
**PINS REF:
APP/Q1445/A/09/2102048/NWF**

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**PROOF OF EVIDENCE OF
IGNATIUS FRONEMAN, BAS, AIFA**

In respect of

**PROPOSED DEVELOPMENT AT
BRIGHTON MARINA**

On behalf of

**BRIGHTON & HOVE CITY
COUNCIL**

CgMs Ref: IF/TB/11130

Date: September 2009

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APPENDICES (bound separately)

Appendix 1: Detailed Assessment of Significance of Kemp Town and its Environs.

Appendix 2: Photos of views from some of the first floor rooms of Kemp Town houses
Plates 1-4.

1.0 QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Ignatius Froneman. I hold the degree of BA in Architecture and I have over seven years of professional experience of the historic built environment. I have experience of development affecting conservation areas and their settings, as well as other historic assets such as listed buildings in urban and rural locations, and registered parks and gardens.
- 1.2 I am a member of the Institute for Archaeologists (AIFA), and an Associate Director in the Historic Buildings team (London office) of CgMs Limited. In this capacity I have personally been involved with major developments affecting the historic environment throughout the UK, including nine proposed onshore wind farms. Five of these wind farm projects involved the preparation of Environmental Statements. Three were pre-scoping assessments. Another involved preparing a statement on the setting of listed buildings.
- 1.3 I have also assessed and given advice on the impacts of many other types of development affecting the historic environment, including: the Maze Prison and Long Kesh Internment Camp, near Lisburn, Northern Ireland (baseline recording and recommendations to the Office of the First Minister and Deputy First Minister); 'One Tower Bridge' - the land opposite the Tower of London, in between the City Hall and Tower Bridge, in Southwark, London (baseline assessment, ES, supporting statement); and the Lafarge Cement works, Northfleet (baseline assessment and ES). Smaller projects include assessments of a number of listed and unlisted police buildings in London as part of CgMs' involvement as consultants to the Metropolitan Police.
- 1.4 Many of my company's clients are developers in the private sector, but we also work for public bodies such as English Heritage, the Home Office, the Northern Ireland Office, and the Metropolitan Police, and for organisations such as the National Trust and British Waterways.

2.0 INTRODUCTION AND SCOPE OF EVIDENCE

- 2.1 This proof of evidence addresses the impact of the appeal scheme on the Kemp Town Conservation Area, as set out in refusal reason 1 and amended by the Council's planning committee on 2 September 2009. It should be read in conjunction with the other evidence prepared on behalf of the Council.
- 2.2 I have focussed my evidence on issues relating to the appeal scheme's impacts on the setting of the Kemp Town Conservation Area in views from and of the conservation area, in accordance with reason for refusal 1 and the second issue as identified by Mr Goodwin. As this conservation area includes an unusually high proportion of Grade I listed buildings I have also included references to private views from within some of the Grade I listed buildings in the conservation area.
- 2.3 This proof falls into two main sections: an assessment of the importance of the Kemp Town Conservation Area, and then a consideration of the impacts of the appeal scheme on this importance (with particular reference to its setting and views into and out the conservation area). This first section (3.0) comprises an assessment of the significance of the Kemp Town Conservation Area, although in light of PINS Circular 01/2009, the detail relating to its historical development and character and appearance is contained in **Appendix 1**.
- 2.4 Section 4.0 provides a summary of the relevant Conservation policy and guidance at both national and local level. Section 5.0 examines the conservation area issues referred to above.
- 2.5 Finally, and in accordance with PINS Circular 01/2009, I confirm that the evidence I have prepared for this appeal is true, has been prepared and given in accordance with the guidance of my professional institutions and that the opinions expressed are my professional opinions.

3.0 ASSESSMENT OF THE SIGNIFICANCE OF THE KEMP TOWN CONSERVATION AREA

- 3.1 There is an unusually high number of Grade I listed buildings in the Kemp Town Conservation Area, both proportionally in terms of the quantity of buildings within the conservation area, and also in terms of the relatively small area of land that is covered by the conservation area (see Annex 1 of CD2/4.2 for the English Heritage/DCMS list descriptions).
- 3.2 According to paragraph 3.6 of PPG15, Grade I and II* listed buildings comprise '*a small proportion (about 6%) of all listed buildings*' and they '*are of particularly great importance to the nation's built heritage: their significance will generally be beyond dispute.*' The same paragraph states that these buildings are of '*outstanding architectural or historic interest*'. In addition, the Kemp Town Conservation Area also includes an English Heritage Registered Park/Garden. These designations should be a material consideration in any assessment of the conservation area's overall significance.
- 3.3 The unusually high number of Grade I listed buildings, and the English Heritage Registered Park/Garden, clearly indicate that the Kemp Town Conservation Area is highly significant in terms of its historic built environment.
- 3.4 I also refer to English Heritage's comments regarding the significance of this conservation area, noted further on in this section of my proof. In essence, English Heritage describes the Kemp Town Conservation Area as '*one of the best set pieces in Brighton*', noting in turn that Brighton and Hove's terraces are '*among the best of the Regency period in Britain.*'
- 3.5 In light of the above, this conservation area is of the highest significance in the national context. Great weight must therefore be given to it when considering any proposals that may affect it.
- 3.6 Full and detailed descriptions of the conservation area, which was one of the earliest to be designated in Brighton, are available in a number of documents. These include the Council's 'Kemp Town Conservation Area Study and Enhancement Plan' (1992), which while it does not fully comply with the most recent English Heritage 'Guidance on Conservation Area Appraisals' (2006),

nevertheless provides a useful description of the area, the opportunities for enhancement and an overall assessment of its significance.

- 3.7 It is clear that both the Council and the residents of the Kemp Town estate attach considerable weight to maintaining and (where possible) enhancing the character and appearance of the conservation area. This is reflected not only in the way in which individual buildings, the private communal gardens and the area as a whole is generally maintained to a high standard, but also in the existence of an Article 4 Direction governing paint colour on external elevations 'visible from Marine Parade, the gardens and Eastern Road'. There is also a Regulation 7 Direction, which relates to 'For Sale' advertising boards.
- 3.8 The Council's 'Kemp Town Conservation Area Study and Enhancement Plan' lists at Appendix 4 a number of features that are key to its character and appearance; they are cited with apparent approval at paragraph 7.2.11 of CD2/4.2. It is worth here drawing one specific item to the Inspector's attention, namely 'Visual and physical links with the sea and beaches'. This, it is stated, forms part of the conservation area's character. These visual links - that is, views out of, and views of, the conservation area - are of critical importance to my evidence. I return in Section 4.0 of this proof to the ways in which the appeal scheme would affect this characteristic.
- 3.9 Finally, reference should, of course, also be made to the English Heritage's comments on the importance of the conservation area, as well as significant and important aspects of it. I have not included their comments in full, but refer to Graham Steaggles' letter, dated 15 January 2008. I note the following:
- i) *'The Kemp Town Terraces [...] are one of the best set pieces in Brighton. Perhaps after Regents Park, London and Bath, Brighton and Hove's terraces rank alongside Edinburgh and Cheltenham as among the best of the Regency period in Britain.'*
 - ii) *'... [they] arguably represent town planning at its most handsome'*
 - iii) *'Brighton's is probably the most intact seafront of this period in the country'*
 - iv) The esplanade *'...besides being a viewing place, provided the ability to access the [Kemp Town] crescent as a formalised perambulation,*

approaching from the east and west grand terraces, so that the views out were to [...] the cliffs and sea eastward, together with oblique views of the terraces.'

- v) *'The [Kemp Town] terraces make a major contribution to the Brighton seafront set pieces.'*
- vi) *'They are also part of the overall seafront assemblage that sets Brighton apart from any other seaside town.'*
- vii) *'... the existing views [from the esplanade, in easterly directions - such as view T30 of CD2/4.2] are not unlike those seen when the terraces were built. The existing 'corridor' views along the esplanade and the flanking Arundel and Chichester terraces are currently to the sea horizon to the east [...] although some interventions appear just above the cliff... '*

4.0 THE POLICY BACKGROUND

- 4.1 It is not necessary here to set out the full policy background (this is included in the SOCG) but I have included a specific reference to guidance in PGG15 on development affecting conservation areas.
- 4.2 Section 72 of the 1990 Act states that in considering whether or not to grant planning permission for development which affects a conservation area, '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*' As far as the impact of the appeal scheme on the Kemp Town Conservation Area is concerned, paragraphs 4.14 to 4.20 of PPG 15 are, of course, highly relevant. In particular, paragraph 4.14 of PPG 15 makes clear that views into or out of the area, as well as land outside of the conservation area, can have an impact on the area. Accordingly, it is appropriate in this case for refusal reason 1 to refer to the adverse effect of the appeal scheme on the conservation area, even though the appeal scheme does not fall within the conservation area boundary.
- 4.3 I believe it is also useful to refer the Inspector to national guidance contained in the July 2009 consultation paper on a new PPS 15 and the accompanying 'English Heritage Practice Guide Living Draft 24 July 2009'. Although PGG15 remains in force for the time being, these publications give an indication of the direction of policy and English Heritage's approach to the consideration of heritage assets and their settings.
- 4.4 The apparently greater importance attached to formally planned settings implicit in paragraph 2.16 of PPG15 finds no place in the draft PPS. The accompanying 'English Heritage Practice Guide Living Draft 24 July 2009' comments (at paragraphs 50 to 53) on draft Policy HE11 that:

*(50) The contribution made by setting to the significance of a heritage asset does not depend on whether it was designed specifically to complement the heritage asset (such as formal parkland around an historic house) or whether it has developed fortuitously (such as a multi-period townscape around a medieval church). **Nor does it depend on the public's right or ability to gain access to that setting**' (my emphasis).*

(51) *The setting of a heritage asset [including conservation areas] includes any parts of the asset's surroundings that have a relationship with it capable of affecting either its significance or people's ability to appreciate its significance. The extent of setting is not, therefore, fixed and will change as a heritage asset and its surrounding evolve.*

(52) *Setting includes, but is not restricted to, visual relationships and will normally be more extensive than curtilage. For example, buildings that are close by but not visible from each other may have a historic or aesthetic connection that amplifies the significance of each. This can apply to buildings or sites that currently share or used to share a function or purpose as well as those that were designed or built together.*

(53) *The ability to appreciate significance can be harmed, improved or left unaffected by changes in the setting. Again, this is perhaps most likely to be through the addition or removal of permanent visual intrusion, but noise and general activity, from traffic, for example, can have an impact. The ability to appreciate an asset can actually be part of its significance. **Some buildings, townscapes and landscapes were designed to give a particular impression from certain viewpoints and loss or impairment of these can diminish that value'** (my emphasis).*

- 4.5 This clarification of the definition of the setting of 'historic assets' and guidance on 'understanding its importance' in the draft PPS 15 offers assistance in dealing with effects upon settings of heritage assets. My understanding of the draft PPS 15 is that it indicates the government's intention to increase the weight that should be attached to the significance of setting as a material consideration in determining planning applications.
- 4.6 Finally, although as stated at paragraph 3.1 above, there is no need to rehearse all of the relevant local policy in this section of the proof, brief clarification should be offered here on the status of 'The Kemp Town Conservation Area Study and Enhancement Plan' and the weight that should be attached to it at this inquiry.
- 4.7 First, the document may appear somewhat different to the many Conservation Area Character Appraisals produced in recent years (both by BHCC and others). This is a direct result of the fact that the document was the first of its kind to be

produced in Brighton - which is in itself an indication of the importance that the Council has always attached to the Kemp Town Conservation Area.

- 4.8 Despite the absence of colourful illustrations or striking graphic presentation, the aims of the document- *'to identify those aspects which make up the special character of the conservation area, the threats to that character, the constraints on future change and development and to propose an Enhancement Plan of policies and projects which will both "preserve and enhance" the character of the conservation area'*- remain as relevant today as they did in January 1992.
- 4.9 At that time, the document was subject to extensive public consultation with local residents, businesses, national and local amenity societies before adoption by the Council as Supplementary Planning Guidance. As such, and as an expression of the Council's assessment of the character and appearance of the Conservation Area and aspirations for its future, it remains directly relevant to this inquiry. It was produced as an objective appraisal of the character and appearance of the area, rather than in response to, or in anticipation of, a particular development proposal (however, the proposals for the Black Rock Swimming pool site at that time are noted in the document as a potential form of future development).

5.0 THE CONSERVATION ISSUES

5.1 As Section 2.0 of this proof made clear, the Kemp Town Conservation Area is of outstanding importance. Any development proposal that would affect the conservation area's character and appearance, its setting, or views into and out of it, must therefore be very carefully considered.

Key Features and Characteristic Elements of the Kemp Town Conservation Area

5.2 I have listed below some of the key features and characteristic elements of the Kemp Town Conservation Area that I believe are relevant to this inquiry:

- i) The Kemp Town Conservation Area, although relatively small, is characterised by the following distinct elements:
 - a) Its **built form** (i.e. the buildings themselves, along with their plots and outbuildings - this includes their scale, architectural expression, materials, urban grain, form, detailing etc.). I do not discuss this in detail, other than to note the sea fronting orientation of many of the buildings, particularly those along Arundel Terrace and Chichester Terrace, and the deeper windows and balconies of their principal first floor rooms, which accentuate the outward views from within these principal rooms.
 - b) The 'internal' layout and **street scenes**, including on one hand the sense of enclosure resulting from the imposing building frontages (particularly along Lewes Crescent and Sussex Square), which is on the other hand relieved by the open spaces of the communal gardens and, perhaps more significantly, the 'opening up' of the development itself towards the sea (see below).
 - c) The **elevated seafront esplanades and the extensive views** afforded from here (views from the buildings that define the seafront element of the conservation area can be included). I do not suggest that the Kemp Town estate was planned to take account of deliberately planned views or sight lines, but it is nevertheless quite clear that views of the sea and the coastline influenced the layout and the design of the estate. Indeed, its elevated coastal position and gently sloping topography was one of the reasons why the estate was established here in the first place.

In terms of Kemp Town's layout, this opening up of the estate towards the seafront is quite clearly expressed by the crescent shape along Lewes Crescent, whilst the openness of the gardens perhaps more subtly ensures and directs sea views (albeit oblique) from the properties further inland. These sea views are accentuated from inside the more elevated principal rooms of the buildings at first floor level.

Despite the presence of traffic, the Marine Parade esplanade, like the slopes and the gardens (see below) readily lends itself to leisurely ambling - as has been the case almost since the construction of Kemp Town itself. Indeed, the idea of creating formal walks above the sea at the southern end of the Kemp Town estate was mooted at the first meeting of the Kemp Town Enclosures Committee in 1828, and construction started in the same year.

The opening of the development towards the south, and the far reaching views obtainable, are instantly appreciable. This is a particularly tangible characteristic along Chichester and Arundel Terraces respectively, but even more so along Marine Parade itself, where the eye is almost inevitably drawn towards the sea, and the coastline stretching out towards the west and the east.

Whilst the westerly views include the built form of the city, now encroached up to Kemp Town, the easterly views include, at sea level the modern marina, with the chalk cliffs and the largely undeveloped costal hinterland beyond. Whilst these views from and of the conservation area do not equate to deliberately planned views or vistas, their importance should not be underestimated. In particular, the easterly views contain the only appreciable remaining part of the conservation area's once undeveloped setting - another reasons for why the estate was established here in the first place. These views therefore play an important role in one's understanding and interpretation of the conservation area, and can be described as one of the conservation area's key characteristics. The significance of these easterly views is accentuated by the fact that they are the only views left to show the conservation area within this (apparently) undeveloped context. Indeed, English Heritage

describe these views as '*...not unlike [...] when the terraces were built*' (see point vii) of paragraph 3.6).

- d) The **open nature of the esplanades, the gardens and the slopes below** which ultimately leads to the beach. This area is quite different in character to the built up part of Kemp Town. It is perhaps most strongly characterised by a sense of openness and as a result, one becomes very much aware of the views afforded from this part of the conservation area. That includes easterly and westerly views (discussed above), but also (depending on one's position) northerly views of the slopes and the gardens, along with the tunnel entrance, the reading room and the gardeners cottages, or southerly views over the esplanades and Volks Railway, with the beach and the sea beyond.
- ii) Despite some development to the east (including the marina at sea level), the largely undeveloped costal hinterland of the Kemp Town Conservation Area is still evident in easterly views. Views from within the conservation area have been discussed above, but the largely undeveloped cliffs and hinterland is also apparent in views towards Kemp Town from the west. In such views it is likewise still possible to appreciate the conservation area as located at the edge of the city. As before, the appreciation of this part of the conservation area's setting is all the more significant in these views because they are the only views to feature this last surviving remnant of its original setting.

Other Factors

- 5.3 I do not dispute that the construction of the marina in the 1970s, and its subsequent development from the 1980s through to the present day, has significantly altered what might be called the 'setting' of the conservation area to the south-east, albeit at a much lower level than Kemp Town itself. I also recognize that other factors need to be taken into account, in particular the approved Brunswick proposal¹, and that PAN04 acknowledges the principle of high density building and tall buildings to be acceptable at the western end of the marina.

¹ Although the Brighton International Arena directly below the cliff edge is also shown in outline on the Appellant's cumulative photomontages (dated June 2008 - CD2/4.2), it has not been submitted as an application and is not a material consideration (see also paragraph 3.22 of the Statement of Common Ground).

PAN04 and the Principle and form of Marina Development

- 5.4 My concern, and that of the Council, is not the principle of development on the marina, or that tall buildings are proposed. With regards to the principle and form of acceptable marina development, it is relevant to examine what PAN04 actually stipulates. First, although it states (p.28) that *'the western, more commercial areas of the Marina may be more suitable for taller buildings than the eastern end of the Marina'*, it also defines a tall building as one of six storeys or more, or indeed a building which is simply *'significantly higher than the height of any existing adjacent buildings'*.
- 5.5 The document then sets out the various criteria that any tall building in this area must satisfy. Notably, all must be 'informed' by SPG BH15 and English Heritage's/CABE's 'Guidance on Tall Buildings' (July 2007). I also draw the Inspector's attention to the PAN04 criteria for buildings *'which are six storeys or are significantly higher than the height of any existing adjacent buildings'*. Points ii, iii and vii (see p.28) are particularly relevant to the issues considered in this proof.
- 5.6 Point ii notes the requirement for contextual relationships, including with (amongst others) the topography and the skyline. According to the aforementioned point iii, development proposals will need to ensure that that the building design allows for *'visual permeability through the development out to sea, the harbour area and views of the protected Black Rock Cliffs'*. Point vii stipulates that development proposals will need to *'avoid harm to important views and [...] not detract from views from the AONB, the setting of the Kemp Town Conservation Area or listed buildings.'* Certainly, there is no suggestion that any one criterion takes precedence over another. It follows that if any of the criteria are not successfully met, the development will not be considered appropriate. As will be clear from the following paragraphs, the appeal scheme does not, in my opinion, comply with these PAN04 criteria.

The Effects of the Appeal Scheme on the Kemp Town Conservation Area

- 5.7 Turning to the appeal scheme, I discuss below the elements which I consider would result in some harm to the Kemp Town Conservation Area by affecting important setting-related views from within the conservation area, and longer views of the conservation area in its setting.

- 5.8 Firstly, I consider the so-called Sea Wall (site 2). Neither I, nor the Council, have any specific objections to the architectural style and design of the buildings as they appear from the conservation area (fortunately, its rather uninspiring eastern elevation does not face the Kemp Town Conservation Area). I accept that this part of the appeal scheme would screen some of the existing buildings behind, which I consider to be architecturally bland and unexceptional (notably the David Lloyd and the two other 'sheds' behind it), from view.
- 5.9 Nevertheless, the proposed buildings are clearly of considerably greater size, massing and height than the sheds. As a result of the wave-like form of the sheds' roofs, and their limited height, they do at least permit views from Kemp Town into the harbour between the breakwaters and to the open sea beyond. In such views the buildings of the Brunswick scheme would be appreciable as a coherent cluster of marina buildings, clearly distinct and separate from the cliffs and the landmass to the north.
- 5.10 The Brunswick scheme would also allow uninterrupted easterly views of the cliffs (from within and the conservation area, and of it in longer views), along with views of the sea in between the landmass and the new development. In my opinion, this gap is of critical importance in terms of the Brunswick scheme's acceptability in setting-related easterly views from and of the Kemp Town Conservation Area. Significantly, it allows the viewer to still appreciate the sea, the cliffs and the downs in easterly views from or of the Kemp Town Conservation Area, regardless of the new development. It also serves to distinguish the new development as separate from the cliffs and instead as a distinct part of the modern marina.
- 5.11 However, the proposed buildings (i.e. those on the Sea Wall site, but also the Cliff Site and these two sites, 'cumulatively', with the Marina Point tower) would in effect introduce a sense of continuous development from the cliffs up to the Brunswick tower. The result of this is that the visual link between the Kemp Town Conservation Area and the harbour, the open sea beyond - but perhaps most importantly the hinterland to the east - would be lost. In effect the conservation area would be severed from its hinterland which, I believe, is important to one's appreciation and understanding of the only perceivable remaining part of its original setting (i.e. in easterly views both from within, and areas to the west of, the conservation area). Although this effect will be

compounded Brunswick scheme, the appeal scheme would have the same effect regardless of the Brunswick scheme.

- 5.12 The objection to the Sea Wall site is principally to its role in amalgamating or consolidating the Brunswick scheme, the Marina Point tower and the Cliff Site of the appeal scheme into one, apparently single mass of development when viewed from parts of Kemp Town or in longer views of it. That is well illustrated in images C4, C5, C6, C39 and C40, T30 and T42 of CD2/4.2. My other concern is the diminution of maritime context of the Kemp Town Conservation Area in easterly views. Again, this may not be wholly attributable to the Sea Wall site, but when it is seen together with the Cliff Site and the Marina Point tower (and cumulatively also with the Brunswick scheme), the effect is clear. That is also illustrated in images C4, C5, C6, C39 and C40, T30 and T42 of CD2/4.2. It should also be noted that these effects on views from within the Kemp Town Conservation Area becomes even more apparent when looking towards the appeal site from the first-floor windows and balconies of several of the (Grade I listed) houses (see plates 1-4, **Appendix 2**).
- 5.13 I also draw the Inspector's attention here to the 'kinetic' nature of the easterly views as one walks along Marine Parade. By this I mean one's experience and sense, or perception, of 'place' when taking in views along this part of the conservation area. Whilst the photomontages are undoubtedly useful in graphically illustrating the appearance of the proposals, they are also inherently limited by their very nature (i.e. they are inevitably static points with a predetermined and fixed arc of view). However accurate these viewpoints may be, one's actual experience of the views of the harbour, the sea, the cliffs and the landmass to the east of Kemp Town, when moving along Marine Parade, cannot be captured in this way.
- 5.14 For instance, when analysing a printed view, the cliffs might not appear to be a particularly striking feature or component of the view. However, as one moves along Marine Parade, my own experience is that in reality one becomes acutely aware of the cliffs and the downs beyond. The resulting impression or perception is that this area is effectively at the edge of the city. My concern is that this will no longer be the case if the appeal scheme was allowed. One's experience or perception of being at 'the edge' of the city will be lost; instead the perception will be that this area, now hemmed in by new development, is

part of a modern extension of the city. In my opinion that would not equate to mere erosion or encroachment on the conservation area's setting in such views, but in effect destruction of the last remnants of the original undeveloped setting of this significant conservation area.

- 5.15 The Cliff Site would have a similar impact, although again this effect will be compounded by the cumulative effect of the Sea Wall site, the Marina Point tower and the Brunswick scheme. Here, the issues with the appeal scheme are principally that the Cliff Site buildings will obscure the cliffs beyond them in easterly views, but also their contribution to one's sense of continuous development from the cliff edge up to the Brunswick tower. The views of the cliff and the downland beyond will be severed and, again, one's perception of being at 'the edge' of the city will be lost; instead the perception will be that this area is part of a modern extension of the city. This point is graphically illustrated in images C4, C5, C6, T30, C39 and 40. Again, I draw the Inspector's attention to the kinetic nature of such views. Although this effect will be compounded Brunswick scheme, the appeal scheme would have the same effect regardless of the Brunswick scheme; the Brunswick scheme, on its own, would not have the same effect.
- 5.16 The harmful impact of this change is, I think, particularly evident in C40 and perhaps even more so in T30. These photographs reveal the extent to which the historic setting of Kemp Town would be cut off in easterly views from its hinterland of sea, chalk cliff and downs to the east. The views quite clearly show that currently, this is not the case. In these views the Cliff Site would quite clearly consolidate the perception of a mass of built development, in effect almost continuous from cliff edge to the Brunswick tower. On p.170 of CD2/4.2 the appellants describe this as a fundamental change to this view, and add that '*the distant flat horizon*' will be replaced with '*a complex of built forms*'. The appellants curiously appear to suggest on the same page that view is not significant because it is not from the centre of the '*enclave*'.
- 5.17 At present, on passing along Arundel Terrace and the section of Marine Parade in front of it the pedestrian, driver or bus passenger becomes aware, despite the presence of the marina to the south-east and some suburban development to the north-east, of the inviting prospect of coast and countryside opening up

- beyond. Depending on the specific location, this would be wholly lost, compromised or changed.
- 5.18 This sense of anticipation is important and helps to emphasize the fact that Kemp Town is the historic end of Brighton (albeit originally separated from it). The importance of this part of Kemp Town's historic setting, particularly in easterly views, cannot be over-emphasised. Kemp Town's origin is inherently linked to its development as a separate entity from Brighton. Although that is clearly no longer the case, one's appreciation of its largely undeveloped costal hinterland, still evident in easterly views, unquestionably contributes to a significant degree to Kemp Town's character, and one's ability to appreciate its almost unchanged original setting in these views.
- 5.19 If these easterly views - the only views to still allude to Kemp Town's original undeveloped setting - are to be lost, one's understanding and appreciation of the conservation area as the 'edge' of the city (or indeed as a once separate entity from the city) will be irrevocably lost. Anything that is done to diminish this appreciation would, in my opinion, fail to preserve important conservation area setting-related views and should therefore be resisted. Significantly, the Brunswick scheme would not result in such harm, as in fact the appellants' own 'cumulative' images at T30 and C40 make clear.
- 5.20 In many ways the impact of the proposed Marina Point tower on the Kemp Town Conservation Area derives directly from the tower's visual relationship with the Cliff Site buildings. In images C6, C39, C40, C42 and T30 for instance, it appears to rise out of the solid mass of the proposed Cliff Site buildings (discussed above), further emphasizing the landward extension of building from the approved Brunswick scheme.
- 5.21 While I do not believe that this tower has the same elegant architectural form or quality of the approved Brunswick tower, there is no objection to its architectural form *per se*. I accept that, because it is a relatively narrow building (particularly in comparison with the scale and massing of the Cliff Site buildings and the long western elevation of the Sea Wall), it does not intrude on the easterly views to the extent that both these latter elements of the proposals do.

- 5.22 I share the opinion of the Council's Design and Conservation Manager, and English Heritage, that the amendments to the tower's design have improved its appearance. I also, however, agree with the former's opinion that *'Whilst the tower may help mark the marina as a destination of urban significance, on balance, and in other respects its impact on the wider coastal cityscape is seen as moderately adverse; particularly since the tower's silhouette and sculptural qualities are features that may not be readily appreciated from this distance'* (i.e. from the Palace Pier).
- 5.23 Both these points are clearly revealed in the appellants' image C4 in CD2/4.2, with the accompanying text (p.66) noting that the tower *'contribut(es) to the creation of a strong urban townscape at the east end of the city rather than a dwindling of built form towards the downland'* and *'unfortunately obscur(es) a certain amount of cliff'*.
- 5.24 I agree with both these statements. However, in the case of the first I believe this *'strong urban townscape'*, to use the appellant's own words, will undoubtedly have an adverse effect on the setting of the conservation area in easterly views for the reasons set out above. I consider this to apply just as much to middle distance as to closer views (i.e. views both towards the conservation area from the west with the appeal scheme in the same view, and from within the conservation area in the direction of the appeal scheme).
- 5.25 The second statement by the appellants on p.66 in CD2/4.2 (i.e. that a 'certain amount' of the cliffs would 'unfortunately' be obscured) appears to be a somewhat reluctant acknowledgement by the appellants that one's perception of the cliffs (but in my opinion also the downs, where perceivable) is an important feature in such views. It is stated on the same page that *'a substantial amount'* of the cliffs will be obscured, but it is added that *'they can be seen to continue in the far distance'*.
- 5.26 It is critical that the appellants' description of the loss of the cliffs and their assessment of the effect, however, discusses the view only in landscape and visual terms (see also image C4 in CD2/4.2, and the accompanying text on p.74). Their statement of the appeal scheme's effect appears to ignore the impacts that the appeal scheme would have on the only appreciable remaining

part of the conservation area's once undeveloped setting, and one's appreciation of it, in easterly views.

- 5.27 Almost inevitably the appellants claim landmark status for their scheme as a whole, and particularly the architectural merits of their tower. On this basis it is argued that the appeal scheme is 'redeemed' and should be seen as 'beneficial'. I do not dispute that the appeal scheme represents some form of landmark, or that in some views the buildings proposed would obscure existing buildings of arguably lesser architectural merit. Rather, my concern is that with the appeal scheme the relationship between the Kemp Town Conservation Area and its eastern hinterland will be lost - regardless of the appeal scheme's architectural merit, or whether it is considered a landmark in its own right.
- 5.28 The Brunswick scheme could likewise be considered a landmark of architectural merit, but as I have demonstrated, it would not cause the same harm to the conservation area setting in views as would be the case with the appeal scheme.

Effects of the Appeal Scheme on views from within the Kemp Town Conservation Area buildings

- 5.29 Finally, I draw the Inspector's attention to the views over the appeal site and its environs from the many Grade I buildings within the Kemp Town Conservation Area. I accept that the reasons for refusal do not specifically highlight the effects of the appeal scheme on listed buildings. I also accept that 'no-one has the right to a view', but in this instance the situation is not as simple as that: in my opinion these views are integral to the conservation area and, although private, can be described as important conservation area views in their own right.
- 5.30 These buildings, although individually of 'outstanding' interest (paragraph 2.6 of PPG15), also collectively make a substantial contribution to the character and the significance of the conservation area. Given their contribution to the conservation area, and that views from their first floor principal rooms are integral to their design (see **Appendix 1**), it follows that such views should, at the very least, also be considered when discussing significant conservation area views.

- 5.31 The appellants' CD2/4.2 and Design & Access statement contains numerous photographs from the Kemp Town estate, taken to support their assessment of the appeal scheme. However, these photographs are unsurprisingly all taken from the public realm. Some of these views from elevated positions take in much more than is the case looking in the same direction at ground level, where hedges, railings or even parked cars can severely impede the extent of the view (see for instance T26 to T29 in CD2/4.2). Certainly, the appellants' ground-level views compare unfavourably in their extent with views from the first floor-windows of houses in the immediate vicinity.
- 5.32 By way of illustrating this point, I have included in **Appendix 2** photos of views from some of the first floor rooms of the following Kemp Town houses:
- i) Fife House (No.1 Lewes Crescent) - plate 1;
 - ii) No.4 Lewes Crescent (Flat 2) - plate 2;
 - iii) No.4 Sussex Square (Flat 2) - plate 3; and
 - iv) No.6 Arundel Terrace - plate 4
- 5.33 In essence the effect on these views is similar to the effect on views discussed above. It can be summarised as:
- i) amalgamating or consolidating the appeal scheme and the Brunswick scheme into one, apparently single mass of development (plates 1-4);
 - ii) the appeal scheme's 'hemming in effect' with the result that the area will in fact appear as part of a modern extension of the city, rather than the present sense of being at 'the edge' of the city (plates 1-3);
 - iii) a diminution of the Kemp Town Conservation Area's maritime context in such views (plates 1-4, but in particular plate 3)
- 5.34 I accordingly strongly urge the Inspector to see for himself these views (and those from any other properties he feels might be particularly relevant) during the course of the inquiry.

6.0 CONCLUSIONS

- 6.1 This proof of evidence has addressed the impact of the appeal scheme on the setting of the Kemp Town Conservation Area in views from and of the conservation area, as set out in refusal reason 1 and amended by the Council's planning committee on 2 September 2009.
- 6.2 The Kemp Town Conservation Area contains a very high proportion of listed buildings, most of them listed at Grade I, and also an English Heritage Registered Park/Garden. This conservation area is therefore of the highest significance in terms of its historic built environment; accordingly great weight must be given to it when considering any proposals that may affect it.
- 6.3 Paragraph 4.14 of PPG15 makes it clear that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. That includes its setting and views into or out of the area.
- 6.4 Some of the key features and characteristic elements of the Kemp Town Conservation Area are:
- i) its built form;
 - ii) its 'internal' street scenes;
 - iii) the open seafront and the extensive views afforded from here; and
 - iv) the conservation area's relation with its largely undeveloped costal hinterland, which is still evident, and allows appreciation of the conservation area as part of the edge of the city.
- 6.5 The modern marina has significantly altered what might be called the 'setting' of the conservation area to the south-east at sea level. Despite this, in many views the relation between the conservation area and its open eastern hinterland is still evident.
- 6.6 The principle of high density building and tall buildings on the marina is set out in PAN04. My concern is not the principle of development on the marina, or that tall buildings are proposed. Rather, it is the specific impacts of the appeal

scheme on the Kemp Town Conservation Area and its setting in certain views, and also its non-conformance with PAN04.

- 6.7 Kemp Town's origin is inherently linked to its development as a separate entity from Brighton. Although that is no longer the case, one's appreciation of this largely undeveloped costal hinterland, still evident to the east in easterly views, unquestionably contributes to a significant degree to Kemp Town's character, and one's ability to appreciate its original setting in such views.
- 6.8 The sense of enclosure and continuous development from the cliffs, introduced by the appeal scheme, would significantly intrude in such views. As a result, Kemp Town would effectively be cut off from its hinterland of sea, chalk cliff and downs to the east. It would be hemmed in by new development, and appear to be part of a modern extension of the city, rather than at the edge of it. That does not represent partial erosion or small-scale encroachment on the conservation area's setting in such views, but in effect destruction of the last remnants of its original, largely undeveloped setting and an important aspect of its appreciation.
- 6.9 I have taken the approved Brunswick scheme into account in my evidence as a future proposal. I conclude that the Brunswick scheme would not have the same detrimental effect as the appeal scheme.
- 6.10 For these reasons, I believe that the appeal scheme would cause harm to the last appreciable remaining part of the Kemp Town Conservation Area's original setting in easterly views. Given the significance of this conservation area, I urge the Inspector to dismiss the appeals.