properties, whilst still allowing adequate light to occupants of the proposed development. In both instances the measures outlined could be secured through condition if necessary.

Proposed commercial use

The development includes a double height space to the eastern section of the building with a bar area to the front of the property and (raised) customer seating to the rear; a kitchen is located at first floor level. The application outlines that the commercial space would be used in the manner of a restaurant and bar, with the customer floorspace approximately 90 sq metres. There is no objection in principle to a commercial ground floor use in the building as it would potentially create an active vibrant frontage in a popular

stretch of Hove seafront.

It is recognised that there are a number of residential properties adjoining the application site and as such there is potential for noise and disturbance from the proposed use. However, if necessary it is felt that any harm could be mitigated through conditions restricting opening hours, delivery times, the permitted Use Class, soundproofing and extract and odour control equipment. It is therefore considered that refusal of the application on the basis of noise and disturbance would not be warranted and potential harm could be overcome through the use of conditions.

Transport

Local plan policy TR1 requires that development provides for the demand for travel it creates, and maximises the use of public transport, walking and cycling. Policy TR7 seeks to ensure development does not increase danger to users of adjacent pavements, cycle routes and roads.

Parking provision

The development would provide 9 spaces at basement level for the proposed residential units; 2 of these spaces would be suitable for disabled use. There is no objection to this level of parking provision.

The southern end of Sussex Road, adjoining Medina House, provides on-street resident parking for 6 vehicles. The proposed plans indicate the removal of three spaces in order to facilitate access to the basement parking. It is apparent there is heavy demand for on-street parking in the immediate vicinity of the site and a number of objections have been received on this basis. The applicant considers the loss of these spaces to be acceptable, on the basis of 9 spaces being provided at basement level, and has identified 3 locations in the immediate surrounding area where additional parking bays could be provided.

There is no objection in principle to the creation of new resident parking bays as this would not result in a net loss of parking spaces within the zone, and the development would not therefore create a nuisance (in transport terms) for existing residents. If the application were approved the provision of these 'new' spaces would need to be secured by condition or s106 agreement.

Highway safety

The proposed development incorporates basement parking for 9 vehicles accessible from Sussex Road. Sussex Road is a narrow street accessible only to southbound traffic with vehicles parked along its length. As originally submitted there was concern that the basement access was located in a position where the adjacent property, no. 12, would constrain the visibility of vehicles entering and leaving the development and cause a safety hazard.

In response to this concern the applicant has submitted additional information on the visibility to and from the basement access. It has now been

demonstrated that the low vehicle speeds along Sussex Road, the highway layout and street parking allows for sufficient visibility for southbound traffic and cars emerging from the basement. The Sustainable Transport Team is in agreement with this assessment and on this basis it is considered the access would not cause a safety hazard for highway users.

The application is accompanied by information outlining how use of the access ramp would be managed by a traffic signal to prevent potentially hazardous vehicle manoeuvres and reversing on the highway. This arrangement has been agreed with the Sustainable Transport Team and if necessary the signal provision could be secured by condition.

Cycle parking

The development provides 6 covered cycle spaces at basement level, from where lift access would be available to upper floors; with a further 8 cycle spaces provided at street level for visitors / existing residents. This location and amount of cycle parking is considered appropriate and in compliance with local plan policy TR14.

Other matters

The development involves works to the adopted highway and if the application were approved details would be required to demonstrate that these works would not prejudice the highway; such details could be required either through an appropriate condition or separate agreement under the Highways Act.

The tower element of the development would overhang Sussex Road from second floor level and above. In highway safety terms given the overhang is approximately 7.3 metres above street level there is no objection in principle to this arrangement. It should be noted that a license, under Section 177 of the Highways Act 1980, would be required to overhang parts of the highway that are maintainable at the public expense.

Sustainability

Policy SU2 requires proposals demonstrate a high standard of efficiency in the use of energy, water and materials. Further guidance within Supplementary Planning Document 08 'Sustainable Building Design' recommends that for a development of this scale there should be Zero net annual CO₂ from energy use; a completed Sustainability Checklist; Level 3 of the Code for Sustainable Homes (CSH) and Lifetime Home Standards should be achieved.

There are no reasons why the development could not achieve CSH Level 3. The applicant has submitted a Sustainability Checklist which outlines that CSH Level 4 would be sought and a pre-assessment indicates how this would be achieved. If the application was approved it would be possible to secure a CSH rating through condition.

The Site Waste Management Plans Regulation (SWMP) 2008 was introduced on 6 April 2008. As a result it is now a legal requirement for all construction projects in England over £300,000 to have a SWMP, with a more detailed plan required for projects over £500,000. As the proposed development involves 4 new-build units it would be required under the regulations to have a SWMP.

Ecology

The application includes an ecological survey which advises that no evidence of bat activity within the site was encountered. It is accepted that the likelihood of a bat roost of any significance in this coastal location is remote and it would therefore be unreasonable to require additional bat surveys before this application was determined. If necessary further information could be required by condition prior to the commencement of works.

Land contamination

The application site is within a groundwater protection zone and former and historic uses of the site have potential to cause localised contamination. Whilst a detailed site investigation has not been submitted with the application if the application were approved there are no reasons why the required information could not be secured by condition.

Conclusion

It is considered that a tower feature on the south-western corner of the site is the most appropriate form of development for the site and would minimise the impact on light to adjoining properties as far is reasonably possible in this instance. However, at 9-storeys in height it is considered the scale of development is excessive and would appear visually overbearing with adjoining development to the north on Sussex Road and Victoria Cottages. The height would also create an increased sense of enclosure to neighbouring properties, to the detriment of their living conditions.

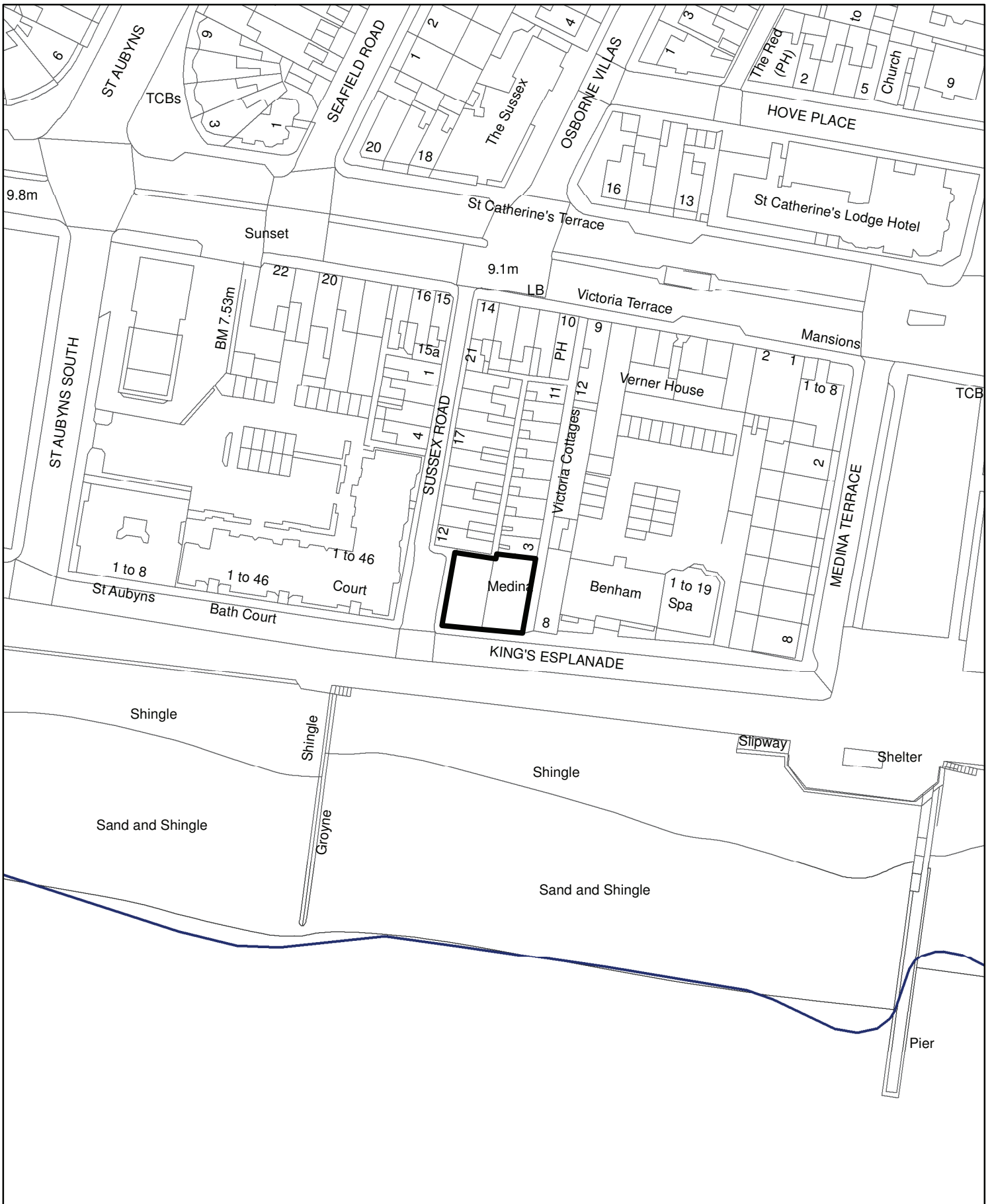
There are also concerns that the premises, which has an office use, has not been actively marketed to establish the likely demand.

The application is recommended for refusal.

8 EQUALITIES IMPLICATIONS

The development could be built to Lifetime Home standards and the split-level commercial unit would be accessible to those with limited mobility. The basement would include two disabled parking spaces.

BH2009/03105 Medina House, King's Esplanade, Hove



**Brighton & Hove
City Council**

N



Scale: 1:1,250

<u>No:</u>	BH2009/03120	<u>Ward:</u>	CENTRAL HOVE
<u>App Type:</u>	Conservation Area Consent		
<u>Address:</u>	Medina House, Kings Esplanade, Hove		
<u>Proposal:</u>	Demolition of existing building.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Valid Date:</u>	18/12/2009
<u>Con Area:</u>	Cliftonville	<u>Expiry Date:</u>	12 February 2010
<u>Agent:</u>	Camillin Denny Architects Limited, Unit D/E Level 8, New England House, New England Street, Brighton		
<u>Applicant:</u>	Mr Sirius Taghan, Globe Homes, C/O Camillin Denny Architects Limited		

1 RECOMMENDATION

That the Planning Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **REFUSE** conservation area for the following reason:

1. The existing building makes a positive contribution to the character and appearance of the Cliftonville Conservation Area. It has not been demonstrated that the building is beyond economic repair (through no fault of the owner / applicant) and that there are no viable alternative uses for the building. Furthermore in the absence of an approved planning application for the redevelopment of the site demolition of the existing building would be premature and result in the creation of a gap site that would fail to preserve or enhance the character or appearance of the Cliftonville Conservation Area. The proposal is therefore contrary to policy HE8 of the Brighton & Hove Local Plan.

Informatives:

- 1) This decision is based on drawing nos. 241 (10) 001, 002 A & 003; 241 (20) 001 A, 002 A & 003 A; 241 (11) 002 A and 241 (30) 001, 002, 003, 004, 005, 006, 007 & 008 and accompanying information submitted 18th December 2009; drawing nos. 241 (21) 001 C, 002 C, 003 C, 004 C, 005 C, 006 C, 007 C, 008 C, 009 C, 010 C & 012 B; 241 (31) 001 C, 002 D, 003 B & 004 B, 040 B, 041 B, 042 A, 043 A; and 241 (41) 001 B & 002 B and accompanying information submitted 22nd July 2010.

2 THE SITE

The application site relates to the Medina House site which is sited at the southern end of Sussex Road and Victoria Cottages which are made up of small two storey terraced houses leading down to Hove seafront. The site fronts onto Kings Esplanade which in this section is a mixture of building types; broad, bulky 7 and 9 storey high purpose built blocks of flats (Bath Court, Benham Court and Spa Court), the narrow frontage of the 3 storey restaurant adjacent to the site (Morrocco's), the King Alfred Sports Centre to the West, and the more open section to the East bounded by the listed

buildings of Medina and Courtenay Terraces.

The Medina House site comprises a two-storey gabled building with an external yard area to the side currently housing caravans and enclosed by temporary fencing. The site is within the Cliftonville Conservation Area.

3 RELEVANT HISTORY

An application for 'new build 18 storey seafront development comprising 23 apartments with ground floor restaurant and basement parking' was withdrawn in 2006 (ref: **BH2002/03108/FP**).

Conservation area consent, and an accompanying application for planning permission, were refused in 2000 for 'demolition of existing buildings and erection of 4/5 storey block of 9 flats (6x2 bedroom and 3x1 bedroom) and 9 no. basement car parking spaces' (ref: **BH2000/03208/CA & BH2000/03196/FP**). The CAC reason for refusal was:-

1. The proposal would result in loss of a building which positively contributes to the character and appearance of Cliftonville Conservation Area, without any justification contrary to policies BE9 and BE11 in the Hove Borough Local Plan and HE8 in the Brighton & Hove Local Plan First Deposit Draft.

Planning permission, and an accompanying application for conservation area consent, were granted in 1999 for 'demolition of existing single storey structure, conversion of Medina House to form 3 no. s.c. flats and erection of 2 no. new houses' (ref: **BH1999/01456/FP & BH1999/01482/CA**). The single storey side structure was demolished in July 2000. Following this demolition the Planning and Investigations Team have served s215 notices to require the repainting of all previously painted parts of the building, and the erection of hoarding around the section of the site where demolition has taken place.

4 THE APPLICATION

The application seeks conservation area consent for demolition of the existing Medina House building.

An accompanying planning application has been submitted for a 'new build 9 storey development including 9 residential units, ground and first floor restaurant and basement parking' (ref: **BH2010/03105**) and this is included elsewhere on the agenda.

5 CONSULTATIONS

External:

Neighbours: Representations have been received from:- **Hove Place – 2, Medina Terrace - 3 (x2), 3 (flat 3), Osborne Villas - 4, 6, 11, 13 (x2), 16, 22 Sussex Road - 4, 12, 13, 19, St Aubyns – 23 (flat 10), Vallance Road – 1, Victoria Cottages – 7, Neal House, Greatworth (Nr Banbury), Parker Dann on behalf of 25 Benham Court, Kings Esplanade, saveHOVE, Hove**

Civic Society and King's Esplanade - No. 8, Bath Court - 6, 7, 10, 12, 14, 36, Benham Court – 1, 2, 9, 12 (x2), 18, 21, 22, 23, 25, 26 & Benham Court Residents Association, St Aubyns Mansions - 7 (x2) objecting to the proposal for the following reasons:-

- Medina House was once a beautiful historical building until a wall was demolished and squatters and caravans were allowed on the site;
- the building is in keeping with the character and appearance of the cottages in Sussex Road;
- there are no reasons why the building could not be re-used and make a positive contribution to the area in line with an earlier consent;
- the applicant has failed to provide a full building survey for Medina House. There is no evidence that the building cannot be restored;
- no acceptable redevelopment proposal has been submitted or agreed. Approval to demolish without this approval would remove the opportunity to save the locally important structure;
- the premature demolition of the bath house section has unjustifiably and unreasonably contributed to the demolition of the remaining Medina House;
- the proposed building is overbearing, poorly articulated, insensitive and represents a gross overdevelopment of the site;

A letter has been received from a resident in Spa Court supporting the proposal and considering that any improvement is better than the present building.

Internal:

Conservation & Design: (*Comments from accompanying planning application*) The principal requirement of any development of this site is that it must preserve or enhance the character of the conservation area. It is not considered that the scale of the tower element respects the character of the conservation area to the north of the Esplanade. In addition, the proposal for a tall building on this site is contrary to Council policy and has still not been sufficiently justified.

It is therefore considered that despite recent amendments, which make the development acceptable in relation to its surroundings on Kings Esplanade, the negative effects on the small scale streets to the north have not been overcome and as a result this application should be refused.

6 PLANNING POLICIES

Planning Policy Statements

PPS5 Planning for the historic environment

Brighton and Hove Local Plan:

HE8 Demolition in conservation areas

7 CONSIDERATIONS

Medina House is the last surviving part of the Hove baths complex, the main

part of which was replaced by Bath Court. The building is within the Cliftonville Conservation Area but is not a listed building. It though locally listed with the description:-

“Strange and whimsical building, render over original brick facade, with a heavily decorated “dutch” gable, whose appearance would be improved by the reinstatement of appropriate windows. Possesses some charm and character as well as historical significance.”

The building is of a scale which reflects adjoining development to the north and in combination with the modest housing on Victoria Cottages and Sussex Road forms a unique enclave surrounded by grander buildings. It is considered that the existing building, notwithstanding its current condition, does make a positive contribution to the character and appearance of the Cliftonville Conservation Area.

There is a presumption in both local and national policy in favour of retaining buildings which make a positive contribution to the character or appearance of conservation areas. Local plan policy HE8 states that the demolition of a building and its surrounding which make such a contribution will only be permitted where all of the following apply:-

- a) supporting evidence is submitted with the application which demonstrates that the building is beyond economic repair (through no fault of the owner / applicant);
- b) viable alternative uses cannot be found; and,
- c) the redevelopment both preserves the area’s character and would produce substantial benefits that would outweigh the building’s loss.

The existing Medina House building has been largely vacant since c.1993 with the last formal use of the premises for light-industrial processes within Use Class B1. However, in more recent years the building has been intermittently occupied for informal residential use.

Throughout the time in which the building has been vacant there appears to have been no serious attempts to market the building for either B1 or alternative uses. The existing building provides approximately 300m² of B1 floorspace. The application is only accompanied by anecdotal information on the unsuitability of the existing building for reuse. It is though considered that marketing of the site is required to assess the demand for the existing premises. As a result of the failure to actively market the building for the current use, or alternative industrial or business use, it cannot be demonstrated that there is no use for the premises and there has been no opportunity for potential tenants to express an interest in the existing building

Whilst it is appreciated that the building is in need of repair as it is questionable the extent to which alternative uses have been sought for the site there is a concern the building has been allowed to deteriorate into its

current condition. Irrespective of this there is no detailed breakdown of the costs involved in repairing the building and as such an argument that the building is beyond economic repair lacks substance.

When conservation area consent ref: BH1999/01482/CA was granted for demolition of a previous single-storey section to the east of the site it did not require an approved replacement development to be commenced. The single-storey side structure was demolished in July 2000 and although this has harmed the character and appearance of the Conservation Area it has not seemingly affected the condition of the remaining building.

There are no acceptable details for the redevelopment of the site.

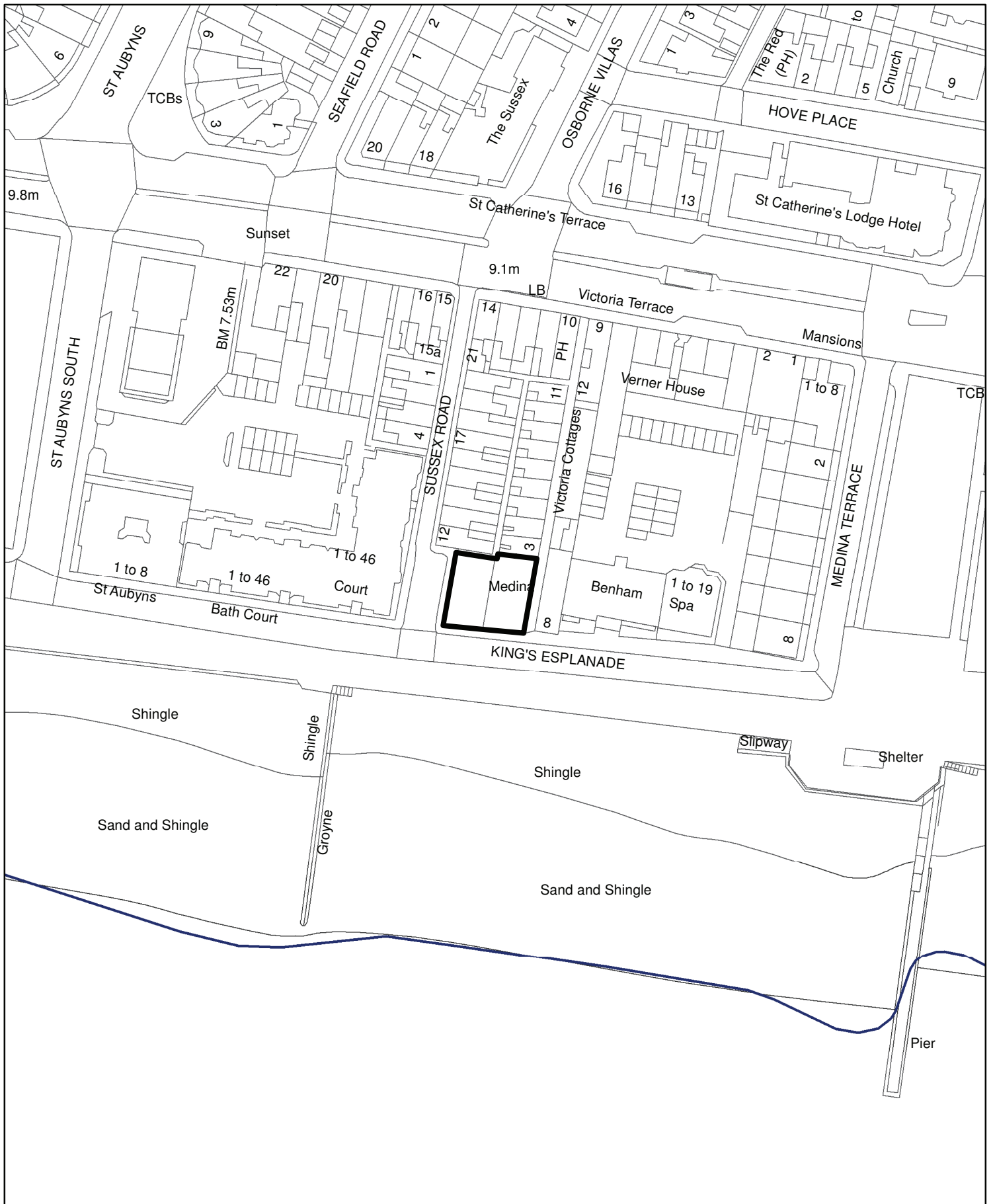
For the reasons outlined it is not considered appropriate to grant the demolition of the existing building as the demolition would harm the character and appearance of the Cliftonville Conservation Area.

The application is therefore recommended for refusal.

8 EQUALITIES IMPLICATIONS

None identified.

BH2009/03105 Medina House, King's Esplanade, Hove



**Brighton & Hove
City Council**

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Scale: 1:1,250

<u>No:</u>	BH2010/02315	<u>Ward:</u>	BRUNSWICK AND ADELAIDE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Intergen House, 65 - 67 Western Road, Hove		
<u>Proposal:</u>	Removal of 5no existing antennas and replacement with 5no antennas and installation of an additional equipment cabinet at ground level.		
<u>Officer:</u>	Wayne Nee, tel: 292132	<u>Valid Date:</u>	04/08/2010
<u>Con Area:</u>	Brunswick Town	<u>Expiry Date:</u>	29 September 2010
<u>Agent:</u>	Tyco Electronics UK Infrastructure Ltd, Heriot House, Heriot Road, Chertsey, Surrey		
<u>Applicant:</u>	Vodafone Limited, Vodafone House, The Connection, Newbury, Berkshire		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. BH01.01 Full Planning.
2. The development hereby permitted shall be carried out in accordance with the approved drawing no. 100 received on 27 July 2010, drawing nos. 300A, 301 and 500A received on 04 August 2010, and drawing nos. 200B, 302, 303, 304 received on 12 October 2010
Reason: For the avoidance of doubt and in the interests of proper planning.
3. The telecommunications equipment hereby approved shall be removed if at any time in the future the equipment becomes obsolete or no longer required for the purpose for which it was erected.
Reason: To protect the appearance of the building and the surrounding area in accordance with policy QD23, QD24 and HE6 of the Brighton & Hove Local Plan.
4. Notwithstanding the approved plans, the antennas and fittings shall be coloured to blend in with the brickwork of the existing building
Reason: For the avoidance of doubt; to ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.
5. Within three months of the installation of the antennae hereby approved, unless otherwise agreed in writing, the existing antennae and associated equipment shall be removed.
Reason: To avoid proliferation of the equipment and to ensure a satisfactory appearance of the building and to comply with policy HE6 of the Brighton & Hove Local Plan.

Informatives:

1. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance:

Planning Policy Guidance Note:

PPG8: Telecommunications (2001)

Brighton & Hove Local Plan:

QD14 Extensions and alterations
QD23 Telecommunications apparatus (general)
QD24 Telecommunications apparatus affecting important areas
QD27 Protection of amenity
HE6 Development within or affecting the setting of conservation areas
SU10 Noise nuisance; and

- (ii) for the following reasons:-

The visual impact of the installation on the host building would be minimal and the character and appearance of the surrounding Conservation Area would not be significantly harmed by the replacement telecommunications equipment. The application is accompanied by an ICNIRP certificate and there are no exceptional circumstances to believe the mast would lead to an adverse health effect.

2 THE SITE

The application relates to a 9/10 storey flat-roofed commercial building on the southern side of Western Road adjoining Palmeira Square. The ground floor of the building is partly in use as a sandwich bar with the rest of the ground floor and upper floors providing office accommodation. The building is a 1960's design with a penthouse at roof level set back from the front elevation of the building. The site and surrounding area lies within the Brunswick Town Conservation Area.

At present there are panel antennas affixed to the front and side elevations of the building at eighth floor level. The existing antennas are coloured to match the existing building.

3 RELEVANT HISTORY

BH2006/02987: Installation of four equipment cabinets at ground level, with two flagpole antennas and two 600mm dishes sited on the roof – refused 06/11/2006.

BH2005/01446/FP: 3 equipment cabinets at ground level, 3 antenna located within false plant room on roof, associated feeder. Cables & cable trays, hooped ladder, 2x 600m dishes – refused 21/09/2005.

BH2004/03170/FP: Fascia mounted telecommunications installation comprising 6 panel antennae, radio equipment cabin to be located on patio area at ground floor level to rear of building – approved 29/11/2004.

BH2003/02861/FP: Rooftop telecommunications installation comprising 6 No. half height panel antennas enclosed within 2 No. GRP brick effect shrouds, radio equipment cabin to be located on patio area at ground floor level to rear of building – refused 31/10/2003.

4 THE APPLICATION

Planning permission is sought for the removal of 5 no. existing antennas on the front and sides of the building, and their replacement with 5 no. antennas. Two would be utilised by Vodafone, two by O2, and one would be shared. The proposed antennas would be painted to match the brickwork.

Also proposed is the installation of an additional equipment cabinet at ground level at the rear of the building. The proposed cabinet would be located amongst the existing cabinets

5 CONSULTATIONS

External

Neighbours: Four (4) representations have been received from **Flat 5 10/11 Palmeira Square, Holland Road**, and **two from unknown addresses** objecting to the scheme on the following grounds:

- it is too near residential homes.

Internal

Cllr Elgood & Cllr Watkins object – see email attached.

Environmental Health: No comment.

Sustainable Transport: No objection.

Conservation & Design: The replacement of the aerials is acceptable in principle, especially as the new aerials are smaller, however it appears from the drawings that the proposed cable trays will be of different materials to the existing ones. The existing fittings are coloured to blend with the brickwork of Intergen House and as a result their prominence is reduced, therefore please ensure that a similar treatment is given to the proposed fittings. This could be done by condition.

6 PLANNING POLICIES

Planning Policy Guidance Note:

PPG8: Telecommunications (2001)

Brighton & Hove Local Plan:

QD14	Extensions and alterations
QD23	Telecommunications apparatus (general)
QD24	Telecommunications apparatus affecting important areas
QD27	Protection of amenity
HE6	Development within or affecting the setting of conservation areas
SU10	Noise nuisance

7 CONSIDERATIONS

The determining issues in the consideration of this application is the impact the proposed telecommunications equipment would have on the character and appearance of the building, the street scene and whether the works preserve and enhance the Brunswick Town Conservation Area. The impact on the amenity of adjacent properties is also a material consideration.

Background

A previous application (BH2006/02987) for four equipment cabinets at ground level, with two flagpole antennas and two 600mm dishes sited on the roof was refused for the following reason:

The proposed additional telecommunications equipment by virtue of their height, design and visual prominence would create undesirable rooftop clutter which would appear incongruous and out of keeping, detracting from the building and the character and appearance of this part of the Brunswick Town Conservation Area. The development is therefore contrary to Policies HE6 and QD24 of the Brighton & Hove Local Plan

Also of relevance is the approval of 6 fascia mounted antennae in December 2004 (ref: BH2004/03170).

Relevant Policy

Policy QD23 of the Brighton & Hove Local Plan states proposals for telecommunication developments will only be permitted where the following criteria are met:

- a) Subject to technical and operation considerations, the development is sited, designed, landscaped (where relevant) and in the most appropriate materials and colours, so as to minimise its visual impact;
- b) It can be demonstrated that existing masts, nearby buildings or structures cannot reasonably be used for the purpose;
- c) There will be no serious adverse effect on the character or appearance of the area;
- d) Where the proposal determines the location of development elsewhere, details are submitted of the co-ordinated and strategic assessment, including the location of any subsequent apparatus, which demonstrates that the proposal is part of a plan that minimises the overall impact; and
- e) There would be no unacceptable adverse impact on amenity, people, landscape and nature conservation in the locality.

If significant physical or electrical radio interference is likely to result, this will be taken into account. The planning authority will seek to ensure, wherever possible, cables and wires are located underground.

In the event that no controls exist under other legislation, the planning authority will impose on all masts or other telecommunications apparatus, conditions requiring their removal, if at any time in the future they become

obsolete and are no longer required for the purpose for which they were erected.

Policy QD24 states that proposals for telecommunication developments will not be permitted in locations where they would have an adverse affect on a conservation area or a listed building.

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.

Siting and Appearance of the Proposal

In the recent past on this site, schemes have been refused planning permission for the installation of antenna located within new rooftop structures as they were considered incongruous additions to the building, appearing overly prominent in public views, detracting from nearby listed buildings and failing to preserve or enhance the character and appearance of the Brunswick Town Conservation Area.

Intergen House is a nine-storey flat-roofed building of greater height than immediately adjoining development and is prominent when viewed from the north, east and west; particularly since its design and detailing is significantly different from the surrounding Conservation Area. Unlike previous applications which proposed additional equipment on the building, the scheme does not result in the increase in the number of antennas on the building. The shared use of the site by more than one telecommunications minimises the possible visual intrusion of a proposed telecommunications in a different site, as recommended by Planning Policy Guidance 8: Telecommunications (PPG8).

The replacement antennas would match the existing ones in size, although the cable trays would be slightly longer on the front elevation. It is considered that given the appearance of the existing antennas, the replacement antennas would not result in a clear visible change to the appearance of the building from street level, and so the proposal would not result in any increased harm on the character and appearance of the Conservation Area.

The supplementary information provided by the applicant states that the proposed antennas would be painted to match the brickwork of the building.

However the proposed drawings show a difference in the exterior appearance of the antenna when compared to the exterior brickwork of the building. For the avoidance of doubt, a condition is recommended to ensure that the proposed antennas are no more prominent than the existing antennas.

The scheme includes an additional equipment cabinet at ground floor level to

sit amongst the existing cabinets in the rear yard. The existing cable tray that runs up the rear of the building would be utilised for the additional power cables. Due to its position at the rear of the building which is not visible from any street scene, the additional cabinet equipment would not form a prominent feature on the site and is considered to be an acceptable addition.

Health Considerations

Health concerns can be a material consideration and a number of adjacent residents have expressed concern regarding the health risk of the proposed telecommunications equipment. The applicant has submitted a certificate stating that the proposal will meet the International Commission for Non-Ionising Radiation Protection (ICNIRP) guidelines as recommended in the Stewart Report. PPG8 states that where this is the case it should not be necessary for the Local Planning Authority to consider further the health aspects and concerns about them. In this respect the application is considered to be acceptable.

Conclusion:

For the reasons outlined in this report it is considered that the proposal is acceptable in terms of siting and appearance and will not have a detrimental impact on the character and appearance of the Brunswick Town Conservation Area and the application is therefore recommended for approval.

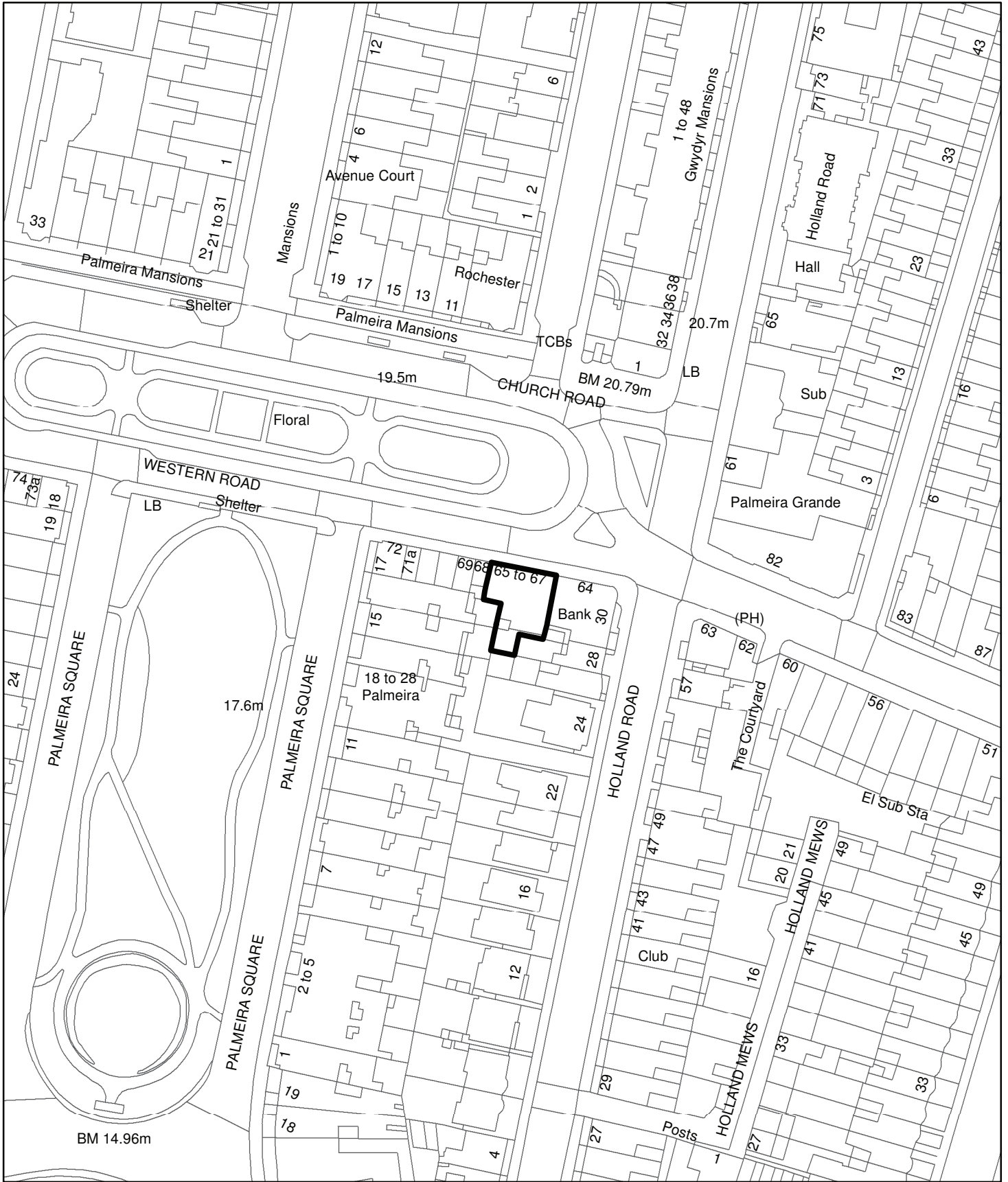
8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The visual impact of the installation on the host building would be minimal and the character and appearance of the surrounding Conservation Area would not be significantly harmed by the replacement telecommunications equipment. The application is accompanied by an ICNIRP certificate and there are no exceptional circumstances to believe the mast would lead to an adverse health effect.

9 EQUALITIES IMPLICATIONS

None identified.

BH2010/02315 Interger House, 65-67, Western Road



Scale: 1:1,250



Planning Application - BH2010/02315

I object to the Planning Application

Sender's details

Cllr Paul Elgood
BHCC
BN3 2LS
291162
Paul.elgood@brighton-hove.gov.uk

Comment

As ward councillors, we would like to object to the application. Residents have contacted us concerned at the size of the equipment, difficulties in placing it on the site and concerns of health risks. We would urge the planning committee to undertake a site visit, and subsequently reject the application. Cllr Paul Elgood Cllr David Watkins

<u>No:</u>	BH2010/01418	<u>Ward:</u>	HOVE PARK
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	7 Orchard Road, Hove		
<u>Proposal:</u>	Erection of a two storey side extension incorporating existing garage and roof alterations and enlargement of existing first floor side extension.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Valid Date:</u>	11/06/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	06 August 2010
<u>Agent:</u>	Barry Field RIBA, 7 Queen Square, Brighton		
<u>Applicant:</u>	Mr Ivan Camps-Linney, 7 Orchard Road, Hove		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in this report and resolves to **REFUSE** planning permission for the following reason:

1. The two-storey side extension by virtue of its scale and width in relation to the existing building would appear an unduly bulky and prominent addition, detrimental to the character and appearance of the existing property and the visual amenities of the locality. The proposal is therefore contrary to policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. ICL 01, ICL 04, ICL 05 & ICL 007 submitted 11th June 2010; amended drawing nos. ICL 21 A, ICL 22 A, ICL 23 A, ICL 25 A & ICL 26 A submitted 15th September 2010; and amended drawing no. ICL 24 B submitted 17th November 2010.

2 THE SITE

The application site relates to a two-storey detached property with separate double-garage on the southern side of Orchard Road. The site adjoins a pair of semi-detached properties of similar design and together they are the only properties on this side of Orchard Road in the block between Orchard Avenue and Nevill Road. The side boundary of the site abuts the rear boundaries of properties on Orchard Avenue. The site fronts the car park of a sports club.

3 RELEVANT HISTORY

BH2009/00587: Erection of a two storey side extension incorporating existing garage and first floor side extension. Refused for the following reasons:-

1. *The proposed two storey side extension would not relate sympathetically to the existing building by reason of its scale, form and design and it would result in an unduly obtrusive and incongruous form of development detrimental to the visual*

amenities of the locality and character and appearance of the existing property. The proposal is therefore considered to be contrary to policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan.

2. *The proposed two storey side extension by reason of its siting, height and scale would be overbearing and create an undue sense of enclosure for the neighbouring properties to the east. The proposal is therefore considered to be contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.*

A subsequent appeal against this decision was dismissed with the Inspector noting:-

- *“the proposed extension would reach the side boundary at two storey height and would incorporate the garage area.....this would erode the visual spaciousness of the site;*
- *the mass of the extension would not appear subservient to the existing house but overly large within its context.*
- *the extension would be a sufficient distance from the houses to prevent any overshadowing or loss of light to the houses;*
- *the scale of the two-storey side extension sited so close to the boundary would....be overbearing in the outlook from the rear windows of the nearest houses, No’s 26, 28 and from their gardens and that of No 24.”*

4 THE APPLICATION

The application seeks consent for the erection of a two-storey side extension with hipped roof, side dormer and front rooflight. The extension would incorporate the existing side garage with a new pitched roof constructed along the frontage of the property.

5 CONSULTATIONS

External:

Neighbours: representations have been received from **22, 24 & 26 Orchard Avenue** objecting to the proposal for the following reasons:-

- The size of the building is out of keeping with the adjoining properties and is an overdevelopment of the site;
- The proposed external materials would be out of character with the existing building;
- The side garage was not formerly part of no. 7 and any development which incorporates the garage would take the site beyond its original boundaries;
- The front roof pitch would extend beyond the existing building line;
- The proposal would result in the loss of a tree;
- The size and height of the extensions would cause considerable overshadowing;
- The extensions would appear overbearing from adjoining properties;
- Proposed first floor and second floor level windows would lead to

- overlooking;
- Retention of a side window within the garage would lead to loss of privacy;
- Loss of property value;
- Question if the existing garage would have to be demolished, rather than retained as is proposed;
- Question whether the garage will be used as an additional room within the property.

Cllr Bennett objects – letter attached.

Cllr Brown supports the application and requests it be determined by Planning Committee – letter attached.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

- QD1 Design – quality of development and design statements
- QD2 Design – key principles for neighbourhoods
- QD14 Extensions and alterations
- QD27 Protection of Amenity

Supplementary Planning Guidance

SPGBH1 Roof alterations and extensions

7 CONSIDERATIONS

The main considerations in the determination of this application relate to the impact of the extension on the character and appearance of the existing building and wider surrounding area, and its impact on amenity for occupiers of adjoining properties. The previous appeal decision is also a material consideration.

Design

As part of an appeal for a preceding scheme an Inspector considered that an extension reaching the side boundary at two-storey height would erode the visual spaciousness of the site, with the mass of the extension appearing overly large within its context and not subservient to the existing house.

This application, following amendments, proposes a two-storey extension sited a minimum of approximately 1.1 metres at first floor level from the side boundary of the site (with this rising to approximately 3.3 metres at the rear) with an inset front wall and lowered roof form. Whilst this design is vastly improved upon that dismissed at appeal it remains a considerable addition to what is a modest dwelling on a plot that has an awkward relationship with adjoining properties; due primarily to the detached garage which extends into adjoining garden areas.

It is considered that within the context of the existing building and the boundaries of the application site with adjoining properties the extension remains overly large. The width of the two-storey section is disproportionate

to the existing building and would result in a considerable loss of openness in this location. The single-storey section, and associated pitched roof, would also exacerbate this impression of bulk, with the result a continuous built form along the frontage of the site.

It is acknowledged that the proposal is an improvement over the previous scheme. However, for the reasons outlined it remains excessively large in relation to the existing dwellinghouse and the resulting appearance is not truly subservient to the main building. This and the resulting loss of openness in this section of Orchard Road would be harmful to the prevailing character and appearance of the area, contrary to local plan policy QD14.

Amenity

An Inspector for the previous scheme considered that 'the scale of the two-storey side extension sited so close to the boundary would (*in my opinion*) be overbearing in the outlook from the rear windows of the nearest houses, nos. 26, 28 and from their gardens and that of no. 24'. As part of this application the scale of the extension has been reduced to a subservient form and the distance from the boundary with no. 26 at first floor level has been increased to between approximately 1.2 and 3.1 metres (the previous scheme was built on this boundary at first floor level).

It is considered that these amendments, in conjunction with the rear garden depths on Orchard Avenue (which are a minimum of approximately 22 metres deep) and the unaltered north and southern aspect from these properties, are sufficient to overcome the above concerns. Whilst there remains an awkward relationship between the proposed extension and rear garden of no. 24 in the context of this property as a whole the resulting harm would not be significant or amount to a sufficient reason to warrant refusal of the development. It is therefore considered that the extension would not appear overbearing from either the rear garden or rear window openings of adjoining properties.

A previous appeal decision for a larger two-storey side extension was not dismissed for reasons relating to overshadowing or loss of light to adjoining properties. There are no reasons to disagree with this assessment as part of this application. It is therefore considered that the extension is a sufficient distance from adjoining houses to ensure no harmful loss of light or overshadowing will result.

There is potential for overlooking from a side facing ground floor window and second floor dormer window. However, this could be overcome through a condition requiring them be obscure glazed and fixed shut. A further condition could prevent future window openings to the side elevation without prior planning permission.

Other considerations

It is noted that the submitted plans indicate an enlarged first floor extension to the rear of the existing building, and a replacement boundary wall alongside

the boundary with 9 Orchard Road. These elements were included as part of the previous application but did constitute reasons for refusal.

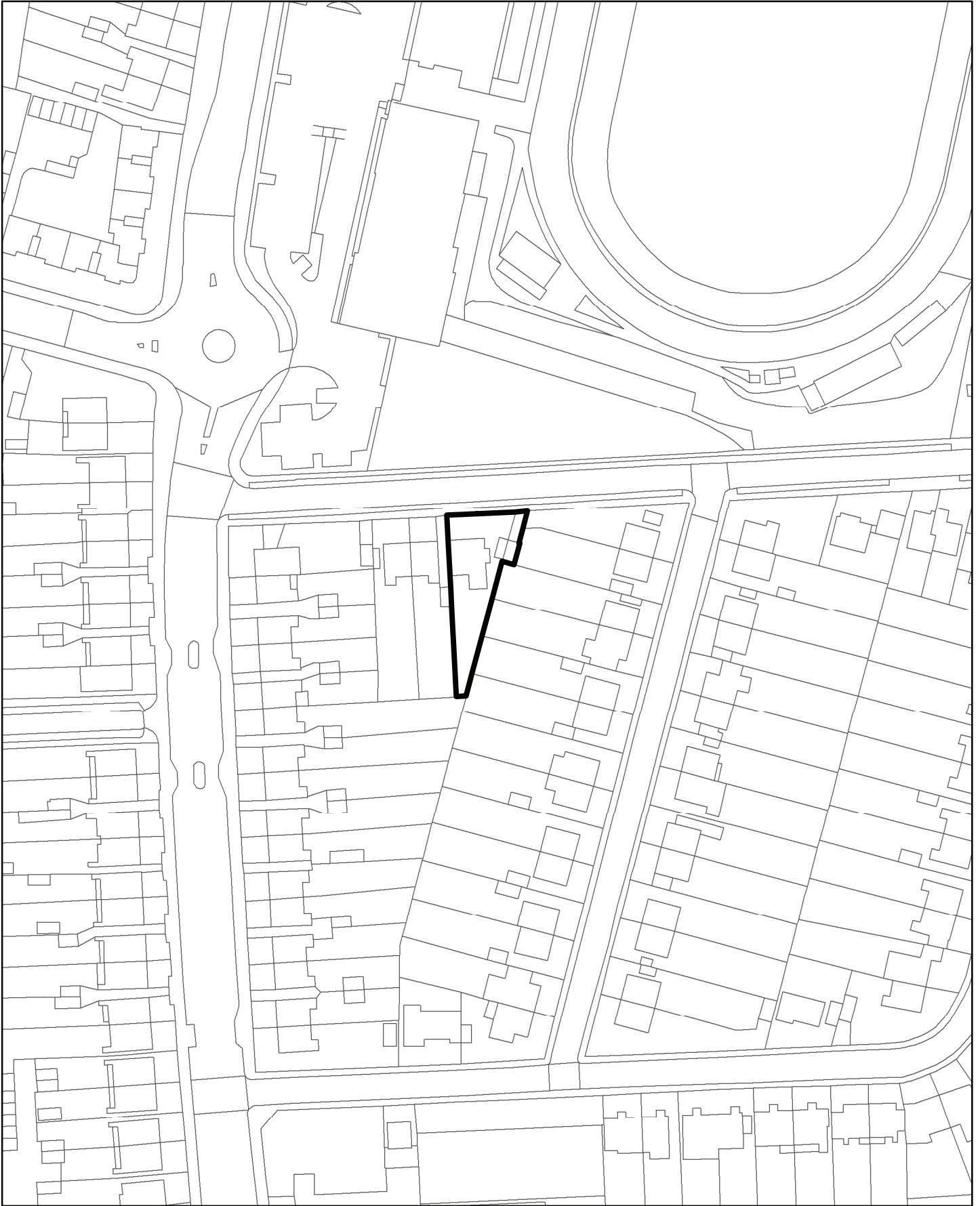
In the case of the enlarged first floor extension it would not be readily visible from public viewpoints and in any case would be viewed against the backdrop of the main building. On this basis it would not harm the appearance of the building or wider area and due to its scale and siting no harm on amenity would result.

The replacement boundary wall, although in excess of 2m in height, would replace an existing fence of matching height and no significant harm would result due to the presence of a rear extension to the adjoining property at no. 9. No alterations to other boundary treatments are indicated on the proposed plans.

8 EQUALITIES IMPLICATIONS

It is noted that the proposed floor plans allow for a lift to be installed in the future between the ground floor lobby and first floor bedroom (within the proposed extension).

BH2010/01418 7, Orchard Road



Guy Everest

From: Vanessa Brown [Vanessa.Brown@brighton-hove.gcsx.gov.uk]

Sent: 09 November 2010 14:56

To: Guy Everest

Dear Mr Everest

I would like to request that planning application BH2010/01418 – 7 Orchard Road - be determined by the Planning Committee.

I believe that the revised drawings are far better than the previous application and address the concerns that were expressed.

Kind regards

Vanessa Brown

Vanessa Brown
Cabinet Member for Children & Young People
Conservative Member for Stanford Ward
Tel: 01273 291143

8th October 2010

Dear Mr Everest, ✓

Re: BH2010/01418

As a Hove Park ward councillor I wish to object to this application because of the effect on the neighbouring properties.

Although the amendments have improved the front elevation and street scene, I still have concerns due to the tapering of the garden, about the effect of the window facing south which will overlook the gardens of the neighbours at first floor level. Also, the dormer window on the east elevation although obscured, will give the impression of a three storey building at the end of the gardens of the properties in Orchard Avenue.

I would like this application to go before the planning committee for decision.

Yours sincerely,

Jayne Bennett

<u>No:</u>	BH2010/01967	<u>Ward:</u>	NORTH PORTSLADE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Land adjacent 481 Mile Oak Road,Portslade		
<u>Proposal:</u>	Erection of 2 no three bedroom semi-detached dwelling houses with off-street parking.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Valid Date:</u>	30/06/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	25 August 2010
<u>Agent:</u>	CJ Planning Ltd, 80 Rugby Road, Brighton		
<u>Applicant:</u>	Wilson Hunt, C/O CJ Planning Ltd		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves it is **MINDED TO GRANT** planning permission subject to no new additional representations from members of the public and to the following Conditions and Informatives:

Regulatory Conditions:

1. BH01.01 Full Planning.
2. The development hereby permitted shall be carried out in accordance with the approved drawing no. 1010 E01 submitted 28th June 2010; and approved drawing nos. 1010 P02 A, 1010 P03 A, 1010 P06 A, 1010 P07 A & 1010 P08 A submitted 19th October 2010.
Reason: For the avoidance of doubt and in the interests of proper planning.
3. The first floor side facing window to the south-eastern elevation shall not be glazed otherwise than with obscured glass and shall thereafter be 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.
4. BH04.01A Lifetime Homes.
5. BH05.10 Hardsurfaces.
6. BH06.01 Retention of parking area.
7. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no window, rooflight or door in the south-eastern elevation other than those expressly authorised by this permission shall be constructed without planning permission obtained from the Local Authority.
Reason: To safeguard the amenities of the occupiers of nearby properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

Pre-Commencement Conditions:

8. BH03.01 Samples of Materials Non-Cons Area (new buildings).
9. BH05.01B Code for Sustainable Homes – Pre-Commencement (New build residential) Level 5.
10. BH07.02 Soundproofing of building.
11. BH11.01 Landscaping / planting scheme.
12. No development shall commence until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the occupation of the development hereby approved.
Reason: To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy QD17 of the Brighton & Hove Local Plan.
13. BH05.08A Waste Minimisation Statement (1-2 housing units).

Pre-Occupation Conditions:

14. BH02.07 Refuse and recycling storage (facilities).
15. BH05.02B Code for Sustainable Homes – Pre-Occupation (New build residential) Level 5.
16. BH06.03 Cycle parking facilities to be implemented.
17. BH11.02 Landscaping / planting (implementation / maintenance).

Informatives:

1. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance and Supplementary Planning Documents:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe Development
TR14	Cycle access and parking
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design - quality of development and design statements
QD2	Design - key principles for neighbourhoods
QD3	Design - efficient and effective use of sites
QD15	Landscape design
QD16	Trees and hedgerows
QD17	Protection and integration of nature conservation features
QD18	Species protection
QD19	Greenways
QD27	Protection of amenity
QD28	Planning Obligations
HO3	Dwelling type and size

HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
NC6	Development in the countryside / downland

Supplementary Planning Document

SPD03	Construction and demolition waste
SPD06	Trees and Development Sites
SPD08	Sustainable building design
SPD11	Nature conservation and development; and

(ii) for the following reasons:-

The development makes efficient and effective use of land within the built up area without causing detriment to the character and appearance of the site or surrounding area. The development would not have a significant impact on amenity for occupiers of adjoining properties, or create a harmful demand for travel. Conditions are recommended to avoid any harmful impacts on species and their habitats and to secure the enhancement of the nature conservation interest of the site.

2. IN.05.02A Informative: Code for Sustainable Homes

3. IN05.10 Informative – Hardsurfaces

4. The proposed vehicular crossover should be constructed to accord with Council design standards (Manual for Estate Roads) and under licence from the Highway Operations Manager prior to the commencement of any other development upon the site.

5. IN05.08 Informative – Waste Minimisation Statements.

2 THE SITE

The application site relates to an enclosed area of land to the west of 481 Mile Oak Road on the outskirts of the built up area. The site comprises a large amount of established vegetation and shrub and was seemingly once connected to 481 Mile Oak Road. The site adjoins a paddock to the east and west and the A27 to the north.

3 RELEVANT HISTORY

BH2008/00844: Outline application for the erection of two dwellings. Refused for the following reasons:-

- 1. The development would result in significant harm to amenity for occupiers of 481 Mile Oak Road through loss of light and outlook to side (north-west) facing windows at ground and first floor level. The proposal is therefore contrary to policy QD27 of the Brighton & Hove Local Plan.*

2. *The site lies in close proximity to the A27 and as such there is potential for significant noise disturbance for future occupants of the proposed dwellings. Insufficient information has been submitted with the application to assess the effect of this existing noise source upon the proposed development and appropriate noise attenuation measures to reduce the impact on the proposed dwellings to acceptable levels. The proposal is therefore contrary to the aims of policy SU10 of the Brighton & Hove Local Plan.*
3. *The development, in the absence of information to indicate otherwise, would result in significant damage to the health and vitality of existing trees on the site. The development would therefore fail to make a positive contribution to the visual quality of the environment or retain existing open space, trees and grassed areas in an effective way. The development is contrary to policies QD3 and QD16 of the Brighton & Hove Local Plan, and Supplementary Planning Document 06: Trees and Development Sites.*
4. *The applicant has failed to undertake an appropriate site investigation to demonstrate that the development would not directly or indirectly affect a species of animal or plant, or its habitat, protected under National or European legislation. The proposal is therefore contrary to policy QD18 of the Brighton & Hove Local Plan.*

4 THE APPLICATION

Planning permission is sought for the erection of a two-storey semi-detached pair of properties. The building would incorporate a barn-end roof form with render and timber cladding the dominant materials.

5 CONSULTATIONS

External

Neighbours: Letters of representation have been received from **27 Hillcroft; 347, 479 & 481 Mile Oak Road; 9 Sefton Road** and **15 (x2), 16 & 17 Westway Gardens** objecting to the proposal for the following reasons:-

- a development of this size is wrong for the area, one property would be more appropriate;
- the site is on the boundary of the National Park;
- the development would destroy wildlife that live on and use the site and clearance works have already taken place;
- a family of badgers uses the site and these have not been recognised in the ecology report, the Council's Ecologist has previously identified a badger run;
- the site is home to slow worms which are not included in the ecology report;
- the site is a passage to Southwick Hill;
- the site should be considered as Greenfield land;

- the proposed rear boundary of the site extends into the adjoining paddock area, which is classed as countryside / downland;
- the concrete splay to the front of the property is out of keeping;
- there is no mention of archaeology as part of the proposals – the site lies at the foot of a monument dating to the Bronze age;
- loss of light to side facing windows of the adjoining property;
- loss of privacy;
- the proposed refuse and recycling facilities are sited alongside a shared side boundary;
- concerns relating to the stability of the adjoining A27 embankment;
- question the methodology and findings of the noise assessment;
- heavy traffic is already a problem along this road;
- building works will cause noise and disturbance.

Environment Agency: No comments.

Internal:

Arboriculturalist: No comments.

Ecologist: No comments.

Environmental Health: No comments.

Sustainable Transport: No comments.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe Development
TR14	Cycle access and parking
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design - quality of development and design statements
QD2	Design - key principles for neighbourhoods
QD3	Design - efficient and effective use of sites
QD15	Landscape design
QD16	Trees and hedgerows
QD17	Protection and integration of nature conservation features
QD18	Species protection
QD19	Greenways
QD27	Protection of amenity
QD28	Planning Obligations
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
NC6	Development in the countryside / downland

Supplementary Planning Document

- SPD03 Construction and demolition waste
- SPD06 Trees and Development Sites
- SPD08 Sustainable building design
- SPD11 Nature conservation and development

7 CONSIDERATIONS

The main issues of consideration in the determination of this application are the principle of constructing two dwellings on the site having regard to character and appearance, the impact on neighbouring amenity and highway safety.

Principal of development

The application site is severed from 481 Mile Oak Road and has been since around 1999. The site has not been previously developed and there is no obvious separation between the site and adjoining countryside / downland. Although the site extends beyond the existing edge of built development it is included within the built-up area boundary as outlined on the local plan proposals map. It is not therefore appropriate to consider the development against the criteria of local plan policy NC6 which states that development outside the built-up area will not be permitted.

Notwithstanding this the application site has not been previously developed, and is therefore a greenfield site as classified by PPS3, and its contribution to the character and appearance of the area must therefore be considered further.

The site provides a visual gap between buildings on Mile Oak Road and the embankment of the A27 and 'links' adjoining countryside to the east and west (which is not within the built up area boundary). This is not though readily apparent in views north or south along Mile Oak Road, where the embankment and tunnel are the dominant features, and the open space created by the application site is not readily appreciated due to relatively extensive frontage vegetation which contrasts with the adjoining open countryside / paddocks.

It is considered that use of the site for housing would not undermine the existing character and appearance of the area to the extent that would warrant refusal of the application. The contribution of downland outside the built up area is considered to be far more significant than that provided by the application site and these areas would not be affected by the development. The principal of housing development on the site is therefore considered acceptable, subject to compliance with other relevant local plan policies.

Design

The application proposes a semi-detached pair of dwellinghouses, set back from the prevailing building line in this section of Mile Oak Road, and with a skewed siting in relation to the shared side boundary of the site. This siting

would reduce the visual impact of the proposed building which would be screened and viewed against the existing adjoining pair of houses (in views from the south and north respectively).

The scale of development is appropriate in this location and the proposed building would not overpower the adjoining property. There is no dominant prevailing roof form to adjoining properties and the proposed barn-end reduces the bulk of the building and creates a softer transition to the adjoining pair of dwellings. The development would incorporate ground floor render with timber cladding, and a bay window, at first floor level and there is no objection to this approach in this location.

The development would result in the loss of existing trees along the frontage and within the site. There is no objection in principle to this loss of vegetation and due to the siting of the buildings there is scope for replacement planting to the front and rear garden areas of each property. This planting, which could be secured by condition, would potentially compensate for the loss of existing landscaping and preserve the wider character of the area.

Impact on neighbouring amenity

The development is most likely to impact upon 481 Mile Oak Road, a semi-detached property which adjoins to the south-east. The windows in closest proximity to the side boundary relate to a ground floor lounge and first floor bedroom within a more recent two-storey side extension to the property.

The development would reduce outlook from these side facing windows, there would though remain approximately 3 metres separation between the buildings. At ground floor level the primary outlook for the lounge is considered to derive from rear (south-west facing) patio door openings which overlook the rear garden and would be unaffected by the proposed development. At first floor level the window most affected by the development is the only source of light and outlook for a bedroom. It is though considered that due to the use of the room and remaining separation sufficient natural light and outlook would remain available for occupants of this property.

The side facing windows to the original property (i.e. excluding the later two-storey side extension) are approximately 5.6 metres from the proposed dwellings. It is considered that over this distance no significant harm through loss of light or outlook would result.

It is noted that a previous application on the site for residential development was partly refused due to the impact on these window openings (ref: BH2008/00844). The development proposed by this application is materially different from the previous scheme which incorporated a dwelling sited on the shared side boundary with no. 481.

The development would not introduce any overlooking beyond that which would reasonably be expected on a residential street such as this. A first floor

window to the side elevation (which relates to a bathroom) would though front an existing window to no. 481 and is required by condition to be obscurely glazed.

Standard of proposed accommodation

The development would create 2 x 3-bed dwellings both of which would be suitable for family occupation with private amenity space to the rear and adequate room sizes, natural light and ventilation throughout. There are no reasons why the development could not be built to lifetime home standards and a checklist has been submitted indicated that all relevant standards would be met.

The application site adjoins the A27 and as such there is potential for noise disturbance for future occupiers of the proposed dwellings. An acoustic report has been submitted which concludes that provided noise attenuation measures are incorporated in the design, and these measures include double glazing with secondary ventilation, there should not be an adverse impact on future residents of the development. The findings of the report have been accepted by the Council's Environmental Health team who have no objection to the proposal. A condition is recommended to require further details of soundproofing measures to be incorporated in the development.

Transport

The development makes provision for one off-street parking space for each dwelling. This level of parking is considered acceptable in this location and the additional crossover would not create a safety hazard for users of adjoining highways.

The proposed plans indicate secure cycle storage for each dwelling in an accessible location at ground floor level.

The application site, although on the outskirts of the built-up area, is reasonably well served by public transport with bus routes located approximately 300 metres to the south.

Sustainability

Policy SU2 requires proposals demonstrate a high standard of efficiency in the use of energy, water and materials. Further guidance within Supplementary Planning Document 08 'Sustainable Building Design' recommends that on land that has not been previously developed new development should achieve Level 5 of the Code for Sustainable Homes (CSH).

At this stage there are no apparent reasons why CSH level 5 could not be achieved and the applicant has confirmed they would accept a condition to this affect. Whilst only limited information has been submitted for a development of this scale it is considered that further details can be secured through conditions.

A waste minimisation statement has been submitted which demonstrates there are no reasons why construction waste could not be minimised in an effective manner. Although it is not compulsory for a development of this scale to prepare a site waste management plan in accordance with the guidance within SPD03 further details of waste management are required by condition.

Ecology

The applicant has submitted an ecological report which concludes that the site does not contain badger setts, had low potential to support bats, and is not suitable for reptiles or amphibians. The report therefore considers the site to be of limited ecological value. Although the findings of the report are accepted from the representations that have been received it is apparent that the site is locally valued.

At a site visit slow worms were observed and these are protected from killing and injury under Wildlife and Countryside Act 1981. It is considered that the presence of slow worms on the site would not be a reason to refuse the current planning application. The applicant has advised they would relocate the slow worms prior to the commencement of any development, and in accordance with a scheme to be submitted and approved at a later date. A condition is therefore recommended which requires the submission of a reptile translocation and conservation strategy to be agreed in writing by the Local Planning Authority prior to commencement of works.

The development would result in a loss of habitat on the site. There are though considered to be no reasons why nature conservation features could not be provided as part of the proposal and the applicant has advised that this could potentially include the adjoining paddock to the rear (which is also in the same ownership and currently species poor). It is considered reasonable to secure details of such features through condition and this approach would allow further input into the nature of such a scheme. Subject to compliance with this condition the development would not conflict with the importance of conserving and enhancing habitats and species within the City.

Although the site appears to be used by badgers there is no evidence of setts. An informative is though recommended to remind the applicant that badgers are protected under the Protection of Badgers Act 1992, and should evidence of a badger sett be found during implementation work should immediately stop and advice be sought from English Nature.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

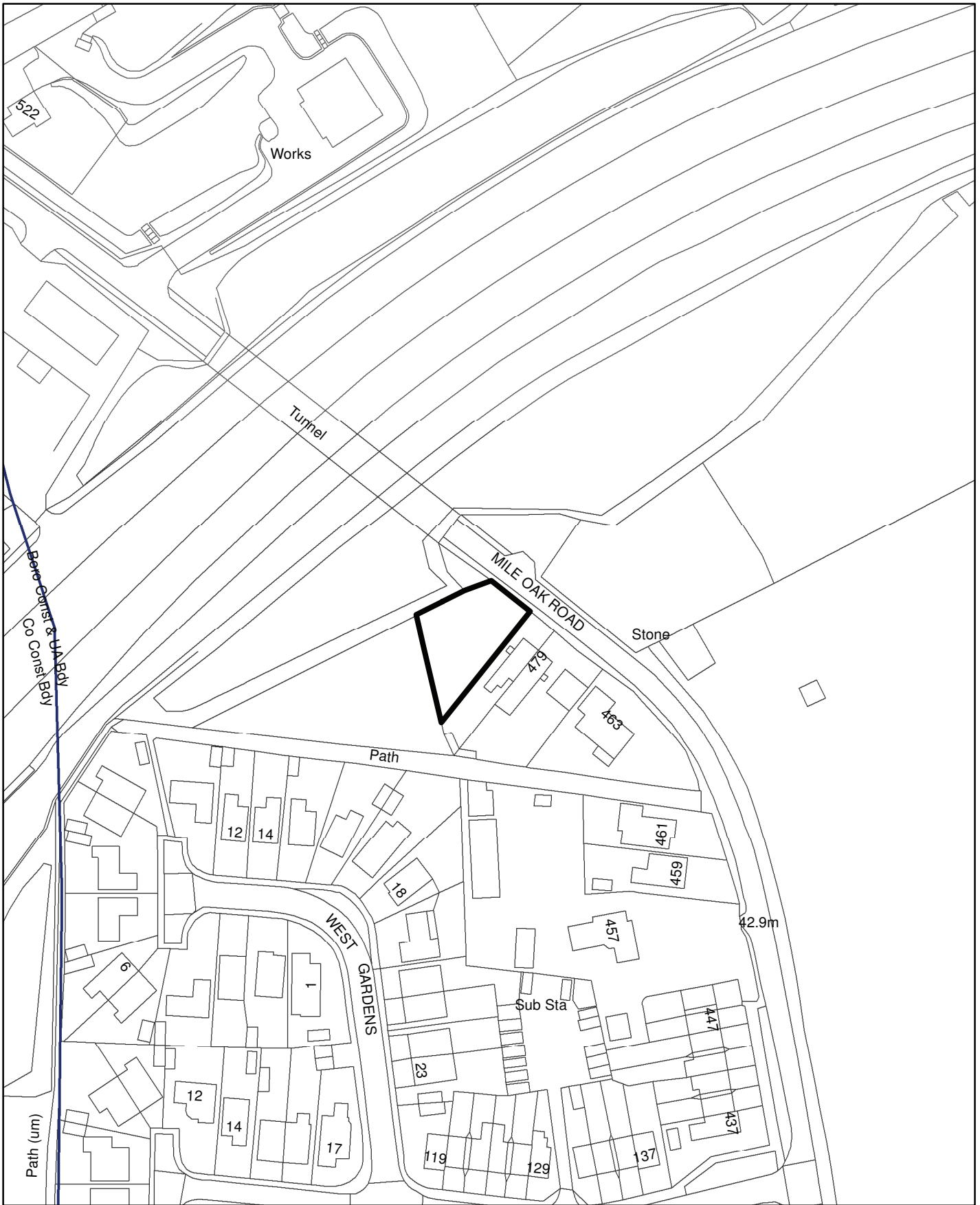
The development makes efficient and effective use of land within the built up area without causing detriment to the character and appearance of the site or surrounding area. The development would not have a significant impact on amenity for occupiers of adjoining properties, or create a harmful demand for travel. Conditions are recommended to avoid any harmful impacts on species and their habitats and to secure the enhancement of the nature conservation

interest of the site.

9 EQUALITIES IMPLICATIONS

The development would be built to Lifetime Home standards and a condition is recommended to secure this.

BH2010/01967 Land at 481, Mile Oak Road



<u>No:</u>	BH2010/03359	<u>Ward:</u>	WITHDEAN
<u>App Type:</u>	Full Planning		
<u>Address:</u>	31 Maldon Road, Brighton		
<u>Proposal:</u>	Creation of additional floor at second floor level to create one 2 no bedroom flat incorporating part mansard roof and Juliet balconies to front.		
<u>Officer:</u>	Guy Everest, tel: 293334	<u>Valid Date:</u>	22/10/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	17 December 2010
<u>Agent:</u>	N/A		
<u>Applicant:</u>	Mr Benjamin Hillman, 31 Maldon Road, Brighton		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Regulatory Conditions:

1. BH01.01 Full Planning.
2. The development hereby permitted shall be carried out in accordance with the approved drawings no. MR31PRO/01, MR31PRO/02, MR31PRO/03, MR31PRO/04, MR31PRO/05, MR31PRO/06, MR31PRO/08 & MR31PRO/10 received on 22nd October 2010; and MR31PRO/07 A & MR31PRO/09 A submitted 18th November 2010.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. BH02.09 Flat roofed extensions
4. BH04.01A Lifetime Homes

Pre-Commencement Conditions:

5. BH03.02 Samples of Materials Non-Cons Area (extensions)
6. BH05.01B Code for Sustainable Homes – Pre-Commencement (New build residential) - Code Level 3

Pre-Occupation Conditions:

7. BH05.02B Code for Sustainable Homes – Pre-Occupation (New build residential) - Code Level 3
8. BH02.07 Refuse and recycling storage (facilities)
9. BH06.03 Cycle parking facilities to be implemented

Informatives:

1. This decision to grant Planning Permission has been taken:

- (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance:

TR1	Development and the demand for travel
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
QD1	Design - quality of development and design statements
QD2	Design - key principles for neighbourhoods
QD14	Extensions and alterations
QD27	Protection of amenity
HO3	Dwelling type and size
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Supplementary Planning Documents:

SPGBH1	Roof Alterations & Extensions
SPGBH4	Policy Standards
SPD08	Sustainable building design; and

- (ii) for the following reasons:-

The additional storey and related external alterations are well designed, sited and detailed in relation to the property to be extended and those adjoining; and the resulting building would not appear an unduly dominant addition to the street. The development would not cause significant harm to neighbouring amenity, through loss of light or privacy; and would not create a harmful demand for travel.

2. IN.05.02A Informative: Code for Sustainable Homes.

2 THE SITE

The application site relates to a flat-roofed two-storey block of four flats on the western side of Maldon Road. The surrounding street is characterised by two-storey terraced housing which gives the street a distinctive appearance. There are more recent housing developments which although three-storeys are comparable in height to the remainder of the terrace. The rear of the curtilage provides off-street parking for occupiers of the block; with Maldon Road not within any controlled parking zone. Maldon Road slopes down to the south with properties having a stepped appearance in places.

3 RELEVANT HISTORY

BH2009/00104: Extension to provide 2 two-bedroom flats at second floor level to replace flat roof. Refused for the following reasons:-

- 1. Policies QD14 and QD27 of the Brighton & Hove Local Plan seek to protect residential amenity. The proposal represents an unneighbourly form of development that would result in loss of light, overshadowing and create an increased sense of enclosure for*

occupiers of 39 Maldon Road. The proposal is therefore contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.

- 2. Policy TR1 of the Brighton & Hove Local Plan requires that development proposals should provide for the demand for travel they create and maximise the use of public transport, walking and cycling. The development makes inadequate provision for the increase in demand for travel and will result in additional demand for on-street parking in an area where availability is extremely limited.*
- 3. Policy SU2 of the Brighton & Hove Local Plan requires proposals demonstrate a high standard of efficiency in the use of energy, water and materials. Insufficient information has been submitted to demonstrate how sustainability measures for efficiency in the use of energy, water and materials have been incorporated into the design of the development.*

BH2008/00483: Extension to provide two flats at second floor level to replace flat roof. Refused for the following reasons:-

- 1. The development by virtue of its design, detailing and materials would appear an excessively bulky and overly dominant addition out of keeping with the prevailing character and appearance of the street, detrimental to the visual amenities of the area. The proposal is therefore contrary to policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan.*
- 2. The proposal represents an unneighbourly form of development that would result in loss of light, overshadowing and create an increased sense of enclosure for occupiers of adjoining properties. The proposal is therefore contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.*
- 3. Policy TR1 of the Brighton & Hove Local Plan requires that development proposals should provide for the demand for travel they create and maximise the use of public transport, walking and cycling. The development makes inadequate provision for the increase in demand for travel and will result in additional demand for on-street parking in an area where availability is extremely limited.*
- 4. Policy SU2 of the Brighton & Hove Local Plan requires proposals demonstrate a high standard of efficiency in the use of energy, water and materials. Insufficient information has been submitted to demonstrate how sustainability measures for efficiency in the use of energy, water and materials have been incorporated into the design of the development.*

A subsequent appeal against this decision was dismissed in May 2009 when the Inspector supported the reasons for refusal insofar as they related to the resulting harm to neighbouring amenity for 39 Maldon Road (reason 2), a failure to provide for the demand for travel created (reason 3) and lack of information relating to sustainability (reason 4).

BH2007/00294: Extension to provide two flats at second floor level to replace flat roof. Withdrawn.

BH2006/02781: Extension to provide two flats at second floor level to replace flat roof. Refused.

72/216: Reserved matters for the erection of four two-bedroom flats. Approved.

71/3067: Erection of five two-bedroom flats (in a three-storey building). Refused.

71/252: Outline application for 2-storey block of 2-bed flats. Approved.

4 THE APPLICATION

The application seeks consent for an additional storey to the existing building to form one 3-bedroom flat. The additional storey would incorporate a front roofslope with dormer windows with the side and rear elevations built up from the existing facades.

At lower levels the existing building would be rendered, to match the additional storey, with timber panelling to the existing bay windows.

5 CONSULTATIONS

External:

Neighbours: representations have been received from **4, 6, 8 (x4), 10, 12, 14, 18, 20, 22, 23, 28, 39 & 52 Maldon Road** and **19 & 21 Matlock Road** objecting to the proposal for the following reasons:-

- Maldon Road was developed as a complete project resulting in a townscape with a unity and sense of scale. The proposal does not consider these qualities;
- the proposal would be obtrusive and is totally out of keeping with neighbouring properties;
- the architectural poverty of the existing building cannot be that enhanced by adding an extra floor;
- the height of the building was capped in 1972 to its existing height to keep it within the character of the road. If the extra floor is passed it will create a precedent for future development of the adjoining bungalow site;
- several applications for an additional storey have been turned down as unsuitable for the area;
- question the accuracy of the plans regarding building heights;
- the proposal would block out light to many houses;

- loss of privacy;
- the development does not allow for a lift and provides no wheelchair access;
- an additional flat would make existing parking problems even worse;
- additional traffic movements along the side access road;
- there is insufficient detail relating to the cycle parking provision;
- the inclusion of solar panels does not mean they would be implemented;
- noise and disturbance from building works will be an inconvenience and question where building vehicles will park as the area is already overflowing with cars.

Representations have been received from **312 & 314 Dyke Road** and **31A, B, C & D, 41** and **Cranbrook Maldon Road** supporting the application for the following reasons:-

- the plans will improve the existing building and bring it in line with the scale and vernacular of the current streetscape;
- the current application is effectively creating a room in the roof akin to that already taking place in many terrace houses at present;
- the precedent for the height has already been set by the existing terrace housing;
- the application should be considered on its own merits and does not represent overdevelopment of the site;
- previous concerns relating to loss of light and parking have been overcome.

Internal:

Sustainable Transport: No comments.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
QD1	Design - quality of development and design statements
QD2	Design - key principles for neighbourhoods
QD14	Extensions and alterations
QD27	Protection of amenity
HO3	Dwelling type and size
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Supplementary Planning Documents:

SPGBH1	Roof Alterations & Extensions
SPGBH4	Policy Standards
SPD08	Sustainable building design

7 CONSIDERATIONS

The main issues of consideration in the determination of this application are the impact of the additional storey on the appearance of the existing property and wider street, on neighbouring amenity for occupiers of adjoining properties, and issues relating to transport and sustainability. The previous decisions on the site are also a material consideration.

Design and appearance

The application site features a two-storey building of a design and detailing uncharacteristic of the surrounding area which is primarily characterised by terraced housing of a consistent scale, form and roofscape. The development seeks consent for the formation of a third storey to the building.

Previous applications for an additional storey to the building have been refused as it was considered the additional storey would appear an overly dominant addition out of keeping with the character and appearance of the street. However, the 2009 appeal decision on the site for an additional storey considered that *'the increased height would make the building a more appropriate visual link between the still higher Victorian terrace and the lower bungalow'* and that *'there would not be any visual dominance over that bungalow'*.

The appeal Inspector therefore considered the increased height to be acceptable in principle and no objections were raised in relation to the mansard roof form. Taking into account this decision it is considered that there can be no objection to the principle of an additional storey to the building.

The scheme also proposes remodelling of the existing building which would be rendered and incorporate timber panelling between window openings at ground and first floor levels. This design and detailing is considered an improvement over that currently existing and the use of render would be sympathetic to the wider street scene. It is noted that the appeal Inspector also considered that these alterations would enhance the design of the building.

As part of previous schemes on the site front dormers were considered acceptable. This application incorporates dormers with juliet balconies to the front elevation aligning over existing windows at lower levels of the building. In short views of the building and long views along Maldon Road the lower sections of the dormers would be obscured by a parapet wall and they would not appear unduly bulky. Furthermore in the context of the alterations proposed at lower levels of the building the dormer windows would create a coherent and unified appearance.

The proposed inset section and fenestration to the rear would not be visible from the street or highly prominent features of the additional storey. The

impact of these elements of the design on the prevailing character and appearance of the area would therefore be minimal and they are considered acceptable.

For the reasons outlined the proposal is considered to comply with policies QD1, QD2 and QD14 of the Brighton & Hove Local Plan.

It is noted that a number of representations have been received regarding the creation of a precedent for future development on Maldon Road, and particularly in relation to the adjoining bungalow. However, whilst these concerns are appreciated any future development proposals for adjoining sites would be considered on their own merits. The granting of this consent would not therefore establish a clear precedent for neighbouring sites.

Impact on neighbouring amenity

There is approximately 18 metres separation between the application site and opposing properties on the eastern side of Maldon Road. This is considered sufficient to prevent any significant loss of light or outlook for occupiers of these properties: and it is noted that previous applications were not refused due to the impact on these properties.

The properties most likely to be affected by the proposal are those to the north and south of the application site.

39 Maldon Road

It was considered as part of earlier applications on the site that the height and depth of the additional storey would lead to loss of light to 39 Maldon Road (which adjoins to the north) and this concern was supported at appeal. As part of this application the bulk of the additional storey has been reduced alongside no. 39 and a report on daylight and overshadowing has been submitted.

The daylight analyses indicate that as a result of the development light to ground and first floor windows would be within BRE recommended guidelines. The report also indicates that the development would not alter the existing situation relating to overshadowing for the majority of the year, and whilst additional overshadowing would occur in summer months the majority of the rear garden at no. 39 would be unaffected by the development. There are no reasons to dispute the methodology or findings of this report and the conclusions are accepted.

It is considered that the revised bulk and form of the additional storey has overcome previous concerns, and the accompanying report demonstrates that no significant harm to no. 39 through loss of light would result from the development.

The submitted plans do not indicate any access to the flat roof section to the rear of the building, adjoining no. 39, and a condition is recommended to

prevent its use as a roof terrace or similar. There are no other side facing windows fronting this property and the rear facing windows would not be of a height that would create views of this property. The condition outlined above is considered sufficient to prevent any harmful overlooking of this adjoining property.

23 Maldon Road

It was considered as part of a previous appeal that due to the siting of this property, the location of the garden behind the rear elevation of no. 31, and the orientation of windows away from no. 31 the proposed development would not lead to an appreciable change to the outlook from this property or to the levels of light received. There are no reasons to disagree with this assessment and the proposal would not therefore lead to significant harm for occupiers of this property.

The proposed side and rear windows adjoining this property would reflect lower levels of the existing building. It is considered that the additional windows would not create any readily available views over this property, due to the height of the proposed building and location of amenity space attached to no. 23, and no harmful loss of privacy would result.

Noise

The proposed second floor level has a broadly comparable layout to existing flats at first floor level; there is though potential for conflict arising from the internal stacking to the rear between first floor bedrooms and second floor dining / lounge. It is considered that requirements of Building Regulations for sound insulation are sufficient to ensure no undue noise or disturbance will result for occupants of the application site or adjoining properties.

Standard of accommodation

The proposal would create a two-bedroom dwelling with a study / home office capable of forming a third bedroom. This is comparable with lower levels of the building which comprise two-bedroom units. The proposed flat would benefit from spacious room sizes with adequate outlook, light and ventilation throughout.

Whilst local plan policy HO5 seeks private amenity space in new residential development in this instance such provision is problematic due to design and amenity concerns. It is therefore considered that the provision of private amenity space is not an overriding consideration in this instance and its absence would not warrant refusal of the application.

Policy HO13 of the Brighton & Hove Local Plan states that new residential dwellings should be built to a lifetime homes standard whereby they can be adapted to meet the needs of people with disabilities without major structural alterations. There are no reasons why the development could not incorporate the majority of the relevant standards and this could be secured through condition.

Transport

Local plan policy TR1 requires that development proposals provide for the demand for travel they create and maximise the use of public transport, walking and cycling. As part of previous applications on the site for two additional flats it was considered that the absence of additional car parking with no associated provision for other measures to improve sustainable transport infrastructure would lead to an appreciable demand for on-street parking (which would exacerbate existing parking pressures in the area and unacceptably inconvenience existing residents).

As existing there are 3 off-street parking spaces to the rear of the site and the proposal would not alter this provision. It is recognised that on-street parking is in heavy demand in this location and a number of representations have been received on this basis. However, there is no evidence to suggest that the additional parking demand from one flat could not be accommodated in the surrounding area and the Transport Planning Team has raised no objection to the current application. This proposal is of a lesser intensity than previous schemes on the site and for the reasons outlined the proposal is considered acceptable in transport grounds. Taking into account the Council's temporary measures to assist the development industry it is not current practice to pursue sustainable transport contributions for development proposals of less than 5 residential units and this has not therefore been progressed.

Notwithstanding the above considerations it is noted that the proposed site plan indicates land to the rear of 314 Dyke Road being used for additional off-street parking subject to the land being leased from the owner. As this land does not form part of the application site and is in separate ownership limited weight is attached to this possible provision. It is also questionable whether use of garden land for additional parking provision would be appropriate in this location having regard to the character and appearance of the area.

The submitted plan indicates a covered cycle store to the rear of the site. This provision is acceptable and secured through condition.

Sustainability

Policy SU2 of the Brighton & Hove Local Plan states that proposals should demonstrate a high standard of efficiency in the use of energy, water and materials. Further guidance within supplementary planning document 08, sustainable building design, recommends that for a proposal of this scale the application should include a sustainability checklist and achieve level 3 of the Code for Sustainable Homes (CSH).

A Sustainability Checklist has been submitted which states the development will achieve at least CSH Level 3 and a number of measures to reduce the use of resources have been outlined in the Design & Access Statement. Whilst no pre-assessment has been submitted there are no apparent reasons why CSH Level 3 could not be achieved and further details are required by

condition.

Policy SU13 and Supplementary Planning Document 03 on Construction and Demolition Waste seek to reduce construction waste and require, as best practice, a Waste Minimisation Statement demonstrating how elements of sustainable waste management have been incorporated into the scheme. The development would generate extremely limited amounts of demolition waste and there are no reasons why the construction methodology would not allow for minimisation of waste. The submitted information is considered sufficient and it is not considered necessary for a development of this scale to request additional information.

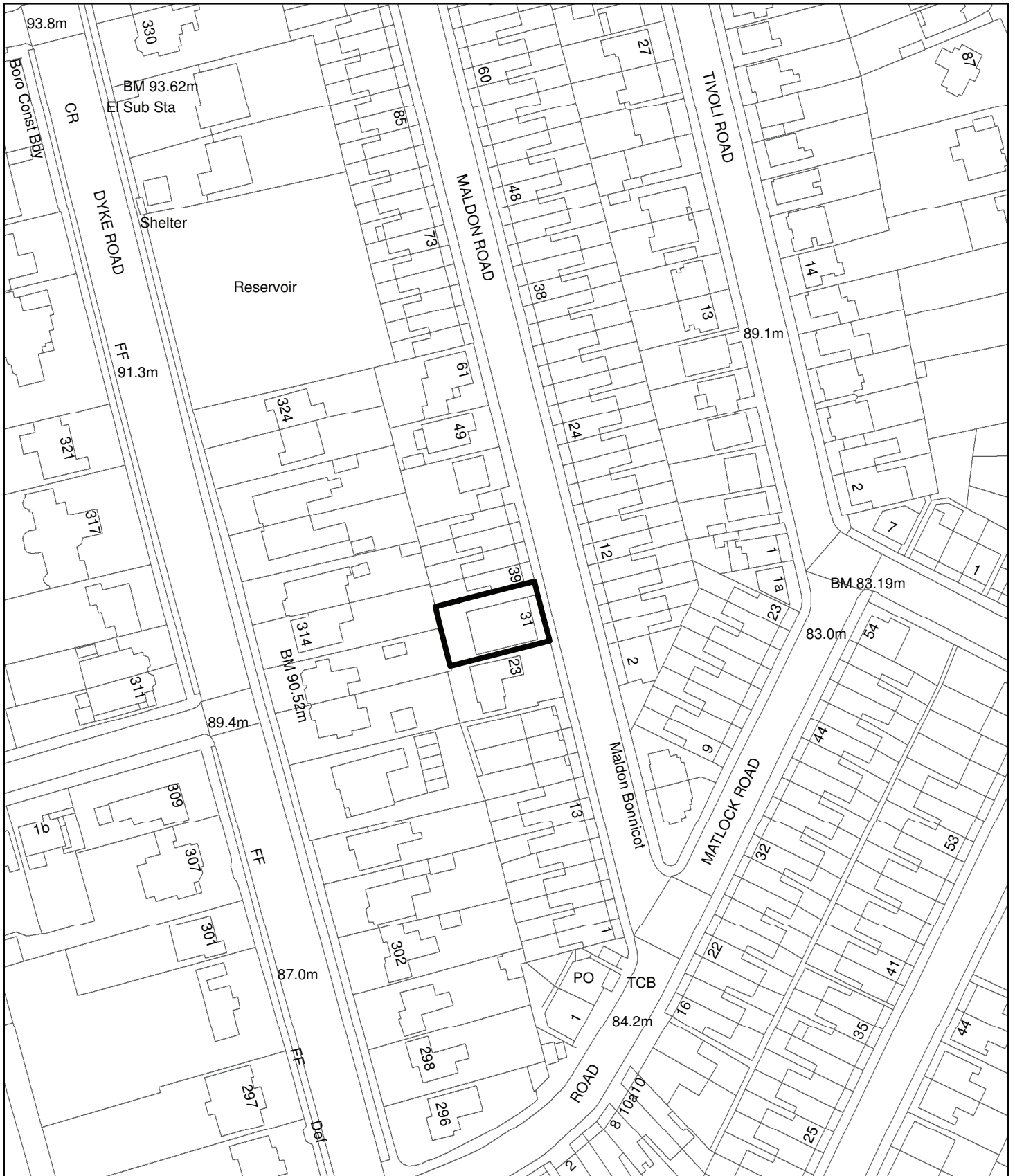
8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The development is well designed, sited and detailed in relation to the property to be extended and those adjoining; and the resulting building would not appear an unduly dominant addition to the street. The development would not cause significant harm to neighbouring amenity, through loss of light or privacy; and would not create a harmful demand for travel.

9 EQUALITIES IMPLICATIONS

There are no reasons why the development could not incorporate the majority of the relevant standards and this could be secured through condition.

BH2010/03359 31, Maldon Road



**Brighton & Hove
City Council**

Scale : 1 / 1250



<u>No:</u>	BH2010/01805	<u>Ward:</u>	EAST BRIGHTON
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Donald Hall Road & Chadborn Close, Brighton		
<u>Proposal:</u>	Installation of over-cladding with external insulation on 12 residential blocks of flats (Bluebell, Daisy, Stonecrop, Clematis, Magnolia, Sunflower, Sundew, Saffron, Hyssop, Pennyroyal, Chervil and Thyme).		
<u>Officer:</u>	Anthony Foster, tel: 294495	<u>Valid Date:</u>	20/07/2010
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	14 September 2010
<u>Agent:</u>	BLB Surveyors, Pavilion House, 14-15 Dorset Street, Brighton		
<u>Applicant:</u>	Brighton & Hove City Council, C/O BLB Surveyors		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives.

Conditions:

1. BH01.01AA Full Planning.
2. The development hereby permitted shall be carried out in accordance with the approved drawing nos. 10040/001, /002, /003, /004, /005, /006, /007, /011, /012, /013, /014, /015, /016, /017 received 9 June 2010, 10040/101 received 20 July 2010 drawing nos. 10040/P001 rev A, /P002 rev A, /P003 rev A, /P004 rev A, /P005 rev A, /P006 rev A, /P007 rev A received 1 November 2010.

Reason: For the avoidance of doubt and in the interests of proper planning.

Informatives:

1. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance Brighton & Hove Local Plan:
 - QD1 Design – quality of development and design statements
 - QD2 Design – key principles for neighbourhoods
 - QD14 Extensions and alterations; and
 - (ii) for the following reasons:-
 - The proposed development will not detract from the appearance of the property or the visual amenities of the surrounding area. The proposal is considered to be in accordance with development plan policies.

2 THE SITE

The site relates to a number of flatted building along Donald Hall Road and Chadbourn Close. The buildings which form part of this application include, Pennyroyal, located on the northern side of Chadbourn Close, Hyssop and Saffron, located on the western side of Chadbourn Close, Chervil and Thyme, located on the southern side of Chadbourn Close, Bluebell, Daisy and Stonecrop, located on the northern side of Donald Hall Road, Clematis, Magnolia, Sunflower and Sundew, located on the southern side of Donald Hall Road.

Each block is three stories in height with a pitched roof, comprising 6 flats and are finished in grey pebble dash.

3 RELEVANT HISTORY

None.

4 THE APPLICATION

Planning permission is sought for rendering to all the external walls of the buildings.

5 CONSULTATIONS

External

Neighbours: Occupiers of **10 Clare Walk, 9, 42, 122, 128 (x2), 131, Donald Hall Road, 8, 19, 49, 55 Chadbourn Close** object to the application on the following grounds:

- Increase noise and disturbance during the planned works
- Grey is an inappropriate colour as this adds to the drab look of the buildings, this should be used as an opportunity to brighten up the area.
- A lighter colour should be used which is less oppressive
- The works are unnecessary and unjustified which may result in damp problems.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

QD1 Design – quality of development and design statements

QD2 Design – key principles for neighbourhoods

QD14 Extensions and alterations

7 CONSIDERATIONS

The main consideration is whether the proposed development will detract from the appearance of the individual properties or the visual amenities of the surrounding area.

The application seeks consent for the application of render to the exterior of the building. The proposal has been amended from a grey colour scheme to a cream/buff colour scheme. The proposal is to address the widespread deterioration of the exterior of the building. No specific colour shade of cream has been chosen however similar schemes have been carried out by Brighton

& Hove City Council within the Kemptown Area. It is therefore recommended that a condition be attached to the permission to ensure that a sample is submitted to the Local Planning Authority for formal discharge.

The surrounding blocks are a mix of styles in terms of their elevational treatment, including brick, pebbledash and render finish. The proposed render will improve the appearance of the buildings when compared to the existing grey pebbledash.

Therefore it is considered that the proposed development will not detract significantly from the appearance of the property or the visual amenities of the surrounding area, and would even be considered, subject to conditions, to significantly improve the appearance of the building in accordance with policies QD1, QD2 and QD14 of the Local Plan.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposed development will not detract from the appearance of the property or the visual amenities of the surrounding area. The proposal is considered to be in accordance with development plan policies.

9 EQUALITIES IMPLICATIONS

None.

