

**Ref: APP/Q1445/A/09/2102048/NWF**

**PROOF of EVIDENCE**

**of**

**ADAM ROAKE MA DipArch Architect RIBA FRSA**

**On behalf of**

**BRIGHTON AND HOVE CITY COUNCIL**

**The site address being**

**Land At Brighton Marina,**

**Brighton, BN2 5UT**

**CONTENTS**

**1 INTRODUCTION ..... 2**

**2 BUILDING FOR LIFE ASSESSMENT ..... 4**

**3 ISSUE 1 - WHETHER THE DESIGN, SITING, LAYOUT AND HEIGHT OF THE PROPOSED DEVELOPMENT, INCLUDING THE PUBLIC REALM, WOULD BE ACCEPTABLE. .... 15**

**4 ISSUE 4 - WHETHER THE PROPOSED DEVELOPMENT WOULD PROVIDE GOOD QUALITY ACCOMMODATION IN TERMS OF THE SIZE AND DISPOSITION OF THE RESIDENTIAL UNITS AND THEIR RELATION TO SURROUNDING FEATURES..... 17**

**5 CONCLUSION ..... 19**

## 1 INTRODUCTION

- 1.1 My name is Adam Roake. I hold the degree of Master of Arts and a Diploma in Architecture, both awarded by the University of Cambridge; I am a Corporate Member of the Royal Institute of British Architects and I am an architect registered with the Architects Registration Board. I achieved these later two qualifications in January 1984 and I have been a practising architect since that time. Since September 2005, I have been a fellow of the Royal Society for the encouragement of the Arts, Manufactures and Commerce, commonly known as the Royal Society for the Arts.
- 1.2 I was employed at Congreve Horner and Co. in 1984, where I became an equity partner in 1989. I left that partnership in 1997 and set up in my own practice, Roake Architects. In January 2000, I became Planning and Design Director at Goldcrest where I remained until May 2009. I am currently sole principal at Urbanise, an architectural and urban design consultancy based in Whitstable Kent.
- 1.3 In addition to my work in the private sector, I am a member of the CABE Enabling Panel and I have also been trained by CABE as an accredited Building For Life assessor.
- 1.4 I am an independent member of the Whitstable Harbour Board. Whitstable Harbour is a municipal harbour owned by Canterbury City Council and directed by the Harbour Board.
- 1.5 My evidence addresses the first and fourth issues Mr Goodwin has identified in his evidence. Firstly I focus on the quality of the design for the proposal. Clause 10 of the Planning Act 2008 places an obligation on the Secretary of State to have particular regard to the desirability of achieving good design when making and reviewing national policy statements. PPS1 states, “*Good design is indivisible from good planning*” (PPS1, paragraph 33) and goes on to say “*High quality design should be the aim of all those involved in the development process*” (*ibid.*, paragraph 35). Over the last ten years an increasing number of policy and guidance documents from central, regional and local government have placed high quality design at the centre of the planning system.
- 1.6 In my evidence, I assess the design quality of the appeal using the Building For Life (BFL) assessment methodology. BFL is the national standard for well designed homes and communities. It is endorsed by central government through CLG (Appendix 1)

and the Homes and Communities Agency (CD5/7) and, as part of their Annual Monitoring obligation, Local Authorities are required by CLG to include BFL assessments of completed housing schemes (Appendix 2). I discuss which BFL criteria the scheme fails and why and I conclude that the design is not of an acceptable quality and that this element of the first reason for refusal can be sustained. In relation to the fourth issue, I show how the accommodation proposed would not provide satisfactory living conditions, as stated in the second reason for refusal. Finally I summarise my evidence and conclude upon it.

- 1.7 The computer-generated 'walk-throughs', which the appellant included in the application material, provide a helpful reference to indicate many of the issues I present in my evidence. I have prepared a text commentary on the two 'walk-throughs' included at appendix 3.
- 1.8 In accordance with PINS circular 01/2009, I confirm that the evidence which I have prepared and provide for this appeal in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institute and I confirm that the opinions expressed are my true and professional opinions.

## 2 BUILDING FOR LIFE ASSESSMENT

2.1 I have attached (Appendix 4) the Summary Assessment using the standard BFL assessment template. Broadly the proposal fails outright in respect of criteria 3, 9, 10, 11, 13, 16 and 18 for the following reasons.

2.2 **Criterion 3: Is there a tenure mix that reflects the needs of the local community?**

2.3 The 40% affordable housing proposed meets current policy but the affordable split is not in compliance with Housing Dept requirements. The appellant defends the proposed affordable split solely on the basis of viability. While this *may* be justifiable on other grounds, it results in a failure under this BFL criterion. The tenure mix offered (35% social rented and 65% shared ownership) clearly does not meet the council's stated policy preference for 55%:45% split and therefore would not reflect the needs and aspirations of the local community.

2.4 **Criterion 9: Do the buildings and layout make it easy to find your way around?**

On arrival by foot across the cliff bridge one would enter the arrival space at the top of the Cliff Building. CABE Design Review (appendix 5) states:

*"... we think the top level arrival space of the western section of this block would benefit from further thought. It is an unusual type of space and will need careful landscape signals to resolve the potential conflict between its public and private characters. While the scheme skilfully handles the configuration of flats surrounding this space, we are unsure that the proposed path network gives sufficient direction to visitors in leading them directly past the residential units instead of reflecting natural desire lines. A revised approach will need to consider how the uses, landscape, and built form framing this space are configured to delineate clear physical and visual boundaries between the apartments and the more public uses, and make it a comfortable environment and intuitive route for residents and people passing through it."*

2.5 The only visual clues on entering the "arrival space" would lead a visitor to the public lift located in the 'viewing platform at the south west corner of the 'arrival space' (DAS p.199 and appendix 3, paragraph 17). This route would entail walking very close to the front windows of the private flats, which front this public space, thereby introducing the conflict between private and public suggested in CABE's comments above. There would be no views of the marina basin from the viewing

platform (see Appendix 3, paragraph 19) nor in the oblique views to the south in the gaps between building along the “Cascading Street” and more oddly there would be no possible views of Marina Point, given its supposed role as a landmark locating Harbour Square. The lift would take one down to the ground level into a very indeterminate space at the far end of the new supermarket, beneath the vehicle access ramps and facing west towards the new ramp access out of the Marina and onto Black Rock beach (see Appendix 3, paragraph 9). Looking down the cascading street would give no clue as to whether this would ultimately lead to a more overtly public space because the cascade has been arranged in such a way that one could not see anything below second floor level within Harbour Square (see Drw XB005\_AM\_S1\_0\_A\_07\_302 - section CC through Cliff Building and appendix 3, paragraph 20). If one were to persevere down it, you would eventually arrive in Harbour Square and whilst you would know you have arrived somewhere, because you would be standing next to Marina Point, the space itself would be no more legible than the current roundabout. How you might get to the basin would be no more obvious than currently and where the roads north, east and south from the square might actually go to would also be unclear (see appendix 3, paragraphs 14, 24 and 27). Furthermore, the DAS (p.181) suggests there would be no signage in Harbour Square, which seems perverse.

2.6 Overall the legibility of the proposal is not good and it is not easy to find your way around. For example it would still remain difficult to appreciate where the marina basin might be from Harbour Square.

2.7 **Criterion 10: Are the streets defined by a well-structured building layout?**

2.8 CABE Design Review states (appendix 5);

*“We welcome the decision to replace the roundabout south of the ASDA superstore with a public square. We recognise that it will be hard to create a legible space in an area loosely defined by buildings and dominated by road infrastructure. However, we think that proposing Harbour Square as a self-contained space defined by roads instead of buildings, to create in effect a 'square roundabout', is a limited response to this challenge.*

*The relationship between Harbour Square and spaces adjacent to the Cliff block colonnade, the new petrol filling station, the area adjacent to the hotel loading bay and areas fronting and to the north of Marina Point (which taken together exceed the area of the square) is also weak.”*

- 2.9 There would be no new streets created in the appeal proposal other than the fully pedestrianised ‘cascading street’ in the Cliff Building. The pattern of the building layout would be little changed by the proposal. The existing roadways would continue to run within the spaces left between the proposed building sites and would be largely unaltered, so that they would remain poorly defined by the existing incoherent building layout. At appendix 6, I compare the existing figure/field diagram with a figure/field diagram for the proposal both based on DAS vol. 1, fig.6.2.1 (p.88), to demonstrate how little would change.
- 2.10 The most apparent change to the existing road way in the drawn information would be the translation of the existing roundabout into a ‘square roundabout’. However on closer analysis even this would represent little change in terms of the spatial character of the proposed Harbour Square and could be described merely as a re-alignment of the roadway within the existing space. At a fundamental level the ‘square roundabout’ and the space surrounding it would remain “...*loosely defined by buildings and dominated by road infrastructure*” (CABE Design Review - appendix 5).
- 2.11 The appeal proposal claims that Harbour Square would be a “...*significant new public space at the heart of the marina*” (DAS 7.6.2, 2<sup>nd</sup> paragraph). In reality the area, which Harbour Square would occupy, already exists as public space, as described in the DAS in section 3.3. The proposal would make little attempt to change its spatial characteristics but would simply realign the roadway. There would be almost no additional or more appropriate enclosure, little additional continuity of building frontage around its perimeter and no attempt to give it a more readily recognisable urban spatial typology. The fourth paragraph of CABE’s letter of 29 February (DAS appendix 3) sets a clear objective to aid “...*rethinking the design of Harbour Square as part of the wider public space network, by extending it to encompass the currently ambiguous spaces on its perimeter*”.
- 2.12 The revised appeal scheme clearly does not begin to attempt this as is demonstrated both in the brief description of the changes made set out in the DAS at page 71 and in the final CABE Design Review (appendix 5), which states:

*“We think there remains scope to further develop the design of Harbour Square as part of the wider pedestrian-focussed public space network, by extending it to encompass these currently indistinct spaces on its periphery.”*

- 2.13 **Criterion 11: Does the building layout take priority over the streets and car parking, so that the highways do not dominate?**
- 2.14 An inevitable result of retaining the access ramps and multi-storey car park is that they would continue to exert a dominant and dismal effect on the character of the areas around and beneath them. In addition the proposed Harbour Square represents no more than a realignment of the existing dominant roadways. In general the proposal would do little more than create new buildings only on those parts of the site not currently used as roadways. The building layout is clearly dictated by the existing road pattern to the detriment of the public realm.
- 2.15 **Criterion 13: Are the streets pedestrian, cycle and vehicle friendly?**
- 2.16 The retained ramps would remain unfriendly for pedestrians and cyclists not just in that they would continue to be banned from the ramps but also in terms of the negative impact the ramps would have on the spaces around them. The proposed sports activities under the ramps could help bring some life to these desultory spaces but there is no truly active frontage incorporating building entrances proposed to overlook this space, so that it is difficult to see how it will feel safe or pedestrian friendly. This would be a particular problem for the pedestrian access proposed from Harbour Square to Black Rock, which would include pedestrians who opt to use the public lift to and from the cliff top bridge. An elderly or disabled pedestrian, a parent with a pushchair or someone just carrying a heavy bag would have the unenviable choice of ten flights each of ten steps (appendix 3, paragraph 15) or an intimidating walk beneath the ramps (appendix 3, paragraphs 9 to 12).
- 2.17 Similarly, the ‘square roundabout’ would be little better than the existing roundabout in terms of its pedestrian friendly credentials. The TA predicts that 2,500 vehicles would pass through this junction during peak hours (CD2/14, 7.8.1, p.116). This equates to one vehicle passing every one and a half seconds, more or less bumper to bumper traffic travelling at fifteen miles per hour, the target design speed for the square. The Transport Statement of Common Ground (TSoCG) states:
- “It has been agreed that the highest level of traffic impact will be at the Harbour Square and that the principle of shared space is appropriate only in highways terms”.* (TSoCG 3.5.1)
- 2.18 It is not agreed that this space will be used successfully and frequently by pedestrians. CABE Design Review states (appendix 5):



*“Furthermore, the curvilinear geometry of the square could exacerbate, rather than diminish, the dominance of the car over pedestrians by encouraging higher traffic speeds than anticipated. This does not give us the confidence that pedestrians will be comfortable using it as the 'shared space' promoted by the design team.”*

2.19 Even the appellant’s design team appear nervous as to whether the ‘square roundabout’ would truly act as “shared space”. None of the precedents for “shared space” included in the Technical Summary at appendix 15 of TA include the concept of a space to sit in the centre of a roundabout. The Summary describes how, during the design process, the roadway for the roundabout was increased from a single lane to two full lanes with a total width of 11m to accommodate large vehicles. It also shows how the formal crossing points, which included crossings to the centre of the square, became reduced to Zebra crossings across the bottom of the ramps, the access road to the ASDA car park and across Palm Drive. The zig-zag road markings and Belisha Beacons for the Zebra crossings do not appear on any of the drawings, nor on the walk-throughs, but they are referred to in the Stage 2 Road Safety Audit (paragraphs 2.1.3 to 2.1.6) included in TA appendix 15 and presumably are therefore required. Pedestrian access to the centre of the roundabout would require one to cross two lanes of traffic travelling at between 15-20mph without the benefit of formal crossing points. It seems highly improbable that the middle of this busy and noisy roundabout, set in an ill-defined urban space, would be a place that anyone would take this kind of trouble to access, when there are formal crossing points clearly marked around the perimeter. It seems even less likely that pedestrians would sit for any time in the centre of the roundabout, when fifty metres away there are pleasant public spaces overlooking the marina basin.

2.20 In the event that the roundabout was to fail, the appellant has offered a fall-back option, to include traffic signals and other measures to replace the Zebra crossings. The criteria for failure relate only to traffic congestion (TSoCG 3.5.5), so that there would be no remedial action taken in the event that Harbour Square turns out to be as unfriendly to pedestrians as CABA fears it may be. In any event, for safety reasons it seems it is necessary to install Zebra crossings to enable mobility impaired to traverse the perimeter of the Square (CD2/14, Appendix 15, Stage 2 Safety Audit, paragraphs 2.1.3 to 2.1.6) and only the able-bodied would have access to the centre. Furthermore, it is quite possible that these would need to be replaced by signalised crossings (CD2/14 Appendix 15, p.15). The prospect that this space will work successfully as a pedestrian friendly “shared space” seems remote.

2.21 **Criterion 16: Is the public space well designed and does it have suitable management arrangements in place?**

2.22 As stated above, the fundamental spatial characteristics of each public space would be almost unchanged so that their proposal retains the inherent weaknesses of the existing public realm. Buildings would not properly front the public spaces and where they do, the frontage would be for the most part inactive and blank. The sites for the built form in the proposal appear to derive solely from a consideration of what is most economically viable or most easily achieved on a given site with little regard for the spaces between the built forms. As a result of this design approach, the only option available to the design team has been to apply surface treatments and in effect these interventions would be at a superficial level including hard and soft landscaping proposals. Mr Allen deals in his evidence with the quality of the landscape design within the public space and I need say no more than that he concludes that the planting and particularly the tree planting is unlikely to survive and thrive in the challenging climatic conditions. Overall, there seems little thought given to the spatial urban design objectives identified in BHCCSPG20 and PAN04 for the public spaces in the Marina. This is poor urban design and specifically runs counter to the approach promoted in *By Design* and *The Urban Design Compendium*. These documents advocate a methodology whereby development form should derive from a consideration of appropriate urban design objectives for the spaces between the development forms and not the other way around. The result of the latter approach is all too evident in the assorted buildings currently littering the marina, which show little regard to the spaces between them. The appeal proposal offers little better in this important respect.

2.23 Three examples of this would be Harbour Square, Park Square and the under-ramp area. At Harbour Square, as noted above, there is little additional enclosure and continuity of frontage proposed and for the most part the space remains ill-defined. At Park Square, the continued lack of active frontage, where only modest additional frontage is provided at the east and west ends, would result in a space that retains its “*anonymous ‘nowhere’ place*” character as described in section 3.2.1 of the DAS. The fundamental unpleasantness of this space, resulting from the “*lifeless empty frontage*” (ibid.) of the multi-storey car park and the “*minimal activity*” (ibid.) offered by the single storey leisure sheds would remain unaltered. This is graphically illustrated in my appendix 7 from which it is evident that for the full length of both south and north sides of Park Square, nothing will change; at the east end, the existing McDonalds Restaurant would be replaced with a larger McDonalds Restaurant

in the ground floor of the Quayside building, representing little change, and at the west end the Sea Wall building would have a predominantly blank east elevation fronting Park Square, again providing little additional active frontage.

- 2.24 Finally, the under-ramp area would have a new frontage from the Cliff Building to its north edge. However this frontage would be plate glass windows to the back of the ASDA store. There would be no physical connection between the under ramp area and the shop and no real activity. The resultant lack of activity is evident in the similar frontage along the south side of the existing ASDA store. Indeed the appellant recognises that this area would not function properly without specific and additional on-site supervision. They are proposing to pay a section 106 contribution for a “Sports Co-ordinator” (SoCG 8.1), who will provide this, but they have located his office so that it would have almost no view of the area to be supervised (appendix 3, paragraph 9). The funding is also limited so that when the funds run out there would be no co-ordinator and the space would cease to function. As CABE Design Review states (appendix 5):

*“We think the public realm proposals for the spaces under the flyover have potential but there remains a risk that they will not be attractive to users.”*

Their concern is well demonstrated by the walk through titled 46\_Scene\_2\_export.mov (appendix 3, paragraphs 5 to 12).

- 2.25 Each of these three key spaces retain large elements of their existing relationship with adjoining built form and at a fundamental level would remain poor quality public space despite the well-intentioned cosmetic interventions proposed. By Design (CD5/2, p.16) specifically includes landscaping as one of the eight most important aspects of development form to be considered within a design and the significant concerns as to the landscaping proposals, expressed by Mr Allen, add to the conclusion that the public space is poorly designed.
- 2.26 **Criterion 18: Do internal spaces and layout allow for adaptation, conversion or extension?**
- 2.27 There would be a preponderance of single aspect apartments and generally the space standards would only just meet the minima required to meet NAHA Housing Quality Indicators (CD 5/7). Adaptation, conversion or extension would not be possible.
- 2.28 In addition, there would be a serious problem with single aspect, south facing rooms in the Cliff Building, which overlook the noisy ramps. There would be an insoluble

conflict between the need to keep windows closed to maintain an acceptable acoustic environment and the need to open the windows to maintain an acceptable temperature.

2.29 The same problem would be evident in the Inner Harbour building. As CABA Design Review states;

*“...we find the least successful elements to be the single aspect apartments directly facing onto the busy roundabout”.*

2.30 In addition to the outright failures listed above, there are significant concerns regarding specific elements of the proposal in respect of criteria 7, 8, 15 and 20, each of which score 0.5. Those concerns are as follows.

2.31 **Criterion 7: Does the scheme exploit the existing buildings, landscape and topology?**

2.32 The retention of the multi-storey car park and access ramps would be particularly unfortunate, since they will continue to exert a serious negative impact on this part of the Marina as described in BHCC PAN04 section 8.3, page 10; section 9.5, page 13; and as shown in the Design and Access Statement Appendix 6, page 36. The proposal would miss the opportunity to make real change to improve this end of the marina by tackling the obvious negative aspects within the existing built environment. As a result, the character of the public realm within the proposal would remain blighted by the existing retained infrastructure and as a matter of fact no concrete evidence has been provided by the appellant to substantiate why the ramps cannot be removed. CABA Design review (appendix 5) states:

*“The existing car park and ramp structures have a negative impact on the quality of the pedestrian environment.”*

They would continue to do so in the appeal proposal.

2.33 In addition, there is a phenomenological weakness to the proposal concerning the construction of an urban form on the sea side of the cliffs and what meaning the resulting 'gorge' that is created between cliff and Cliff Building might have. Typically one would expect a land mass to stop at a cliff and for the sea to lap against its foot. The original Louis de Soissons Masterplan retained this natural relationship by proposing an inner harbour adjacent to the cliff with all the new buildings located on a spit of reclaimed land “floating” between inner and outer harbour. This

arrangement also gives a sense of excitement and poetry to the access ramps; one quite literally flies out of the cliff face and glides down the ramps onto the harbour spine between the two stretches of water.

2.34 The relationship between cliff and sea was lost when the ASDA site was infilled, as was any meaningful design value in the access ramps. The proposal retains the reclaimed land for development and exacerbates the awkward relationship by creating a narrow gorge between cliff and Cliff Building. However the gardens are landscaped, this space will feel somewhat peculiar and unnatural, especially given the chasm-like public path between the raised park area and the cliff, a relationship best appreciated by reference to the appellant's model.

2.35 **Criterion 8: Does the scheme feel like a place with a distinctive character?**

2.36 The proposal as a whole is let down by the poor quality of the public realm. As CABA Design Review (appendix 5) concludes:

*"In our view, the proposals for the public realm are not yet as convincing as those for the buildings which, with the exception of the Quayside block, are clear in their individual typologies and are generally successfully resolved."*

2.37 Since new built form within the proposal would be contained within the footprint of the existing developed land on site, the public spaces within the proposal retain almost all of the fundamental spatial characteristics that they currently exhibit. The lack of attention to the public realm is evident in the appellant's description of the development (Planning Statement A1.1), which lists in turn each of the proposed new buildings but makes no reference to any of the proposed public spaces. More strangely, Chapter 9 of the EA (Revised Townscape and Visual Impact Assessment) contains, at section 5, a detailed description and assessment praising the design merits of the appeal proposal, without once mentioning any of the public spaces within it.

2.38 In addition the proposal would retain the key existing infrastructure elements, such as the ramps and multi-storey car park, which have a serious negative impact on the environment around them. As a result, the design team are left with little opportunity to give the development a distinctive character beyond the soulless character it currently has. For example, it would be as difficult as it is now from any of the public areas within the proposal to appreciate that this is part of a large marina close to the sea.

- 2.39 **Criterion 15: Are public spaces and pedestrian routes overlooked and do they feel safe?**
- 2.40 Whilst there is some improvement in passive overlooking, the actual length of truly active frontage is significantly overstated in DAS fig 9.1.1 (p.218) and I have prepared a more accurate drawing showing the status of existing and proposed new frontages within the appeal proposal (appendix 7). From this more accurate drawing it can be seen that in Harbour Square about half of the built frontage will still remain inactive. Park Square would be even worse with about three quarters of the frontage remaining inactive. About a half of the built form fronting the under cliff area would be inactive and the remainder would have windows but no direct access or egress into the building. The under ramp area continues to be blighted by the multi-storey car park to the south and the ASDA store would present an inactive window frontage to the space. Finally the Sea Wall building has almost no active frontage at ground level and would do little to enliven the western breakwater walk in this respect.
- 2.41 The lack of new active frontage raises three concerns in particular. Firstly, the continued lack of active frontage onto Park Square, as explained at 2.23 above, would result in little positive change to the fundamental unpleasantness of this space.
- 2.42 Secondly, the lack of truly active frontage overlooking the under-ramp area and the retention of the routes through the car park between the under-ramp area and Park Square result in questionable levels of safety. The appellant has suggested that the ASDA shop window will provide some active frontage to the under-ramp area. However, there will be no access or egress into the building along this frontage and the existing ASDA shop windows on the south and west sides provide ample evidence of the lack of activity that supermarket frontage of this type offers (see drawing XB005\_AM\_S1\_0\_A\_07\_201 and 200, Cliff Building - South Elevation and appendix 3, paragraph 10).
- 2.43 Thirdly, the level of overlooking to the under cliff area is poor and these frontages are certainly not active as suggested in DAS fig 9.1.1. In fact for about half of this elevation there is a blank wall fronting the ground level of the under-cliff area and the remainder comprises windows or balconies to apartments but with no access points from the public space into the building (see drawing XB005-AM\_S1\_0\_A\_07\_201 and 202, Cliff Building - North Elevation).

- 2.44 **Criterion 20: Do buildings or spaces outperform statutory minima such as building regulations?**
- 2.45 The proposal would just fall within the HCA space standards range but does not meet the slightly higher BHCC space standards set out in the Housing Department's "Affordable Housing Brief", included in Mr Goodwin's appendices.
- 2.46 The proposal would meet but not exceed BHCC SPD 08 standards for sustainability and the appellant has agreed to a commitment to achieve BREEAM 'Excellent' standard for the ASDA and other commercial uses in line with but not exceeding BHCC policy expectations.

**3 ISSUE 1 - Whether the design, siting, layout and height of the proposed development, including the public realm, would be acceptable.**

3.1 This issue arises from that part of the first Reason for Refusal which states that the design is unacceptable. The BFL score of 11 puts the proposal's design quality at the lower end of the "average" category as described in the Annual Monitoring Report Core Output Indicators (appendix 2). The appeal proposal misses the minimum score for "very good" design by five points, a substantial shortfall. Therefore we can conclude that the proposal would be neither high nor even good quality design as required by PPS1 (paragraphs 33-39), PPS3 (paragraph 12) and Local Plan policies QD1 and HO4. The BFL criteria, which the proposal either fails to meet outright or for which there are significant concerns, are such that mitigation to achieve a higher score would require significant amendment to the proposal. In particular, fundamental design changes to the proposal would be required to address any of criteria 8, 9, 10, 11, 13, 15 and 18.

3.2 It is clear that the existing townscape within the appeal site area is of poor quality. The appeal proposal would offer some improvement to the existing, principally in terms of the architectural quality of the buildings and the quality of hard landscaping materials proposed. However the design overall is fundamentally flawed in that it does not address the basic urban design objectives of enclosure and continuity of frontage to the public spaces. In addition it would retain two key elements of the transport infrastructure, which would continue to blight the area and the public spaces in particular. The resultant proposal, whilst superficially offering an improved environment, particularly in the computer generated images produced, would perpetuate the underlying poor quality currently exhibited in the public areas within the appeal site. The appeal proposal, whilst well designed in part, has not been well enough designed to overcome the challenges of the appeal site and function as successful urban space. It is as if one were decorating a rotten window; instead of cutting out and replacing the rotten wood with sound timber, so that the window would last, the appellant's proposal would simply paint over the rot, which will inevitably reappear in a short time.

3.3 It is also worth noting that the BFL score is below the minimum core performance standard for the HCA Design and Quality Standards in respect of external environment (CD5/7, page 5). This core performance standard prescribes a minimum score of twelve and the proposal would therefore be ineligible as it stands for social housing grant.



3.4 PPS 3 (paragraph 13) states:

*“Reflecting policy in PPS1, good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.”*

3.5 The CABE Design Review procedure highlighted similar deficiencies through the pre-application period (DAS Appendix 3) and in their final published Design Review (appendix 5). Indeed the similarity in content between their letter of 29th February 2009 and the final published Design Review is striking. The design deficiencies CABE raised are reflected in the BFL Assessment I have carried out and result in the low score the proposal achieves. The “average” design quality of the proposal is not of an appropriate standard required in policy and therefore is not acceptable.

**4 ISSUE 4 - Whether the proposed development would provide good quality accommodation in terms of the size and disposition of the residential units and their relation to surrounding features.**

4.1 This issue arises from the second Reason for Refusal and is reflected particularly in the failure of the proposal in respect of BFL criteria 18 as noted above at 2.26 and following. There are three areas where the proposal would not provide good quality accommodation: firstly in terms of the size of affordable units proposed, which Mr Goodwin deals with; secondly in terms of the single aspect rooms, which face south and would be affected by road noise; and thirdly in terms of the single aspect apartments which face north directly toward the cliff face.

4.2 It is agreed that the single aspect, south facing rooms within the Cliff Building and the Inner Harbour Building would be adversely affected by road noise and mitigation would be required to ensure a satisfactory internal environment. This is confirmed in paragraph 16.50 of the Environmental Statement, volume 1 and also paragraph 16.74 of the Environmental Statement, volume 2. The latter document confirms that glazing and ventilation will need to be carefully designed to mitigate the high acoustic levels externally. From a basic understanding of acoustics, one can conclude that windows will need to be kept shut both day and night for these mitigation measures to work and to maintain an acceptable internal acoustic environment. This may be acceptable when the sun is not shining. However when it is, those rooms would be subject to significant solar thermal gain through the glazing in the closed windows. In effect these windows would act as greenhouse glass and the room behind would become intolerably overheated. It is therefore inevitable that occupiers of apartments with south facing, single aspect rooms would either have to endure an unacceptable acoustic environment, because they opened their windows, or else would have to endure an unacceptable thermal environment with the windows closed. The affected rooms would therefore suffer from unsatisfactory living conditions and this is exacerbated in the sixty one flats which only have single aspect, south facing rooms.

4.3 It is also agreed that the single aspect apartments within the Cliff Building which face north directly towards the cliffs would not receive any direct sunlight at any time of the year. It is not considered best practice to incorporate such apartments within a proposal (see BS8602, appendix 9) but it is generally accepted that in certain circumstances, for example where for other reasons it is appropriate to have linear blocks running east-west, there may be no alternative. In the appeal proposal,

I can see no such mitigating circumstance and I believe that a well designed scheme for the Cliff Building could have ensured that no apartments had a single northerly aspect. It is particularly unfortunate in this case, because not only do these apartments have no prospect of any sunlight but their view is limited to a blank cliff face. These apartments would therefore unnecessarily have unsatisfactory living conditions by reason of the lack of sunlight entering them.

## 5 CONCLUSION

- 5.1 In conclusion, my evidence demonstrates how the proposal would score only 11 out of 20 using the BFL criteria, which places design quality of the proposal at the lower end of the “average” category. I analyse the scheme in detail against each of the BFL criteria, which the proposal fails, and explain why it fails. I have then considered the implications that this low score has in terms of the issues identified by Mr Goodwin and set out in the Reasons for Refusal. I also consider the quality of living conditions in some of the proposed apartments
- 5.2 Most of the criticisms I have made of the proposal’s design were identified by CABE throughout the application process and, in particular, in their published Design Review dated 2<sup>nd</sup> October 2008 (appendix 5). These criticisms highlight the poor quality of the public realm proposed.
- 5.3 The building footprints would appear to have been determined on the basis that the public realm between existing developed areas must remain as public realm. In consequence the vehicle access ramps and multi-storey car park would be retained and they would continue to blight the areas around and beneath them in exactly the same way that they do currently. Harbour Square is not considered at the level of continuity of frontage and enclosure and the space proposed would be little different from the existing space, in terms of its overall spatial characteristics. Park Square would remain surrounded by inactive frontages. The fundamental lack of active frontage to this space would result in a lack of activity within it.
- 5.4 The inevitable result of these fundamental decisions to avoid addressing weaknesses within the existing public realm is that the proposed public realm would continue to exhibit the same weaknesses. The BFL assessment confirms the “average” quality design of the resultant proposal, which is also highlighted by CABE in their Design Review. The proposal would not exhibit high quality design required by policy and the first reason for refusal is therefore supported.
- 5.5 I have also demonstrated that the living conditions in the south facing, single aspect rooms within the Cliff Building and the Inner Harbour Building would inevitably be unacceptable either through poor acoustic conditions or else through poor thermal conditions. In addition, the single aspect north facing flats in the Cliff Building would not receive any direct sunlight and would not therefore meet the requirements of best practice set out in BS8602. There are no apparent mitigating

circumstances for this failure and they are unnecessarily blighted as a result. The second reason for refusal is also supported.

- 5.6 The proposal would exhibit an unacceptable quality of design and would result in apartments with unsatisfactory living conditions and I therefore request that the Secretary of State dismiss this appeal.