



## Appeal Decisions

Hearing held on 1 & 2 November 2023

Site visits made on 24 October & 7 November 2023

**by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8 December 2023**

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### **Appeal A Ref: APP/Y3805/W/22/3312889**

#### **Land at Former 5 Brighton Road, Shoreham by Sea BN43 6RN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Cayuga 011 LLP against the decision of Adur District Council.
  - The application Ref AWDM/1481/21, dated 2 August 2021, was refused by notice dated 15 September 2022.
  - The development proposed is a mixed-use re-development comprised of townhouses, mixed-use apartment block, riverside walk, landscaping, and parking.
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### **Appeal B Ref: APP/Y3805/W/23/3320322**

#### **Land at former 5 Brighton Road, Shoreham by Sea BN43 6RN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Cayuga 011 LLP against the decision of Adur District Council.
  - The application Ref AWDM/1962/22, dated 9 December 2022, was refused by notice dated 9 March 2023.
  - The development proposed is a mixed-use re-development comprised of townhouses, mixed-use apartment block, commercial development, riverside walk, landscaping, and parking.
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### **Decisions**

1. **Appeal A** is dismissed.
2. **Appeal B** is allowed and planning permission is granted for a mixed-use re-development between 3 and 8 storeys comprising of 21 townhouses, mixed-use apartment block of 24 flats, commercial unit, riverside walk, play area, landscaping, and parking (with revised design and provision of on-site affordable housing) on land at former 5 Brighton Road, Shoreham by Sea BN43 6RN, in accordance with the application Ref: AWDM/1962/22, dated 9 December 2022, subject to the conditions set out in the attached schedule.

### **Applications for costs**

3. An application for costs in respect of Appeal B was made by Cayuga 011 LLP against Adur District Council. This application is the subject of a separate decision.

### **Preliminary Matters**

4. The descriptions of development on the application forms for both appeals is as set out in the above header. However, the parties subsequently agreed the following amended description in respect of the Appeal B as: *Proposed mixed-use re-development between 3 and 8 storeys comprising of 21 townhouses,*

*mixed-use apartment block of 24 flats, commercial unit, riverside walk, play area, landscaping, and parking (with revised design and provision of on-site affordable housing).* I have determined Appeal B in accordance with this amended and more precise description.

5. During the Council's assessment of the earlier application, Appeal A, amended plans were submitted. These were accepted and subject to additional consultation. The Council determined the application on the basis of these amended plans, and I have done the same.
6. The Council's decision notices for both schemes referred to conflict with Policy 21 (Affordable Housing) of the Adur Local Plan. However, in the signed Statement of Common Ground (SoCG), it was agreed that both schemes would be policy compliant in the light of evidence presented in respect of the schemes' financial viability. The Council therefore withdrew its reference to Policy 21 within the first reason for refusal.
7. Draft planning obligations in the form of Unilateral Undertakings (UUs) for each scheme were submitted during the appeal. Executed agreements were submitted on 22 November. The Council was given an opportunity to review the obligations and sought clarification in relation to land ownership, and assurance that the legal charge to preserve the discount on the affordable housing units will be registered with HM Registry. These have been provided by the appellant and have satisfied me that the UUs will secure the provisions set out within them. I have therefore taken them into account in my decisions.

### **Main Issue**

8. The main issue in both appeals is their effect on the setting of the Kingston Buci lighthouse, a Grade II listed building, and whether any harm identified would be outweighed by the public benefits of the proposal.

### **Reasons**

#### *Planning policy context*

9. Policy 2 of the Adur Local Plan 2017, (ALP) sets out the spatial strategy for the district and identifies Shoreham Harbour as a focus for regeneration for mixed use development. This will be delivered through a Joint Area Action Plan (JAAP) prepared by the Council, Brighton & Hove City Council and West Sussex County Council. Policy 3 states that a significant proportion of the district's new homes, (1,100 out of 3,718) will be provided within the Shoreham Western Harbour Arm (WHA).
10. Policy 8 sets out the Council's ambitions for the WHA in more detail and refers to the JAAP which was subsequently adopted in 2019. The JAAP includes a series of area-wide policies relating to climate change, energy, Shoreham Port, employment, housing, sustainable travel, flood risk, the natural environment, recreation, place making and design. Policy CA7 of the JAAP sets out the specific requirements for development within the WHA. This area between the harbour and the A259 comprises seven distinct sites of varying depth. Criterion 7 of the Policy states that new development should achieve residential densities of at least 100 dwellings per hectare. Criterion 8 recognises that at the most easterly sites, WH1 (the appeal site) and WH2 (Kingston Wharf), the setting of the Kingston Buci lighthouse must be considered if development over three storeys is proposed.

11. Policy 15 of the ALP requires high quality design whilst Policies 16 and 17 address matters relating to the protection of heritage assets. Policies 18 and 19 set out requirements in relation to energy and water use. Policy 21 of the ALP sets out a target of 30% for the delivery of affordable housing and the exceptional circumstances, following rigorous testing with respect to viability, where a reduced provision may be acceptable.

### *Significance of lighthouse*

12. The Kingston Buci Lighthouse, a Grade II listed building, was constructed in 1846. It is a typical Victorian structure with a tapered tower, topped by a polygonal roof surmounted by a globe and weathervane. It is set on a plinth which elevates it within the townscape. Its form reflects its primary function as a beacon to aid coastal navigation. It has architectural interest arising from its form and fabric. Its historic interest derives from its position as a land-based lighthouse erected to guide vessels into the harbour, thereby ensuring the safety of seafarers and the protection of the commercial activities of the port.
13. The lighthouse lies within Kingston Beach (area CA6 of the JAAP) where it is recognised as a distinctive local landmark. Its visual prominence is derived from its siting just a few metres from the A259 and close to the shingle beach and water's edge. It is within the only area where there are open views of the harbour entrance and its arms to the east and west which mark where the River Adur discharges into the sea. The JAAP suggests there is potential for enhancing the immediate setting of the lighthouse through improved landscaping, street furniture and signage. This would draw on its history and make its surroundings, which comprise Kingston Village Green as well as the beach, more accessible as a local amenity area. However, even though imagery of the lighthouse has been used within the front cover of the JAAP, there are no policies within Policy CA6 that specifically relate to the lighthouse or its setting.
14. As the purpose of a lighthouse is to be visible from some distance away, its setting goes well beyond its immediate surroundings. The improved navigation it brought was an important contribution to the development of the WHA, an area characterised by heavy industry in the second half of the 19<sup>th</sup> century. From the south the lighthouse would originally have been seen on the approach to the harbour against the backdrop of the coast road and a more open and rural area. Housing subsequently built on the north side of the road, and the character of the A259 which links Brighton and Worthing, has altered its setting to a more urban one. Nevertheless, the lighthouse's relationship with the coast is its key defining characteristic, marked by its proximity to the beach and the space immediately around it.
15. However, the lighthouse is not only appreciated from the harbour and the area south but is also seen and experienced from views along the busy coast road. When travelling in an easterly direction the alignment of the A259 reduces the length of road from which it can be seen. Furthermore, its prominence is diminished by the height of the tower associated with Shoreham power station further to the east. By contrast when travelling in a westerly direction from the junction with Kingston Lane towards the lighthouse, it appears as a dominant structure in terms of height. Whilst this is the most important landside view, which affirms the significance of the lighthouse as an important visual landmark it is, nevertheless, a transient view which is only experienced along a short stretch of the A259.

16. The proximity of the lighthouse to the WHA was a matter considered in some detail within the Tall Buildings Study, which formed part of the under-pinning evidence for the JAAP. This study identified that tall buildings (up to 10 storeys) would increase the height of the skyline beyond the lighthouse, becoming its backdrop and so reducing its prominence. It went on to make specific recommendations about the height of future buildings within WH1 and WH2 of the WHA to protect the skyline beyond the lighthouse. This analysis confirmed that the appeal site contributes to the significance of the lighthouse as a designated heritage asset. Consequently, proposals which are more than three storeys in height will intrude into its setting and require careful consideration to demonstrate compliance with Policy CA7.

*Assessment of proposals in relation to the lighthouse*

*a) Factors common to both schemes*

17. The appeal site is at the point of transition between Kingston Beach and the new neighbourhood being developed within the WHA. To the east of the site, there is two-storey housing on the north side of the A259, whilst to the south Kingston Village Green and the beach will remain open and undeveloped. By contrast the development within the WHA will be predominantly characterised by blocks of flats. Both proposals would provide the same mix of a block of flats within the site's western area and terraces of three-storey town houses surrounding a courtyard within its eastern part. It is common ground that this is a suitable layout to achieve an appropriate transition between the different character areas of the easterly part of the WHA and the existing urban area.
18. Both schemes include an eight-storey apartment block. This would be taller than the blocks which have been approved on site WH2, Kingston Wharf, which lies immediately to the west of the appeal site. If the recommendations of the Tall Buildings Study were strictly adhered to, all development on the appeal site would be limited to four storeys. Furthermore, those recommendations would also have precluded development of six storeys at Kingston Wharf. However, the heights at Kingston Wharf also took account of the siting of the buildings in relation to the alignment of the A259, Brighton Road and were therefore considered to be acceptable and policy compliant. Nevertheless, as the height of the blocks on Kingston Wharf reduces from the west to the east of that site, there may have been an expectation that heights on the appeal site would be lower still, particularly in view of the requirements of Policy CA7.
19. It is evident that the height of the apartment block, and its impact on the setting of the lighthouse, was debated when the originally submitted scheme associated with Appeal A was presented to the Design Review Panel. The Panel considered the land-based views of the lighthouse to be secondary to its historic significance and as such, the height of the apartment block should not constitute a reason for rejecting the proposal. However, they recommended other design changes, including improving the relationship between the apartment block and the townhouses. Many of their suggestions were incorporated into the amended plans upon which the Council made its decision.
20. When viewed from the A259 adjacent to the Kingston Wharf development, the apartment block in either of the appeal proposals would appear to be six-storeys as the upper floors are set back from the roadside elevation. The top storey has been set in from all the principal elevations and the design has been

amended to reduce its bulk and give it a lightweight and more translucent appearance. This would make it acceptable from all views other than the east.

21. The eastern boundary of the appeal site lies 75m from the lighthouse and the front elevation of the apartment block would be some 165m from it. The apartment block would become the backdrop to the lighthouse most noticeably when viewed from a short section of the A259 between Kingston Lane and the bus stop opposite No 20. These changes would primarily be experienced by drivers travelling west, and by pedestrians on the footway on the south side of the A259. The distinctive silhouette of the lighthouse against the skyline would largely be lost, although in places its top would appear above the apartments. In addition, the width of the townhouses on the eastern edge of the scheme would project beyond the lighthouse's outer flank, reducing its visual link with the harbour. This effect would be common to both schemes and the main parties agree that this would give rise to less than substantial harm to its setting.

*b) Other design issues relating to Appeal A*

22. At present there are two modest-sized buildings between the lighthouse and the appeal site; the rowing club and the former customs house. The proposed townhouses which would occupy the full depth of the eastern side of the appeal site would be seen beyond these existing buildings and would appear to project further towards the sea. This block's siting, between the lighthouse and the apartment block, would help reduce the overall impression of its bulk. However, its flat roof form and blocky appearance would lack interest, thereby emphasising its own depth and bulk. It would therefore do little to mitigate the harm to the silhouette of the lighthouse.

*c) Other design issues relating to Appeal B*

23. Following refusal of the Appeal A scheme, the roof design of the blocks of townhouses was amended and is proposed to be in the form of a series of saw teeth. This design amendment would be beneficial for two reasons. Firstly, as this shape of roof can be commonly found on commercial buildings, it would create a visual link with the industrial heritage of buildings in this part of Shoreham. Secondly, it would soften the profile of the building thereby breaking up its mass and making the additional height of the tower block beyond it less apparent. This would reduce the harmful effects of the development on the setting of the lighthouse to a modest degree.

*d) Conclusions on the effects on the setting of the lighthouse*

24. In so far as both schemes have considered the effect of the apartment block on the setting of the lighthouse, I am satisfied that they comply with Policy CA7 of the JAAP. However, as both schemes would result in less than substantial harm to the setting of the lighthouse there would be conflict with Policies 15 and 16 of the ALP. These policies seek to protect the district's heritage and state that development which would adversely affect the setting of a listed building, in terms of design or materials, will not be permitted.
25. However, neither of these ALP policies consistent with paragraph 202 of the National Planning Policy Framework (the Framework) which requires me to weigh this harm against the respective public benefits of each scheme.

26. Before undertaking this heritage balance, it is necessary to consider how any identified public benefits could be secured, and other concerns could be addressed, by means of planning obligations and/or through the imposition of appropriate conditions.

### **Planning Obligations**

27. Separate UUs have been executed in respect of the two schemes, although there are many common elements. The Council provided detailed justification for each of the contributions having discussed these with the County Council and other public service providers.
28. Both UUs include several identical elements. These include financial contributions towards air quality mitigation (£8,980), health facilities (£60,271), off-site highway improvements (£145,074), open space/recreation (£130,939), public art (£5,294) and travel plan monitoring (£1,500). Both would provide a) a Car Club (with space for 2 cars, paid membership for each household for 2 years and £50 drive time per household), b) improvements to footpath FP3556 adjacent to the site's eastern boundary and uninterrupted public access to the Riverside Path for pedestrians, cyclists, and riverside maintenance.
29. Financial contributions towards secondary and sixth form education, fire and rescue and libraries are of a similar order for each scheme but reflect the different assumptions about the numbers of future residents. Appropriate schemes that are directly related to the development have been identified for each of these contributions which are fairly and reasonably related in scale and kind to the development.
30. The most significant difference between the UUs relates to the provision of affordable housing. In respect of Appeal A, the UU would secure a contribution of £181,598 which would be used to provide affordable units elsewhere in the district rather than on-site. Whilst this would be a valuable means of addressing the shortfall of rented or shared ownership properties, it would provide less certainty about when and where such units would become available.
31. With Appeal B, the UU would secure the provision of five intermediate units within the apartment block. These would be available to local people at significantly below market price and mechanisms within the UU would ensure that these units would be secured in perpetuity. By delivering affordable homes on site, these benefits would be integral to the implementation of Appeal B. In the event that there was a failure to deliver these units on-site, the UU provides an alternative by means of a financial contribution of £427,500.
32. Having considered the evidence to support these provisions, I am satisfied that all of them in both UUs meet the statutory requirements of Regulation 122 of the Community Infrastructure Levy Regulations and the policy tests set out in the paragraph 57 of the Framework.

### **Conditions**

33. A list of conditions was prepared by the Council and included in the Statement of Common Ground (SoCG), although two of these conditions were disputed by the appellant. This list also recognised that there would be some conditions that would be common to both schemes, and others (such as the plans list)

- which would only be relevant to one or other proposal. All these conditions were discussed at the Hearing, starting those which were in dispute.
34. The Council initially sought to restrict the use of the commercial space to Class E(a) and (b) of the Use Classes Order to protect the living conditions of future and adjoining occupiers who could be adversely affected by noise and odours. However, it was apparent that these concerns could be addressed in a less restrictive manner. Consequently, an alternative condition was agreed by the parties which would provide opportunities for more flexible use of the commercial space, supported by conditions relating to provision of appropriate noise insulation and noise and odour controls.
  35. The second of the suggested conditions in dispute related to a request from Brighton City Airport to secure agreement to a Bird Hazard Management Plan. However, there was no evidence from the airport to support this request and no similar plans have been required by other developments in the WHA. It was therefore concluded at the Hearing that this condition was unnecessary.
  36. Following the discussion at the Hearing a full list of revised conditions was prepared for Appeal A, which included all those which would be common for Appeal B. A second list set out substitute conditions for Appeal B to reflect the differences between the two schemes. I have considered the need for all these conditions having regard to paragraph 56 of the Framework. Pre-commencement conditions can only be imposed where there is a clear justification and with wording agreed by the appellant. Minor changes to the detailed wording of other conditions would be necessary to ensure that they are precise and enforceable.
  37. In addition to the standard time limit, conditions specifying the plans and confirming the site levels would be required in the interests of certainty. A Construction Management Plan must be agreed before any work begins on site to protect the surrounding environment. As this is a brownfield site within a densely developed urban area, before works can begin a phasing programme for implementing the development, including identifying enabling works would be required to secure orderly and co-ordinated development of the site. In addition, a remediation strategy would be needed to deal with risks associated with contamination to protect the public health, safeguard ground water and the River Adur.
  38. Conditions would be needed to agree further details of the enabling works, improvements to the river wall, foul and surface water drainage, maintenance and management of drainage, piling methods, access and parking arrangements, together with works necessary to provide noise insulation for the commercial space and air quality mitigation measures. All these details would need to be agreed in a timely manner to ensure the works were delivered to appropriate standards and would not cause unacceptable risks to the local environment and population.
  39. Before work above ground level begins it would be necessary to agree details of materials to be used, provision of road noise mitigation and ventilation, landscaping, play and biodiversity, means of enclosure, gates and barriers. These would be required in the interests of the appearance of the development and the living conditions of future occupants. It would be essential to undertake the development in accordance with the recommendations of the Floor Risk Assessment (FRA) to reduce flood risk and address climate change.

The incorporation of measures to manage heat and use energy and water sustainably would be required to reduce emissions and provide adaptations to address climate change. A condition to deal with unexpected contamination would be needed to protect the environment and human health. The siting of any car park barrier needs to be agreed in the interest of highway safety.

40. Prior to occupation a series of conditions would be required to ensure the satisfactory operation of the development and the protection of its residents. These conditions would secure as-built drawings of the approved drainage schemes, the provision of vehicular and pedestrian accesses, surfacing of the public right of way, vehicle parking electric vehicle charging facilities, secure cycle parking, a travel plan, and recycling and refuse storage facilities. Conditions would also be justified to verify the provision of road noise mitigation and ventilation, flood risk management plans, verification of contamination remediation, obscure glazing, and any need for temporary flood risk management.
41. Conditions restricting the use of the commercial space and requirements for noise and odour control once the development is operating would be justified to protect the living conditions of neighbouring occupiers. Restricting external lighting would be necessary to ensure safe navigation within the harbour. The removal of permitted development rights with respect to windows and openings would be justified to safeguard the appearance of the development and the living conditions of other occupants.

### **Other Matters**

42. In addition to matters relating to the main issues, local people were concerned about air quality, green space and the traffic implications of the development. In particular, overspill parking onto the surrounding streets which have little spare capacity could be problematic.
43. West Sussex County Council's adopted parking standards indicate that the scheme requires 81-85 parking spaces. Only 44 are proposed. However, census data from the local area suggests that 50% of occupiers of apartments and 20% of occupiers of houses have no car. Based on this the 18 spaces serving the apartment would be adequate, but only 70% of the houses would have sufficient parking, particularly if they owned more than one vehicle.
44. However, the UUs would secure provision and membership of a Car Club for future occupants, and a Travel Plan could be secured by means of a condition. The Travel Plan would be prepared in accordance with County Council guidance with clear targets to a) promote walking, cycling, public transport use and car sharing and b) prevent overspill parking on the public highway. The site would be served by improved routes for pedestrians and cyclists and there are bus routes serving the A259. Collectively, these measures would reduce future occupants' reliance on the private car and the demand for on-site parking. The UUs also secure monitoring for the Travel Plan which should ensure that its objectives and targets are met in the future.
45. As well as reducing the risk of nuisance from overspill parking, any reduction in parking demand would enable more space to be retained as open space and landscaping. This would also be beneficial for air quality. I am therefore satisfied that an effective Travel Plan would address the concerns raised by local people.



## Heritage Balance

### *a) Public benefits common to both schemes*

46. Both schemes would provide a total of 45 new homes. This would contribute to the district's housing land supply and would be a significant public benefit which would generate social benefits in both the short and long terms.
47. Economic benefits would arise from the use of a vacant brownfield site to deliver homes and a small commercial unit. Both proposals would provide significant levels of investment and employment during construction. Once occupied, expenditure by local residents would contribute to the local economy.
48. Both schemes would incorporate a new riverside walk and improvements to a public footpath alongside the eastern boundary of the site. Together these would provide important connections for pedestrians between the WHA and Kingston Beach and contribute to the enhancement of the England Coast Path. The A259 would be widened enabling construction of a segregated cycleway and footway. This would improve safety for all road users and encourage greater use of sustainable modes of transport. A new river wall would provide improved flood defences and incorporate enhanced resilience to climate change. Through appropriate landscaping and planting, biodiversity of an ecologically sterile site would be enhanced.
49. The incorporation of these improvements to infrastructure are consistent with the aspirations for the development of the WHA set out in the JAAP. Whilst they are necessary to ensure compliance with Policy CA7, they would also provide significant public benefits. Either scheme would enhance the quality of the built environment within the WHA and increase the area's capacity to address risks associated with flooding, energy use and climate change.
50. Added to the above benefits the UUs have secured contributions towards secondary and sixth form education, improvements to health facilities, off-site highway works, interventions to encourage sustainable transport choices, and enhancements to the provision of public open space. These contributions are primarily required to ensure compliance with the development plan and to mitigate the effects of the development with minor differences between the two schemes. Nevertheless, it is acknowledged that there will be an element of public benefit from each of them to take into account in the balance. Finally, there would be local finance benefits of approximately £100k arising from annual public sector receipts from Council Tax and Business Rates.

### *b) Public benefits of affordable housing*

51. It is common ground that neither of the proposals could deliver the target of 30% affordable housing set out in Policy 21. Both schemes have been the subject of rigorous testing through a viability assessment.
52. In respect of Appeal A, the UU would secure a contribution of £181,598. However, as it would provide less certainty about when and where such units would become available, I consider that the public benefits of this contribution carry only moderate weight in the balance.
53. With Appeal B, the UU would secure either the provision of five intermediate units within the apartment block or a financial contribution of £427,500. By delivering affordable homes on site, Appeal B would provide greater certainty.

Furthermore, if there was a failure to deliver these units on-site, the UU provides for larger financial contribution as an alternative. This considerably increases the public benefits of this element of the proposal by providing an incentive to the delivery of the units on site, and a penalty for choosing the alternative of a larger financial contribution. I therefore consider that the public benefits associated with the provision of affordable housing within Appeal B carries significant weight in the balance.

*c) Appeal A – heritage balance*

54. It is common ground that Appeal A would give rise to less than substantial harm to the setting of the lighthouse, albeit at the lower end of the spectrum. Nevertheless, as this harm would be permanent, this would amount to a significant planning objection, and one to which I am required to give considerable importance and weight.
55. On the other hand, the scheme would provide a range of public benefits as set out above, thereby making a significant positive contribution to the delivery of housing and the achievement of the regeneration of the WHA.
56. In addition to the aforementioned public benefits, Appeal A would provide a modest contribution of £181,598 to affordable housing. However, this would be provided off-site, which is not the preferred means of securing affordable homes in either national or local planning policy and therefore carries only moderate weight in the balance.
57. Taking all the above factors into account, I conclude that the totality of public benefits associated with Appeal A would not outweigh the permanent harm to the setting of the lighthouse.

*d) Appeal B – heritage balance*

58. It is common ground that Appeal B would give rise to less than substantial harm to the setting of the lighthouse, again at the lower end of the spectrum. However, although this harm would be permanent, the improvements to the design of the block of town houses on the eastern side of the site would reduce the harm to a notable degree. I therefore consider it would amount to a moderate planning objection, albeit one which carries considerable importance and weight.
59. In common with Appeal A, the scheme would provide a range of public benefits which would make a significant, positive contribution to the delivery of housing and the achievement of the regeneration of the WHA.
60. In addition, Appeal B would provide five intermediate homes on site and any failure to do so would ensure that the alternative of a financial contribution, £427,500 would be provided towards affordable housing. I consider these provisions to be public benefits which carry significant weight in the balance.
61. This leads me to conclude that the totality of public benefits which would be delivered by Appeal B would outweigh the less than substantial, albeit permanent harm, to the setting of the lighthouse.

### **Planning Balance and Conclusions**

62. The Council is unable to demonstrate a five-year supply of deliverable housing sites (5YHLS). For the purposes of these appeals the extent of the shortfall has

been agreed as 3.45 years, although this assumes that 45 dwellings will be delivered on the appeal site. Consequently, paragraph 11 d) of the Framework is engaged.

*Appeal A*

63. In Appeal A I found there would be permanent harm to the setting of the Kingston Buci Lighthouse which would not be outweighed by the public benefits of that scheme. Having regard to footnote 7 of paragraph 11 d) i) there is therefore a clear reason for refusing the development due to its failure to protect a designated heritage asset. The presumption in favour of sustainable development therefore does not apply to Appeal A.
64. Appeal A conflicts with the development plan. There are no other considerations, including the provisions of the Framework that indicate that a decision should be taken other than in accordance with the development plan. I therefore conclude that Appeal A should be dismissed.

*Appeal B*

65. In Appeal B, although I found conflict with the development plan in regard to its adverse effects on a designated heritage asset, this was outweighed by the totality of public benefits associated with the scheme.
66. I therefore conclude that there are material considerations in this case which indicate that a decision should be taken other than in accordance with the development plan. Consequently, Appeal B should be allowed, subject to the conditions set out in the attached schedule.

*Sheila Holden*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT

Harriet Townsend	Counsel
Joseph Pearson MRTPI	Associate Lewis and Co Planning
Luke Carter MRTPI	Director Lewis and Co Planning
Ed Deedman	Cayuga 011 LLP
Jordan Moyle	Cayuga 011 LLP

### FOR THE LOCAL PLANNING AUTHORITY

Neil Holdsworth	Consultant Planning Officer
James Appleton	Head of Planning

### INTERESTED PERSONS

Andrew Harvey	Local resident: spokesperson for Adur Communities Together
Barb O'Kelly	Chair: Adur Residents' Environmental Action
Avril Knight	Local resident
Jude Harvey	Local resident
Gavin Chatfield	Local resident

## **DOCUMENTS SUBMITTED AT AND AFTER THE HEARING**

1. A3 bound copy of plans for Appeal A
2. A3 bound copy of plans for Appeal B
3. Final and signed Statement of Common Ground (SoCG)
4. Hard copy of costs application by appellant
5. Draft of Unilateral Undertaking for Appeal A – as of 2 November
6. Drafts of Unilateral Undertaking for Appeal B – as of 1 November (copy with track changes and clean copy)
7. Executed Unilateral Undertakings for both appeals (received 22 November)
8. E-mails dated 6 December providing clarification of land ownerships and confirmation of legal charge in relation to the preservation of discount on affordable housing units.

## Appeal B: Schedule of Conditions

1. **Time limit:** The development hereby permitted shall begin not later than three years from the date of this decision.
2. **Approved plans:** The development hereby permitted shall be carried out only in accordance with the following approved plans:
  - 2088-PA-009 – Proposed Location Plan and Site Plan
  - 2088-PA-010 – Basement and Part Ground Floor Plan
  - 2088-PA-011 – Ground Floor Plan
  - 2088-PA-012 – First Floor Plan
  - 2088-PA-013 – Second Floor Plan
  - 2088-PA-014 – Third Floor Plan
  - 2088-PA-015 – Fourth Floor Plan
  - 2088-PA-016 – Fifth Floor Plan
  - 2088-PA-017 – Sixth Floor Plan
  - 2088-PA-018 – Seventh Floor Plan
  - 2088-PA-019 – Roof Plan
  - 2088-PA-020 – South Elevation Riverside & Section A-A
  - 2088-PA-021 – North Elevation Roadside & Sections B-B & F-F
  - 2088-PA-022 – East & West Elevation to East Terrace, East Elevations to North & South Terraces & Section E-E
  - 2088-PA-023 – West Elevation to Flats & Sections C-C, D-D & G-G
  - 2088-PA-024 – Typical Bay Brickwork Details
  - 2088-PA-040 – Flood Defence Wall Alignment and Access
  - 2088-PA-041 – Ground Floor Plan with Flood Gate Positions, River Walk Width & Section Lines for Perimeter Sections
  - 2088-PA-042 – Perimeter Sections & River Levels Information
  - 2088-PA-043 – Indicative Flood Wall Details
  - 2088-PA-044 – Strategic Landscape Plan
  - 2088-PA-046 – Parking and Keep Clear Plan
  - DR-C-0500 (Rev P8) – Drainage Layout
  - DR-C-0520 (Rev P1) – Drainage Details 1 of 2
  - DR-C-0521 (Rev P2) – Drainage Details 2 of 2
3. **Levels:** The development hereby approved shall be carried out in accordance with the proposed site levels shown in drawing number 2088-PA-011 (Ground Floor Plan). No other raising of levels shall be carried out without the prior written approval of the Local Planning Authority.
4. **Construction Environment Management Plan and Hours of Work:** Prior to commencement of enabling works no development shall take place, until a Construction Management Plan in respect of these works has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:
  - a) the anticipated number, frequency and types of vehicles used during construction;
  - b) the method of access and routing of vehicles during construction;
  - c) the parking of vehicles by site operatives and visitors;
  - d) the loading and unloading of plant, materials and waste;
  - e) the location of any site compound and site office;

- f) the storage of plant and materials used in construction of the development;
- g) arrangements for efficient construction waste management;
- h) measures to minimise risk of and respond to any accidental spillages including containment and clear-up;
- i) a Dust Management Plan incorporating the dust control measures;
- j) a commitment to no burning on site;
- k) the erection and maintenance of security hoarding, including provision of public information about the development and viewing ports;
- l) the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
- m) Arrangements for regular and responsive traffic management liaison with other imminent or active development sites in the Western Harbour Arm and A259 Brighton Road;
- n) details of any external lighting during the construction period, including provisions to avoid any hazards to shipping and activities at Shoreham Harbour Port, in liaison with the Shoreham Port Authority;
- o) details of public engagement both prior to and during construction works including neighbouring and nearby residents (including those at Shoreham Beach), businesses and other occupiers.

Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday - Friday 08:00 - 18:00 Hours  
Saturday 08:30 - 13:00 Hours  
Sundays and Bank/Public Holidays no work is permitted.

Any temporary exception to these working hours shall be agreed in writing by the Local Planning Authority at least five days in advance of works commencing. The contractor shall notify the local residents in writing at least three days before any such works.

5. **Phasing (and Enabling Works):** Prior to commencement of any works on site a phasing programme, (which shall include any phase or phases of Enabling Works) shall be submitted to and agreed by the Local Planning Authority. Development shall be implemented in accordance with that phasing programme and details required under conditions of this planning permission, shall be submitted and approved in accordance with that phasing programme. For the purposes of the conditions of this planning permission, 'Enabling Works' shall comprise the following:

- a) Demolition of any structures above ground level;
- b) Removal of building foundations & slab and associated above ground cables, pipes or ducts;
- c) Breaking-up and crushing of existing hard-standings;
- d) Removal of below ground cables, pipes or ducts;
- e) Re-routing of existing sewer main;
- f) River-wall survey works, including excavation to assess existing condition;

- g) Site survey works (other than river-wall survey) to inform the design of remediation works;
- h) Creation of a piling mat using clean rubble or similar clean material.

6. **Remediation and Groundwater:** No development hereby permitted shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

- a) A preliminary risk assessment which has identified: all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site;
- b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;
- c) The results of the site investigation and the detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;
- d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be fully implemented as approved, any changes to these components shall require the prior written consent of the Local Planning Authority.

7. **River Wall Works:** Prior to commencement of works to replace or improve the river wall and/or sheet piling, full details shall be submitted to and approved in writing by the Local Planning Authority, which includes the following:

- a) riverside retaining walls and associated cappings and railings, engineering details and cross-sections and details of external appearance and finishes;
- b) the inter-relationship between the riverside retaining wall, new riverside path and site drainage, and
- c) measures to be taken to minimise and manage risk of contamination, (including risks to human health and the water environment), noise and dust.

The details thereby approved shall be fully adhered to in the undertaking of the respective Enabling Works.

8. **Enabling Works:** The following Enabling Works at condition 5 shall only be undertaken after the following details have been submitted to and approved in writing by the Local Planning Authority: (c) Breaking-up and crushing of existing hard-standings. Details of measures to manage and minimise noise, vibration and dust. (d) Removal of below ground cables, pipes or ducts (e)

Re-routing of existing sewer main (f) River-wall survey works, including excavation to assess existing condition. Details of measures to be taken to minimise and manage risk of contamination, (including risks to human health and the water environment), noise and dust. The details thereby approved shall be fully adhered to in the undertaking of the respective Enabling Works.

9. **Drainage – Details of Foul and Surface Drainage:** With the exception of any Enabling Works, development shall not commence until details of the proposed means of foul and surface water sewerage disposal including a timetable for its provision and assessment of pollution risks with any measures necessary for its control or mitigation, have been submitted to, and approved in writing, by the Local Planning Authority. The development will then be carried out to comply with the agreed details and timetable.
10. **Drainage – Maintenance and Management:** With the exception of any Enabling Works, development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual has been submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon the completed construction of any phase of the surface water drainage system, the owner or management company shall permanently strictly adhere to and implement the recommendations contained within the manual.
11. **Piling Works and Contamination:** With the exception of any Enabling Works, development shall not commence until details of any foundation design and method using piling or penetrative methods have been submitted and approved in writing by the Local Planning Authority including information to show that there is no resultant unacceptable risk to the water environment, including groundwater and the River Adur. The development shall be carried out in accordance with the approved details.
12. **Air Quality Mitigation:** With the exception of any Enabling Works, development shall not commence until full details of all proposed operational phase air quality mitigation measures for that respective phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the details thereby approved. If required, a verification report shall be submitted to and approved in writing by the Local Planning Authority on completion of the respective phase of development to demonstrate and confirm that the operational phase air quality mitigation measures thereby approved have been implemented and have achieved mitigation equal to the value identified.
13. **Access and Frontage Specifications:** With the exception of any Enabling Works, development shall not commence until construction details of the vehicular access and manoeuvring and parking areas within the site and their surface water drainage, including engineering cross sections and specifications, and details of the design and surfacing of the public footpath, vehicular crossovers and kerb alignments at the Brighton Road frontage,



have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the details thereby approved and permanently maintained and retained.

**14. Sustainable Surface Water Drainage:** With the exception of any Enabling Works and site survey and investigation, no development shall commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and winter infiltration testing to BRE DG365, or similar approved, will be required to support the design of any Infiltration drainage. Details shall include measures to manage any pollution risks, including risks to controlled waters with measures for control and mitigation of these risks. No building shall be occupied until the complete surface water drainage system serving it has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

**15. Materials and Details:** No works above ground level shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority and all development of that phase pursuant to this permission shall be carried out and permanently maintained in full accordance with details thereby approved:

- a) Details (including samples, where requested by the local planning authority) of the materials to be used on all external faces of the building(s) and ground surfaces, including colours and finishes;
- b) Details, including 1:20 drawings and profiles of external columns doors; windows and frames; roof intersections, soffits, parapets & cappings, balconies, balcony screens and external rails;
- c) Any external plant and utility cabinets, their location, size, design, materials, colours and finish and any associated ducting;
- d) Details of solar panels and height relative to adjoining parapets / roof edges;
- e) Details of any external lighting, including measures to minimise light pollution and impact on river navigation, and arrangements for verification of these measures, which shall be implemented;
- f) Details of pedestrian and vehicular access ramps and steps and ground floor plinths, including detailing and/or materials to add visual interest;
- g) Details of the location and design of any externally visible ventilation louvres, gaps or ducts.

Development shall only be carried out in accordance with the details thereby approved and this condition shall apply notwithstanding any information contained in the documentation submitted with the appeal.

**16. Road Noise Mitigation and Ventilation – Provision:** Prior to the commencement of development above ground level, details of road noise and vibration mitigation, including acoustic glazing and mechanical

ventilation and heat recovery systems, shall be submitted to and approved in writing by the Local Planning Authority. Mitigation measures should reflect the recommendations of the submitted Acoustic Report by 7<sup>th</sup> Wave Acoustics (Reference 1149.001R.1.0.RF).

**17. Commercial space – Noise insulation:** Construction work (with the exception of any demolition or stripping out), shall not commence until an insulation scheme for protecting the first-floor flats from noise from the commercial space has been submitted to and approved by the Local Planning Authority. All works, which form part of the scheme, shall be completed before any part of the noise sensitive development is occupied. The scheme shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB) for all floors.

Before the residential units are occupied a test shall be undertaken to demonstrate compliance with this level and submitted to and approved in writing by the Local Planning authority.

**18. Landscaping, Play and Biodiversity:** Hard and soft landscaping ('soft landscaping' means new planting, associated ground preparation and biodiversity enhancement measures) for each phase of development shall be completed in accordance with the phasing plan under approved condition 5 of this permission, with all planting to be completed no later than the first planting season following the occupation of each phase.

Before the commencement of development above ground level, (other than Enabling Works), and unless otherwise agreed in writing, the following details shall be submitted to and approved by the Local Planning Authority:

- a) Details of hard landscaping materials and surfacing;
- b) Details of provisions for informal play & recreation;
- c) Any external seating;
- d) Planters and tree pits including irrigation and drainage;
- e) Ground preparation to create a planting medium;
- f) Biodiversity enhancement measures;
- g) Details where appropriate, of any temporary landscaping at the public footpath along the Brighton Road frontage;
- h) A maintenance plan to ensure full establishment of new planting.

Development shall thereafter be carried out in accordance with the approved hard and soft landscaping plans, phasing plan and the details at (h) above, and the planting maintained, in accordance with the approved details and the phasing plan. Any trees or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**19. Means of Enclosure, Gates and Barriers:** Before the commencement of development above ground level (other than Enabling Works), details of all means of enclosure, gates or barriers for that phase shall be submitted to and approved in writing by the Local Planning Authority. These shall be provided for each phase of development prior to the occupation of each such phase.

Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015 as amended, or any Order revoking or re-enacting that Order, no additional or other means of enclosure, or increase in height of any means of enclosure, balcony or terrace shall be carried out.

**20. Flood Risk and Riverside Management:** The development shall be carried out in accordance with the submitted Flood Risk Assessment ("FRA") (dated December 2022, produced by HOP Consulting Ltd, Ref: 16050/03/HOP/RPT/01) and the additional information provided by HOP Consulting Ltd in their letter and associated documents to the Environment Agency dated 10 February 2022 ("the Letter") (ref: TJB/SMW/16050-4), and in particular the following mitigation measures detailed therein:

- a) Finished floor levels of habitable rooms shall be set no lower than 6.14 metres above Ordnance Datum (AOD) as stated in section 3.4 of the FRA;
- b) Finished floor levels for the commercial space shall be set no lower than 4.95 metres above Ordnance Datum (AOD) as stated in section 3.4 of the FRA;
- c) Finished floor levels of the courtyard shall be set no lower than 5.40 metres above Ordnance Datum (AOD) in accordance with drawing no: 2088-PA-040 ('Flood Defence Proposals Ground Floor/ Site Plan');
- d) Provision of vertical rising flood control barriers up to 5.47m AOD as indicated in drawing number 2088-PA-040 ('Flood Defence Proposals Ground Floor/ Site Plan'), with details of a maintenance plan and operation of the barriers to be submitted to the Local Planning Authority prior to installation of the barriers.
- e) Provision of a waterfront access route of no less than 4 metres, which shall be permanently maintained in accordance with drawing number 2088-PA-040 ('Flood Defence Wall Alignment, Access To Wall & Navigation Light Position')
- f) The existing river wall defences shall be improved as outlined in 'the Letter' referred to above comprising a new vertically Steel Sheet Piled (SSP) river wall structure set back slightly from the existing alignment and set to 4.4m AOD and a set-back reinforced concrete flood wall with structural connection to the river wall set to 5.47m AOD as shown in the following submitted drawings:

2088-PA-040 – Flood Defence Wall Alignment, Access to Wall and Navigation Light Position

2088-PA-041 – Ground Floor Plan with Flood Gate Positions, River Walk Width & Section Lines for Perimeter Sections

2088-PA-042 – Perimeter Sections & River Levels Information

2088-PA-043 – Indicative Flood Wall Details

All the measures and mitigations shall be fully implemented prior to occupation of the development and subsequently fully maintained in accordance with the scheme's timing/phasing arrangements and shall be fully retained and maintained throughout the lifetime of the development.

**21. Sustainability and Energy:** The development hereby approved shall incorporate the following sustainable energy and heat management measures:

- a) Energy efficient building fabric,
- b) LED internal & external lighting,
- c) Provision of Solar panels and Air Source Heat Pumps (ASHP),
- d) Mechanical Ventilation with Heat Recovery System (MVHR), with summer bypass
- e) Building Energy Management Systems,
- f) Efficient water goods and fixtures to achieve <110L/Person/day

The development shall be implemented and retained in accordance with the details thereby approved.

Written confirmation, including independent professional verification, shall be submitted to and approved in writing by the Local Planning Authority, within 3 months of the first occupation of the development, to confirm that these measures have achieved the target CO2 reduction below the baseline model including renewable energy, as identified in the submitted Energy Statement and confirming the installation of water goods and fixtures to achieve a target of <110L/Person usage/day. The verification document shall include any proposed and timetabled remedial measures if these targets have not been met, in which event the remedial measures thereby approved shall then be implemented in accordance with that timetable.

**22. Previously Unidentified Contamination:** If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority. The remediation strategy shall then be implemented as approved.

**23. Car Park Barrier:** Any gate to any parking area in the site shall be sited at least 6m back from the edge of the public highway. Details of any gate and of any entry control system (if used), shall first be submitted to and approved in writing by the Local Planning Authority, and this condition shall apply notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and County Planning (General Permitted Development) Order 2015 as amended, or any Order revoking or re-enacting that Order.

**24. Drainage – As-built Record:** Following implementation of the approved surface water drainage system and prior to occupation of any part of the development, the Local Planning Authority shall be provided with as-built drawings of the implemented scheme together with a completion report prepared by a qualified engineer that confirms that the scheme was built in accordance with the approved drawing/s and is fit for purpose. The scheme shall thereafter be permanently maintained as approved.

**25. Highways and Access:** No part of the development shall be first occupied until such time as the vehicular and pedestrian accesses serving that part of

the development have been constructed in accordance with the details shown on the drawing titled Ground Floor Plan 2088-PA-11.

26. **Vehicle Parking:** No part of the development shall be first occupied until the vehicle parking and manoeuvring spaces serving that part (including associated visitor/unallocated parking and car club space) has been constructed and provided in accordance with the approved details. Once provided the spaces shall thereafter be permanently retained at all times for their designated purpose.
27. **Electric Vehicle Charing:** No part of the development shall be first occupied until Electric Vehicle Charging spaces and ducting/cabling have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority and shall be permanently retained thereafter.
28. **Recycling and Refuse Stores:** No part of the development shall be first occupied until the refuse storage space(s) serving it have been provided in accordance with the approved plans and shall be permanently retained and maintained thereafter.
29. **Surfacing of the Public Right of Way (PROW):** No part of the development shall be first occupied until such time as surfacing works and signage for Right of Way no. FP3556 have been implemented in accordance with plans, details and construction specifications that have previously been submitted to and approved in writing by the Local Planning Authority.
30. **Road Noise Mitigation and Ventilation – Verification:** No part of the development shall be first occupied until all approved road noise mitigation and ventilation measures have been completed and details of the post implementation independent verification to demonstrate that the road mitigation and ventilation measures undertaken are effective and protect noise sensitive development from noise and vibration have been submitted to and approved in writing by the Local Planning Authority.
31. **Flood Risk and Safe Access:** Prior to first occupation of any phase or part of the development, a Flood Risk Management Plan for each phase or part shall be submitted to and approved in writing by the Local Planning Authority. It shall include the ongoing arrangements for the provision, dissemination and updating of flood risk information and means of safe access and escape for occupiers of the site. The Plan thereby approved shall be implemented upon the first occupation of each respective phase or part and permanently adhered to unless the Local Planning Authority gives prior written approval for any variation.
32. **Remediation Verification:** Prior to first occupation of any part of the development, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

- 33. Secure Cycle Parking:** No dwelling shall be first occupied until covered and secure cycle parking spaces serving the respective dwelling have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority. The covered and secure cycle parking shall be retained thereafter for its designated purpose.
- 34. Travel Plan:** No dwelling shall be first occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall thereafter be implemented as approved including any monitoring, reporting and subsequent updating measures in accordance with any subsequent Travel Plan thereby approved.
- 35. Obscure Glazing:** The development hereby approved shall not be occupied until details showing the opacity of the glazing at ground floor level adjacent to the riverside path have been submitted to, and approved in writing, by the local planning authority. The development shall be implemented and retained thereafter in accordance with the approved details.
- 36. Temporary Flood Risk Management:** If any building is to be occupied before the full completion of all flood risk defence and management measures for the site, details of any temporary flood defence and management provisions shall be first submitted to and approved in writing by the Local Planning Authority and shall be fully implemented during such interim period.
- 37. Commercial Space – Use and Hours:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking and re-enacting that order with or without modification), the ground floor commercial space and associated external terrace shall be used only for purposes within Use Class E(a),(b),(c),(d),(e) and (f), and shall not be used for any purpose falling within Use Class E(g) as defined in the Town and Country Planning (Use Classes) Order 1987 or in any equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order with or without modification.

The commercial space and associated external terrace shall only be used and open to customers and visiting members of the public between the following hours:

Monday – Saturday 07:30 – 21:00  
Sunday & Bank/Public Holidays: 08:30 – 20:00

No use of the commercial terrace shall be permitted before 08:30 on any day.

- 38. Commercial Space – Odour, Air Moving Equipment and Amplified Sounds:**
- a) If required, no kitchen for the preparation of hot food shall be installed in the commercial space unless details of means, plant or equipment for the extraction and disposal of cooking odours have been submitted to and approved in writing by the Local Planning Authority.
  - b) If required, no external fixed plant serving the commercial space shall be installed until details have first been submitted to and approved in writing by the Local Planning Authority. The design shall have regard to the principles of BS4142:2014 and aim to achieve a rating level

which is no greater -5dB above existing background noise level, shall include any necessary anti-vibration mountings and any necessary odour control.

- c) No amplified sound equipment in the commercial space or associated terrace shall be used unless details have been submitted to and approved in writing by the Local Planning Authority, including proposed hours of its use and to ensure that any sound level measured 1m from any speaker or equipment shall not exceed 75dB(A) LAeq 1 min. The use of the commercial space shall only take place in full on-going conformity with the approved details.

**39. Lighting Limitations and Navigation:** With the exception of any external lighting approved under condition 15 (e) above, no external lighting or externally illuminated signage shall be installed on the site until details, including any measures necessary to avoid any negative impact on river & harbour navigation (in consultation with Shoreham Port Authority in cases where lighting may be seen from the river and harbour), have been submitted to and approved in writing by the Local Planning Authority. The additional lighting shall be implemented in accordance with the approved details and retained as such thereafter.

**40. Permitted Development Limitation: Windows and Openings:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 2015, or any order revoking or re-enacting that Order, no additional windows or other openings, shall be formed in any part of the development hereby approved, facing towards or visible from the river or harbour.

**41. Aerials/Antennae:** No Aerial/Antennae/Satellite Dish or Microwave Antenna shall be installed on the exterior of the apartment block hereby approved without the prior written approval of the Local Planning Authority. Any such dish or antenna must be sited in accordance with the approved details.