

**BRIGHTON & HOVE
CITY COUNCIL**

**Appeal in respect of:
LAND AT BRIGHTON
MARINA**

**LANDSCAPE AND
VISUAL PROOF OF
EVIDENCE**

**Prepared by:
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**VOLUME I:
(TEXT)**

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LAND AT BRIGHTON MARINA

LANDSCAPE AND VISUAL PROOF OF EVIDENCE

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I. INTRODUCTION

Witness Qualifications & Experience

- I.1 My name is David Allen. I am a Landscape Architect, a Chartered Member of the Landscape Institute and have been in professional practice for over twenty-five years. I am a founding director and owner of Allen Pyke Associates, a private consultancy specialising in urban design, landscape architecture and landscape impact assessment. My company is a registered practice of the Landscape Institute, is a member of the Urban Design Group and a member of the Institute of Environmental Management and Assessment.
- I.2 I am responsible for a wide portfolio of development projects in the professional life, including residential, healthcare, highway, education, retail, leisure and historical landscape schemes. Many of these projects have required landscape impact assessments or been the subject of Public Inquiries. I am fully conversant with the assessment of visual and landscape effects of built development in the urban fringe on both 'brown field' and 'green field' sites.
- I.3 I have particular expertise in the landscape assessment of large-scale projects and their potential impacts on designated landscapes and townscapes, heritage coastline, World Heritage Sites and Conservation Areas. I have also gained considerable expertise in planting on coastal sites, residential and retail sites. (More details are included in Volume 2 DA Appendix I).
- I.4 I confirm that the evidence I have prepared is given in accordance with the guidance from my professional institute and is my true and professional opinion.

Scope and Purpose of Evidence

- I.5 Allen Pyke Associates have been appointed by Brighton & Hove City Council (BHCC) to present specialist landscape character and visual evidence on their

behalf in support of the refusal to grant permission for the Explore Living proposals on land at Brighton Marina.

- 1.6 My proof is divided into three volumes – this document contains the text, a second document contains the appendices with support information, and a third provides a summary of my evidence. Where reference is made to the Inquiry Core Documents or my appendix in Volume 2 the relevant document number is given.
- 1.7 I am familiar with the Appeal Site and its surroundings. I was appointed as part of the inquiry team led by CgMs in July 2009. Although my familiarisation with the scheme has been comparatively short, I have been a regular visitor to Brighton sea front and City centre for over 30 years and have worked with architectural practices based in the City. I have visited the Marina and the photomontage viewpoints illustrated in the ES Chapter 9 (CD2/ 4.2).
- 1.8 My evidence addresses the landscape issues relating specifically to the Council’s Reason’s for Refusal Nos. 1 and 4. I shall examine the effects of the proposals on the following topics in relation to the policies cited in the refusal:
- Landscape Character
 - Visual Impact
 - Outdoor Recreational Provision
 - Proposed Planting
- 1.9 The ‘Urban Design Compendium’ (CD5/6 – section 3.5 pgs 53-60) establishes ‘landscape’ as one of the three main design elements of any urban project. The document identifies the landscape as being the spaces whose edges are defined by the buildings, whether it is a park, a street, a fence or a pavement. **‘Landscape analysis and design skills are of key importance from the beginning of any project. At an early stage, it is also important to begin to consider the responsibilities for care and maintenance.’** It is in this context I address the reasons for refusing the appeal scheme.

Landscape Context and Planning Policies Considerations

- I.10 Brighton Marina is located at an important gateway on the eastern approaches to the City. It lies within a transitional area of sharply contrasting landforms where the dramatic Black Rock chalk cliffs abruptly separate the land from the sea and the sharp edge to the urban area is emphasised by the surrounding rolling ridgelines of the South Downs countryside.
- I.11 The man-made Marina extends from the shore-line and within the sea walls are contained the large boat harbour for pleasure craft and mixed-use built development. Existing structures are generally 2 to 5 storeys in height, and either sit well below the line of the cliff top or are hidden or screened from all but the closest viewing points (DAS Vol.I pg2 CD 2/17.1). This scale and massing of development still allows uninterrupted panoramic views from the cliff top and surrounding land areas over the sea and adjacent shoreline. From more extended public vantage points, to the east and City seafront to the west, the low profile of the Marina sits well below the cliff face and maintains the strong visual link between the City and the prominent series of undulating white cliffs that run eastwards to Saltdean. The scale, height and massing of the proposed development will affect those views and be contrary to South East Plan ('SEP') Policies CCI & CC6 (CD 6) and BHCC Local Plan ('LP') Policies QDI (a), QD2 (a-d) (CD 7/3).
- I.12 The Marina is hidden in current views from the closest sections of the South Downs Area of Outstanding Natural Beauty (AONB), which lies approximately 2.5 kilometres to the north and east, by the intervening steeply undulating landform. However, the height of the buildings proposed in the appeal scheme means that some of the structures will appear above the skyline and be visible from the statutory designated landscape. Consequently, the detrimental impacts of increased urbanisation on the landscape character and visual amenity of this

Downland countryside is contrary to SEP Policy C3 (CD 6/1) and LP Policy NC8 (CD 7/3).

- I.13 The South Downs National Park Authority is due to be established from April 2010 and will thereafter assume its full range of statutory powers and functions and the AONB designation will be revoked. The boundary of the National Park ('NP') around the eastern edge of Brighton was examined extensively at two Public Inquiries. The Inspectors' Reports of 31st March 2006 and 28th November 2008 strongly supported the extension of the boundary south of the AONB across the downlands at Woodingdean to the seashore south of Roedean up to the sea wall on the eastern side of the Marina (see DA Appendix 2). The existing Marina development will form part of the setting to the National Park and the effects of further development within the Marina must give particular regard to SEP Policy C2 and LP Policy NC8. The Inspector's conclusions after his detailed review of the evidence in his second report of 2008 (section 4.70 pg 49 DA Appendix 3) for Area 16 around Roedean School and Foreshore are:

"... the school is part of a wider tract of land at the eastern edge of Brighton that sweeps down to the foreshore with the open sea beyond. Indeed it is one of the relatively few locations where the open downland [in the NP] extends to the coast and as such I consider it to be of especial importance".

Recreational Considerations

- I.14 Brighton is a major tourist centre on the south coast and boasts many significant recreational and leisure attractions. The Marina also contains some important facilities, in addition to the boating harbour and shopping facilities are the David Lloyd Fitness Centre, Bowlplex, Cinema and Casino. Many of these entertainment facilities provide only limited amenity to local residents, particularly children, because of their specific appeal or cost. The DAS Vol 3 Appendix 6 (CD2/17.3) sets out on page 21 the existing recreational amenities within 2.4 kilometres of the Marina site.

I.15 The Brighton Marina Masterplan – PAN 04 of March 2008 (CD 7/12) (Section 12.3 pg 20 Fig 9) illustrates the relationship between the Marina and nearby public, semi-private and private open spaces. While the plan shows a rich tapestry of green spaces, with the exception of the Madeira Terrace, all are formal public or private spaces located on land above the cliffs that are at least 700 metres from the Marina. Pedestrian and cycle routes are limited and tortuous, requiring significantly longer walking distances than the 15 minutes in policy guidance to overcome level changes and highways, of which the A259 on the cliff top creates a significant barrier to pedestrian movement, particularly for children, the elderly and disabled.

I.16 The vision for the Marina is provided in Section 3.1 of the Masterplan:
“To create a thriving sustainable community in a unique, high quality, attractive Marina for residents, businesses and visitors”.

Section 12.3 of PAN 04 recognises the absence of any existing play space in the Marina as a result of the loss of a playground when part of the Marina waterfront was rebuilt. The masterplan states that future development proposals will be expected to rectify current deficiencies and give due regard to the increase in residential population, including new family accommodation and increased visitors. The proposals are judged in terms of the requirements of PAN 04 and LP Policy, HO6, SPG No 9 as well as the general design criteria set out in Policies QD1, QD2 QD3 and HO4 (CD 7/3).

Planting Considerations

I.17 The Marina creates a particularly harsh and hostile environment for planting. Very few trees and shrubs are able to withstand the extreme seasonal weather conditions and if they do manage to establish, growth is invariably retarded. Tall buildings and hard landscape treatments create many different micro-climates that can greatly increase the intensity of the weather. In winter, strong winds can severely prune previous growth or destabilise newly planted trees, even when

supported. Large evergreen trees are particularly vulnerable because of their extensive canopy and the inability of roots to penetrate the surrounding ground. In summer, continuous winds in dry periods can desiccate leaves, particularly when plants are located in large paved areas.

- I.18 Existing planting on the site (see Photographs DA Appendix 4) is restricted to ground level around the entrance roundabout and more sheltered parts of Palm Drive, The Strand and Merchant's Quay. The only significant 'trees' are the artificial plastic Palms (Photos 10 & 11). Where the few 'live' trees still remain, with the exception of the sheltered Merchant's Quay (photo 16) , most trees are severely wind pruned, stunted or have simply disappeared – as can be seen along the central walkway planting in the ASDA car park (Photos 12 & 13) and car park to the rear of the Octagon building (Photo 14). Additional reasons for trees failing in hard landscape areas are the limited tree pit sizes, highly compacted made-up ground around the pits that prevents root development, and the use of root barriers tightly around the pits to prevent conflict with underground services and differential surface settlement around each tree.
- I.19 Hedge planting has been successful but the range of shrubs is small and generally limited to evergreen species clipped into dense blocks of heights up to a metre (Photo 15). In summer seasonal bedding flowers are used to provide colour while grass is used to cover large incidental spaces but these areas have no recreational value.
- I.20 There are examples of tree planting in the Kemp Town open spaces such as Sussex Square (Photo 8). These trees have grown for many decades behind the shelter of tall dense shrub vegetation in natural soils but are still susceptible to wind pruning where exposed to direct winds from the sea (Photo 9). Any new planting proposals must be judged in the context of the importance given by CABI to the landscape treatments and the integral contribution they make to the public realm (DAS Vol 2 Appendix 3 Pg 51-61 – CD2/17.2). The inclusion of substantial trees and shrub planting is a significant part of the appellant's overall

strategy for the public realm, private courtyards and amenity spaces. Proposals must satisfy LP policies QD1, QD2, HO4 & HO6. The species selected must be capable of surviving the extreme site conditions. However, the Arboricultural, Parks and Ecology Officers in the Council have continually expressed their concerns about the viability of the planting proposed in the hostile environment of the Marina (see DA Appendix 5).

- 1.21 I share the Officer's concerns. The appeal site creates a particularly difficult combination of growing conditions when planting either at ground level in compacted fill material or in artificial soils on roof terraces. Mr Roake assesses in his evidence the design of the public realm and the contribution of the associated landscape treatments. For the planting in these areas to be effective the selection of species and maintenance are key considerations.

2. SCHEME PROPOSALS & GROUNDS FOR REFUSAL

Brunswick Proposals

- 2.1 BHCC have already granted planning permission for the development known as the 'Brunswick Scheme' that consists of an 853 flat, mixed-use scheme that is to be located on Spending Beach and West Quay at the south-western end of the Marina. It is not within the remit of this evidence to rehearse the reasons behind the approval of the scheme (July 2006) other than to conclude the proposal fulfilled the Council's plan policy requirements at the time. The scheme has yet to be constructed but the relationship of this development with the scale, height and massing of the appeal proposals is a material consideration.
- 2.2 The Brunswick Scheme consists of 11 interlinked buildings ranging from 5-40 storeys, the tallest of the buildings being a dramatic landmark tower with a slender vertical form and distinctive curved elevational treatments. The development is positioned approximately 275-400 metres from the nearest

sections of the cliff face, thereby maintaining the existing relationship between the elevated cliff-top area and the Marina at sea level. This physical separation will help to accentuate the Brunswick Tower as a beacon at the entrance to the harbour, while the existing intervening low profile buildings continue to allow the many visual links between the City, the sea and the coastline to be maintained.

Reasons for Refusal No 1

The Appeal Scheme

- 2.3 The appeal proposals consist of six development sites of varying size within the north-west quadrant of the Marina. The main sites (Cliff Site - above a new ASDA supermarket; Sea Wall; Marina Point; and Quayside) contain a collection of closely related or free standing residential blocks which, at their tallest points, range between 23.3m and 87.5m in height. (DAS Vol.2 Pg 2 Fig App 1.1 – CD2/17.2).
- 2.4 BHCC ‘Tall Buildings’ SPG Note 15 (CD 7/8) identifies the Marina as one of five strategic sites within the City with a potential to accommodate tall buildings because of the ability of the cliffs to provide a degree of screening **“up to a certain height”**. The document does not suggest that all new buildings in the Marina should be **‘tall’**. (6.3.1). While higher density development is encouraged in 12.2 of PAN 04 (Pg 19) (CD 7/12) the masterplan supports SPG 15 by stating that **“it should not be presumed that all development proposals will be of higher density”**.
- 2.5 SPG 15 defines tall buildings (1.4) as: **“buildings of 18m, or taller, (approximately 6 storeys), above existing ground level. Within the strategic areas, the guidance will apply when tall buildings are either 18m or taller or are significantly taller than their surroundings.”** Any new building above 15 storeys [45 m] is defined as being ‘very tall’ (5.2). All the proposed main structural blocks in the development fall either in the ‘tall’ (Cliff

Site, Sea Wall) or 'very tall' (Marina Point, Quayside) categories. While recognising the opportunities the Marina possess, the SPG highlights the particular sensitivity of the harbour area and the regard needed in the composition of the built form and the consequences on views from the coastline, the City and adjacent Downland ridges (8.3.2).

- 2.6 The appeal scheme fails to comply with the objectives set out in the SPG or PAN 04. The tight grouping of the residential blocks and unrelenting use of tall/very tall structures across each of the various development sites creates an uncomfortable relationship with the existing built form and the cliff face. In most views from surrounding areas the development will appear as a solid and continuous entity. The angular block profile and height will dominate the skyline between the cliffs and the proposed Brunswick development, obstruct long views of the sea from Marina Parade and the cliff top, as well as hiding the reverse views of the cliff from the shoreline and Marina.
- 2.7 The height of the Cliff Site buildings means they rise above the cliff face, and their proximity to the cliff will create an unnatural physical and visual relationship for travellers and residents on the surrounding cliff top (DAS Vol.2 pg2)(CD"/17.2). The cluttered arrangement of the different tall buildings, their orientation and solid block appearance over the appeal site will have an adverse impact on the relationship between the cliff edge and the Brunswick scheme and be detrimental to views on the eastern approaches to the City. PAN 04 states in 12.2 that density levels must be tested robustly and includes within the design considerations to be taken into account:
- Appropriate building heights and/or landscaping around the edge of space;
 - Provision of open space;
 - The views of, and within the site.

Effects on Landscape Character and Designated Landscapes

2.8 Chapter 9 of the Environmental Statement (CD2/4.2) gives such a strong architectural bias to the analysis that, in my opinion, it undermines the conclusions reached. Section 2.2.1 (pg 4) states in the method of assessment:

“As a project which is so obviously visible, the fact that it will appear in a number of sensitive contexts is fundamentally mitigated by the proposition of including designed buildings of high quality.”

The author also states in 2.1.5 (pg 3) **“The assessment has an overall flavour of positivity because both the idea and the design have considerable merit.”**

And to reinforce the importance of the architecture and the development concept 5.7.5 (p18) states: **“It is considered justifiable that a substantial piece of new City in the Marina should be visible and be illustrative from a distance of the key functional parts of the townscape within it. That it is visible from the seaward parts of the Kemp Town set piece is symbolic of it’s very existence, a fact that no occupier of Kemp Town will be shielded from in their consciousness. Neither should they in urban terms.”**

2.9 I do not recognise the rationale behind any of these three statements as being a sound interpretation of PAN 04 (Marina Masterplan) or an appropriate analysis in terms of the landscape impact assessment process. I do not see the methodology as described in Section 6 of ES Chapter 9 (pg 19) providing sufficient baseline detail to identify the effects on landscape character or impacts on visual amenity. The Landscape Institute’s publication ‘Landscape & Visual Impact Assessment’ (LVIA) gives guidance on the approach to impact assessment but does not prescribe a single rigid methodology. However, on a scheme of this scale and complexity I would expect a greater depth of detail by including:

- An assessment of the short (temporary) and long term (residual) impacts of the scheme, including the construction phases, on landscape character and key visual receptors;

- An appraisal of the impacts of night time lighting, particularly over the designated open countryside and views towards the sea;
- An explanation of the landscape mitigation measures introduced into the scheme during the design development process;
- An indication of the technical difficulties and solutions for establishing the proposed planting in the public realm and roof terraces in response to the concerns raised by Officers at BHCC.

These assessment criteria, amongst others, are included in the DCLG consultation paper ‘Environmental Impact Assessment – A Guide to Procedures’ (June 2006). (See Appendix F of this document in DA Appendix 8)

- 2.10 PPS 7 (see DA Appendix 6) places an obligation on Planning Authorities **‘to ensure the quality and character of the wider countryside is protected (Ch 15) and that the highest status of protection is given in relation to landscape and scenic beauty’** (Ch 21). In order to conserve the landscape qualities and scenic beauty that are special to the National Park and AONB the immediate setting of these designations is protected from inappropriate development by the SEP policy (C2 & C3) and LP policy (HC8).
- 2.11 PPS 7 (Ch 24) also advocates the use of Landscape Character Assessments as a ‘tool’ to assist the drafting of policies in Local Development Documents. The appellant’s character assessment relies solely on the Countryside Agency’s national character study, which provides no more than a broad-brush breakdown of the main character areas across England. The ES does not use any local landscape assessment to identify the specific characteristics and impacts of the urban pressures on the countryside around the Marina.
- 2.12 BHCC have not produced their own landscape character assessment and are omitted from the separate assessments produced by East Sussex and West Sussex County Councils (in 2004 and 2005 respectively). The ‘Brighton & Hove Urban Characterisation Study (Jan 2009) (CD8/6) provides an analysis of the

urban parts of the City but excludes the downland countryside within the borough boundary, except in the wider context of the topography and microclimate. The Marina is included in Area 3 'Black Rock Neighbourhood', which contains the following:

“The topography has a profound effect on the visual experience and microclimate within the neighbourhood and is one of the key characteristics that splits the neighbourhood into two definite areas. The cliff development along Roedean Road allows for panoramic views out over The Channel. Development is orientated to take advantage of this as well as the passive solar gain of a south facing aspect. However, development is equally exposed to prevailing south westerly and easterly winds creating an exposed environment in winter storms.

Conversely, the Marina sits at the bottom of the cliff face. Taller development and the sea wall create an introspective development. Little of the development looks out across the channel. Equally the development and the cliffs shelter the public realm from prevailing winds and the white cliffs reflect much of the heat creating a sheltered environment in winter but a heat island in summer.”

- 2.13 ES Vol.1 pg 29 (CD2/4.1) reviews the 'Heat Island Effect' and recognises the effect the sea and exposed location has on reducing local temperature fluctuations but does also suggest landscape and vegetation would make a significant contribution to reducing temperatures in the Marina. The long term success of the planting is, therefore, important to the Heat Island mitigation strategy.
- 2.14 The publication providing the most comprehensive review of the countryside around the City's entire settlement boundary is the 'South Downs Integrated Landscape Character Assessment'. The document was prepared by the South Downs Joint Committee in collaboration with the Countryside Agency in

December 2005 and was used as a Core Document at the South Downs National Park Inquiries. The significance of the assessment is that it provided the tool by which the boundary to the National Park was defined and now establishes the sensitivity criteria to judge the impact of any proposed new development, such as the appeal scheme, on the National Park and its setting.

2.15 The study identifies the area covered by the extended National Park boundary, from Woodingdean to the Roedean shoreline as part of the Open Downland. Amongst the key sensitive landscape elements are (pg 66 A.23 in DA Appendix 7):

- **The open uninterrupted skylines and exposed undeveloped character resulting from the rolling topography and absence of enclosure or vertical features. These are especially vulnerable to interruption by development or clutter.**
- **The strong sense of tranquillity and remoteness. The quality is being affected by traffic pressure and the night time glow of the adjacent urban areas.**
- **The vast, open character and long views across the landscape means that any landscape change or development has the potential to be highly visible.**

2.16 Section A.25 (Pg 67) adds that **“The landscape is also visually sensitive to changes beyond the South Downs boundary, for example, within the adjacent urban areas”**. Among the specific ‘Development Considerations’ for the area around the eastern edge of Brighton (“Area A2: Adur to Ouse open barns”, A2.11 Pg 79) it states:

“Seek opportunities to reduce the visual impact of existing visual intrusive elements on the Downs. These include [amongst other features] the prominent urban fringes to Brighton...”

2.17 I agree with the assessment in the Joint Committee’s Character Assessment. The level of impact is not simply a function of distance from the statutory designated

rural landscape as implied in 6.7 (pg 17) in Chapter 9 of the appellant's ES. Any intrusive vertical elements that interrupt or conflict with the line of the rolling Downs landform, such as the Marina Point tower in the appeal scheme, will inevitably be harmful, as will views of urban areas where increased night time lighting is visible. The ES assessment fails completely to take account of these effects on the extended Park boundary and their relevance to the Marina development. Indeed, the opposite stance is taken in the ES where it is suggested the inclusion of the new vertical structures is **'beneficial because the part which is visible is highly sculptured and provides a visual enrichment.'** (View D21 – Impact Pg 134) (CD 2/4.2).

Visual Assessment

- 2.18 Chapter 9 of the Appellant's ES (CD2/4.2) contains 43 photomontages from a wide area within and around Brighton at viewpoints agreed with BHCC. They provide photo-realistic 'before & after' views of the appeal scheme as well as the cumulative impacts with the Brunswick proposals. I have reviewed each of the viewpoints and include in DA Appendix 9 my own comments and significance criteria assessment to compare with those in the ES. All my comments are made from a landscape perspective taking into account landscape value, character sensitivity, visual intrusion and scale of change to the view. The significance of these effects on views may differ from those of Mr Roake and Mr Froneman, who use urban design and heritage conservation criteria for their appraisals.

In summary, my conclusions are:

- I. I agree with 10 matrix ratings in Chapter 9 - Nos. C1, C4, C13, C14, D15, D16, D17, T22, T28 & T29. Most of the 'C' (Coastal), 'D' (Downlands) and 'T' (Townscape) viewpoints are at a great distance from the appeal site or are hidden from view by the topography and/or built form of Brighton and result in a neutral or 'Slight Adverse' significant rating.

2. I disagree with the basic premise adopted in Chapter 9 that because the buildings (or some of them) are said to have a sculpted form and architectural merit, the scheme will automatically be of 'Substantial Beneficial' in most views whatever the specific circumstances of a location. The architecture in the appeal proposals does not have the unreserved approval of CABE and the main parts of the scheme, which consist entirely of 'tall' and 'very tall' structures in a dense layout, has not been properly considered in landscape terms or night time effects. I therefore disagree with the significance ratings given to the remaining 33 views – Nos. C2, C3, C5, C6, C7, C8, C9, C10, C11, C12, D18, D19, D20, D21, T23, T24, T25, T26, T27, T30, T31, T32, M33, M34, M35, M36, M37, M38, C39, C40, T41, T42 & T43.

Most of the 'C' and 'D' views, despite being of distances of 1.0km to 4.0km from the appeal site, are given a 'Moderate' or 'Substantial Beneficial' rating in the ES. I have given most of these longer views a 'Slight Adverse' or 'Moderate Adverse' rating because of the detrimental impacts on character and views.

The 'T' and 'M' (Marina) views are closer to, or within, the appeal site and the scheme in these locations becomes a more dominant element in the field of view. The ES generally scores all these views as 'Substantially Beneficial' but my assessment of their significance varies between 'Moderate Adverse' and 'Substantial Adverse'. The views I have found the most difficult to assess using the appellant's ES terminology are views M34 and M35 within the Marina. The ES again scores these two public realm spaces as 'Substantial Beneficial' whereas my assessment is that the improved appearance warrants no more than a 'Moderate Beneficial' rating. This is because the views, particularly M35, do make some noticeable changes but the montage understates the traffic in this busy location while overstating the height and impact the trees will have on the character of Harbour Square roundabout and adjacent spaces. Without the trees these views would attract an 'Adverse' rating. My assessment does not take into account the design or functionality of these two spaces, which are appraised separately by Mr. Roake.

3. One view of particular note is T28 from Lewes Crescent in Kemp Town. I agree with Chapter 9 (Pg 162) that this view from the footpath in Kemp Town is 'Slight Adverse'. The explanation in the ES states that this view of the development **“could distract the discerning eye”** and consequently has an adverse impact. I suggest this logic should have been applied more consistently across the entire visual assessment.

2.19 The proposed development will be overtly and overly dominant both in relation to the surrounding townscape and countryside because of the design, siting, layout and height of the appeal scheme as well as the obstruction of long established and cherished views. As a consequence, the appeal scheme will cause substantial harm around the Marina to the character of the local setting and the visual relationship between the City, the sea and the Marina.

Reasons for Refusal No 4

Play Facilities

2.20 I shall address the siting, layout and quality of the play and recreational provision included in the appeal proposals. Mr Goodwin, in his evidence, provides a quantitative assessment of the play facilities and the commuted payments required to meet the shortfall in recreational space as determined by BHCC design guidance.

2.21 The Marina contains a wide range of recreational and leisure activities including restaurants, bars, shops, supermarket, health & fitness club, cinema and casino, as well as the actual boating Marina. These facilities are of local and regional importance. The Marina masterplan has identified the lack of children's play space, casual amenity space and outdoor sports pitches/courts as set out in the BHCC SPG Note 9 (CD 7/7), which is based on the old National Playing Fields Associations (now 'Fields in Trust') '6 Acre Standard'. The Council's advisory document 'Open Space, Sport & Recreational Study' (October 2008) (CD 8/12) also identifies a significant borough wide qualitative and quantitative deficiency in facilities for children and young people (6.21 Pg 74). This situation has been

exasperated in the Marina by the loss of the only freely available equipped play space to more recent development.

2.22 SPG 9 sets out the types of play facilities required with the ages of intended users and those with special needs (Pg 4). The guidance does recognise that in **‘very exceptional circumstances’**, as with very high density areas (Pg 9), alternative provision could be made - for instance on roof spaces (where appropriate). It is also accepted that sports pitches are space-demanding and not always capable of being provided within dense urban areas. Therefore, commuted payments are accepted to allow off-site facilities to be created or enhanced within reasonable distance of the site. The DAS Vol 3 Pg 156-158 (CD2/17.3) does suggest where some off site provision could be made but does not test the feasibility of such proposals or the amount of additional sports space that ought to be provided.

2.23 In applying the standards to any development site the SPG emphasises the need to ensure outdoor recreational areas are safe and accessible (SPG Pg 6). Furthermore, **‘it is imperative that they are taken into consideration at an early stage of the development process. They should be properly integrated within a housing scheme, not land that is ‘leftover’ after only considering the layout of the houses’**.

The guidance continues by stating that inappropriately placed facilities **‘can have the potential to generate noise, nuisance and disorder. It is therefore important to provide natural surveillance from a number of dwellings without them being so close as to disturb the occupants. The inclusion of a buffer zone... is likely to be essential to prevent private gardens being located immediately adjacent to communal recreation space’**.

This importance of making play space an essential ingredient in the initial design stages is reinforced in PAN 04 (12.3 pg 20):

“The provision of outdoor recreation and informal open space should be central to the design of proposals coming forward in the Marina, and not just an afterthought”.

- 2.24 A range of facilities are provided in the appeal scheme proposals but their selection does not seem to be aimed towards the needs of future residents in the development as recommended by the SPG. They are located in the more remote, inhospitable places around the site with minimal surveillance (where placed under road ramps and beside air vents) and are likely to encourage improper use.
- 2.25 The feasibility of some of the activities being promoted is also dubious. The 5-a-side football pitch beneath the road ramps with only 2.7m clearance does not provide sufficient headroom for ball sports (DAS Vol 3 cross sections Pg 55)(see also DA Appendix 4 photos 1-3). The Parkour Arena looks an interesting space on plan but again does not sit comfortably beneath the low road ramps and it is not clear who the main users of this space are likely to be (DAS Vol.3 pgs 120-123). The use of the climbing wall in the narrow, sloping and exposed space between the proposed supermarket vents and existing road ramp pillars would be weather sensitive and restricted by winds, wet conditions and limited space available – the incorporation of shingle and associated native planting further reduces the useable parts of the activity zone (photo 4). The proposed idea of projecting light images onto the cliff face as part of a Geo-Learning Park (a combined LEAP & education facility) gives no regard to the privacy of residents in the overlooking flats, where windows of some habitable rooms are located no more than 30 metres from the cliff face (DAS Vol 2 Pg 2)(CD2/17.2).
- 2.26 The proposed NEAP and LEAP (Geo-Park) in the ‘Cliff Park’ (DAS Vol 3 Pgs 113-116)(CD2/17.3) provide no buffers between the activity zones and adjacent properties, in direct contradiction of SPG 9 and NPFA ‘6 Acre Standard’ guidance. The Council guidance requires a 20 metres buffer for LEAP’s to windows of habitable rooms and 25 metre buffer for NEAP’s to the nearest property boundary. The photomontage on Pg 113 of DAS Vol 3 clearly shows the climbing equipment in the NEAP area almost within touching distance of the building face. Apart from the noise created by 8-12 year olds using the facility, there will be close and direct views into habitable rooms and balconies on the

lower floors from these play spaces. In terms of NPFA guidance the layout of the two equipped play areas does not meet design requirements (see DA Appendix 10 pps 31-35) and the area labelled as a NEAP fails to include a Multi Use Games Area (MUGA) or alternative adjacent hard space for ball games or wheeled activities. It is also difficult to understand how the LEAP can function as a shared space in tandem with the Geo-Park and educational area because the activities are not compatible. The remaining LEAP/Children's Play Space is positioned behind the proposed Sea Wall building (Photo 5). The area abuts an existing Pizza Hut restaurant but would only be overlooked from a small number of upper storey windows at the rear of the Sea Wall building. Otherwise, this space would be remote from the main residential buildings.

- 2.27 There also does not appear to be any logic behind the replacement of the open-air market (Photo 7) in the Village Square (the renamed Merchant's Quay) with a collection of esoteric activities (Patangue, Palates Lawn and Giant Chess Area), which are unlikely to provide any significant enhancement to the recreational or leisure amenity of residents in the proposed development.

Shade

- 2.28 The Cliff Park is squeezed into a narrow 'canyon' of 20-50 metres width formed by the cliffs and proposed adjacent buildings that both range between 22.2 and 32.7 metres in height. The shade created by the tall resident buildings on 21st March is illustrated in DAS Vol.3 pg 84 (CD2/17.3). More detailed analysis of the shade plots is given in the ES Micro Climate section (Appendices 15.3 ES Vol.2)(CD2/5). It is clear that at any point the sun's position is below 45 degrees in the sky (midday at the equinoxes) the bulk of the park will be in permanent shade with only occasional shafts of sunlight able to penetrate the narrow gaps between the tall buildings (DAS Vol 3 Pg 53). No shade plots are given for any of the winter months but in December the maximum elevation of the sun in Brighton is about 15 degrees above the horizon, which will result in very long shadows across the whole development throughout the day. The cross-section

on page 53 of DAS Vol 3 shows the Play Area Ramp giving access to the elevated Cliff Park. This retaining wall and ramp face will be up to 3.5 metres high and means that much of the under cliff walk, particularly where it is only 2.0 metres in width, will be permanently in shade for most of the year and become a damp and inhospitable route, diminishing its existing character and recently restored amenity value (Photo 6).

- 2.29 Similarly, much of the dark space beneath the road ramps/flyover (photo 1 – 3) will require artificial illumination throughout the day if it is to be used safely for any form of recreational activity, particularly in winter. In addition, the narrow common courtyards and lower windows of properties in the Cliff Site are surrounded by tall, closely orientated buildings and will also be in permanent shade during most of the winter months.
- 2.30 The NPFA document sets out on page 26 section 4.37 (DA Appendix 10) its general design principles and states in Item 3 that children’s play areas should be **“sited in open, welcoming locations and not be tucked away on backland sites with access via narrow alleys or paths enclosed by high fences”**. The location of unsupervised recreational areas in open, bright spaces is a basic design & safety requirement.
- 2.31 The type and range of outdoor recreational activities proposed in the appeal scheme could have made a very positive contribution to the open space amenity. In reality, the selection and positioning of these spaces appears to be no more than an after-thought where the facilities appear to have been shoe-horned into a series of inappropriate and leftover spaces around the edge of the site. The main children’s play and education space behind the Cliff Site is not only placed in a shaded and unattractive location, it also lies within the rock fall and spawling zone beneath the cliff face. In addition, the use of the space beneath the road ramps is not appropriate to the activities being suggested. The area would also be prone to mis-use because of the many potential dark hiding places in the narrow alleys

and multi-storey car park around the ramps as well as the absence of supervision and lack of surveillance.

- 2.32 The advice given in the Urban Design Compendium (CD5/6pg50 & 59) is simply to let light into buildings and external spaces – **‘the more sun the better’**.

Planting

- 2.33 The appellant has taken a great deal of care emphasising the green aspects of the proposed scheme and the integral contribution the planting will make to the success of the public realm and private spaces – CABI also recognise the planting as being essential to the layout design. The council has yet to be convinced that any of the proposed planting, as set out in DAS Vol. 3 pg 149, is either appropriate or is able to flourish as a permanent feature in the development.
- 2.34 The proposed tree and roof terrace planting is extremely ambitious in respect of the plant selection and the ability to create sufficiently stable growing conditions to allow plant stock to flourish. The appellants have not provided Council Officers with successful examples of similar schemes around the British coast to demonstrate the ability of the suggested planting to survive or thrive.
- 2.35 Given the importance being placed on planting for design and ecological reasons throughout the appellant’s documents it would be unacceptable for the appearance of the soft landscape treatments to degenerate in the future through failure to address the difficulties of establishing the proposed planting at the design stage.

3. CONCLUSIONS

- 3.1 The height, form and density of development has been conceived as a piece of 'new city'. The design is contrary to the sensitive approach required in the Council's planning guidance and fails to meet the landscape objectives set out in the 'Tall Buildings' and 'Marina Masterplans' documents.
- 3.2 The harmful effects of intrusive additional urban development and night time lighting will be noticed in the more distant AONB landscape. However, the appellant's landscape assessment takes no account of the proposed South Downs National Park, which is due to replace the AONB designation in 2010. The appeal scheme will create substantial adverse impacts on the character and setting of the National Park whose boundary has been extended up to the eastern edge of the Marina.
- 3.3 The appellant's visual assessment provides an incomplete analysis of the baseline landscape conditions and an unjustifiably positive appraisal of the impacts of the appeal proposals. The main parts of the appeal scheme consists entirely of closely positioned 'tall' and 'very tall' buildings as defined by BHCC guidance. Insufficient regard has been given to the sensitivity of the Marina setting. The overall effect on most surrounding public vantage points is to create a solid, overly dominant and cluttered built form that destroys the existing relationship between the cliff top area and the Marina as well as compromising the setting of the approved Brunswick landmark development at the harbour entrance.
- 3.4 The play spaces and educational spaces are misconceived and will not meet the needs of residents in the appeal scheme. The siting of facilities around the perimeter of the site is poor and appears to be secondary to the layout of the residential buildings. The facilities do not comply with Council planning guidance while the privacy and amenity of future residents is unacceptably compromised by the absence of essential buffers around the main equipped play area activity zones. Failure to provide appropriate and safe play facilities on site would mean

that the only alternative equipped space available for children would remain the distant and difficult to access play area in East Brighton Park.

- 3.5 The amenity value of most of the major play facilities, communal gardens and the under-cliff walkway is compromised or negated by the high levels of shading that will occur throughout the year because of the overly tall buildings or positioning of activities beneath the road ramps and flyovers.

- 3.6 The proposed planting is an essential element in the overall scheme design and should define the quality and attractive appearance of the public realm and private open spaces. The appeal scheme planting proposals fail to recognise the severe potential impact of the extreme seasonal weather conditions on this exposed coastal site and do not attempt to demonstrate the viability of the proposed tree planting or roof garden treatments. Despite the inclusion of a condition requiring the replacement of dead or defective plant stock I share the Council Officer's concerns about the ability to establish and grow any large trees on site given the previous failures in the Marina over the past 30 years.

- 3.7 The appeal scheme does not comply, in landscape terms, with the BHCC policies set out in the Reasons for Refusal Nos. 1 and 4.