

## **CLOSING SUBMISSION**

Brighton Marina Residents' Association  
Planning Inspectorate Ref APP/Q1445/A/09/2102148  
Local Planning Authority Ref BH2007/03454

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### **Introduction**

1.1 More than once we have said that the Marina has the potential to be one of the crown jewels of Brighton and the UK if appropriately developed.

Importantly that development should enhance, be sympathetic, be proportionate, be appropriate, be empathetic and be in character.

1.2 Our submissions, the evidence we have presented and the questions we have asked in cross-examination all support the following straightforward proposition:

1.3 The Explore application simply does not provide the high quality development that the western end of the Marina needs and deserves.

It is simply a gross overdevelopment, out of character, out of place and wholly disproportionate.

1.4 It is a desperately poor, thoroughly compromised piecemeal development of six disparate parcels of land. It is fundamentally a missed opportunity.

### **Housing**

1.5 The Explore Application represents a highly unsympathetic - high rise - high density housing estate with a stigmatised ghetto of poorly situated affordable housing.

As the applicant admits in his Health Impact Assessment

*"It is a shame that the Cliff Site which houses 100% of the affordable housing has the only units that will have partial sight of sun and daylight".*

We say it is more than a shame. It is simply shameful.

Yes we have a duty to provide affordable housing but we have an absolute duty not to saddle and condemn future generations with totally unsuitable housing which is not fit for purpose.

The flats proposed are tiny and undersized.

We note the draft London Housing Design Guide which sets out larger than before minimum sizes for new affordable housing, which may be extended across the UK. This Guide proposes that the smallest 1 bed flats would be 550 sq ft and the smallest two bedroom flat 770 sq ft. Significantly larger than what is proposed by this development.

We also take due note that the guide is also highly critical of new flats with single aspect views.

The principles in this Guide are universal and equally apply to this development.

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The chairman of Countryside Properties, Alan Cherry sympathises with the objectives of the draft London Housing Design Guide and has said "Housing has been built to an unacceptably small size."

Crest Nicolson's Chief Executive Mr Stone has said "The circumstances of residents in the social rented sector mean that they are likely to stay there a long time. (We) Must have larger homes to accommodate longer term residents."

CABE also supports the draft London Housing Design Guide and has cited its own survey of new private sector homes built between 2003 and 2006 - where most complain of too little space to prepare food easily, have friends to dinner or find a quiet place to relax. [CD 14/9].

Sunand Prasad of RIBA says that larger homes will be a sure way to ensure good quality in all developments and to encourage world class design.

Peter Bill, former editor of Estates Gazette has also said "face down penny pinching house-builders to insist no more rabbit hutch homes are built"

Self evidently there is a serious body of informed opinion - to rid the country of these so called 'Hobbit Homes'

### **Bad Development**

1.6 The Explore development represents a flawed concept and bad design.

1.7 It has nothing aesthetic, it has nothing noteworthy and it certainly is not in keeping with the existing marina development.

It proposes nothing that could enhance or blend with the existing architecture within the immediate area.

It is simply alien and out of character.

1.8 This application represents an overdevelopment of a restricted site with 'cramming'. It will lead to an overall deterioration in the quality of life for the existing householders in the marina and those that might come.

1.9 The buildings proposed are of excessive height and overdominant.

They do not take account of height, scale and design of existing buildings.

1.10 The development by its sheer mass and height would create a claustrophobic and repressive environment throughout the marina.

1.11 It is a concrete mass without adequate outdoor space.

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1.12 The siting and location of the cliff site, immediately adjacent to the natural backdrop of our white cliffs, will by virtue of its bulk, mass, height, density, lack of permeability be a clear retrograde design to what was achieved by the 1974 masterplan.

1.13 The proposed development takes no account of the Marina itself, or the wonderful seascape location and as such could be developed anywhere but certainly not in a Marina setting - which is where it is proposed to be.

1.14 All the appellants Design statements refer to urban space not a maritime or leisure environment.

1.15 In no way can be this described as the very best scheme that could be developed for this very special unique site

1.16 It is a piecemeal development with 6 disparate sites, it is not holistic.

1.17 It represents a clear intensification of the site that would cause harm and would be unsustainable and has no intrinsic long term value for our City.

1.18 Importantly the wider visions and aspirations for the Marina are not addressed in this application.

1.19 The scheme in our view more than uses up the total capacity of the Marina to accommodate further development and thus prejudices the future redevelopment of what is widely accepted as the priority - the leisure sheds area.

### **BHCC Core Strategy DA2**

1.20 We draw the Secretary of State's attention to the fact there is a core strategy review being undertaken by the Brighton & Hove City Council and the Marina - DA2.

There is now clear intent and all party support to reduce significantly the Housing quota for Brighton Marina and this should be accorded material weight.

Significantly, there has now also been the adoption within DA2 of the statement that "No development should be built above the cliff top".

**NO DEVELOPMENT SHOULD BE BUILT ABOVE THE CLIFF TOP.**

### **Tall Buildings – SPG15 & QD4**

1.21 All the buildings in the Explore development are Very Tall buildings as per the definition of SPG15.

1.22 This document merely says that the Marina may be suitable for Tall buildings – not Very Tall buildings and certainly does not mandate such.

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1.23 It is important to note the Marina already has Tall buildings which sit in sympathy and are successful. For instance Hotel Seattle at 21m high and the residential buildings at 18m on the South side of the Strand.

1.24 The Explore development is not mitigated by the cliffs.

There is no sensitivity given to the Classic Grade 1 architecture of Kemp Town. The Regents Park by the Sea.

Coast views are obscured or diminished entirely and the beautiful sweeping coastline will be lost forever.

1.25 It has clearly been shown that Explore's proposed development would manifestly result in an unacceptable loss of strategic views both within and without the Marina and would catastrophically impinge upon the natural features of the coast.

1.26 It therefore impairs strategic views more than briefly (and Mr Coleman's report admits this frequently) and therefore the development should be dismissed on these grounds alone.

### **Legitimate Expectation & Cliff Height Restriction**

1.27 We have explained in detail the history of the development of the Marina and the context of the cliff height restriction, the reasons as to how this arose and why this should be considered by the Public Inquiry.

1.28 We have shown how this issue and its height restriction had been considered and conceived over an extended period of time and not in haste.

1.29 We have demonstrated that the sound reasons for this oft repeated restriction - were to protect strategic views and to not interfere with the character of the environs of Brighton in the neighbourhood of the site. They hold just as true today and even more so.

1.30 We believe that this repetition of the Cliff height restriction represents a Legitimate Expectation on which we can rely.

It is an important Principal which should not be ignored because it is expedient to do so.

### **Widdecombe Public Inquiry 1974**

1.31 It is accepted that the Widdecombe Public Inquiry is a material planning consideration.

1.32 We ask the Secretary of State to take into full account this report and its recommendations regarding height restriction, which were fully accepted and embraced by the then Secretary of State.

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1.33 To its very heart and core - Widdecombe accepted and fully relied upon in his report the all important cliff height restrictions imposed by the Brighton Marina Act and why it was there.

To protect visual amenity and the character of the local environs.

1.34 It was clearly more than a material consideration for Mr Widdecombe and it should continue to be so for this Inquiry and for the current Secretary of State in their deliberations.

Indeed the Widdecombe report should be given very material weight given that his conclusions regarding the cliff height restriction have been adopted by the Brighton & Hove City Council in their Core Strategy Document (DA2) in December 2009.

### **IT IS A FACT**

1.35 The Brighton Marina Company published an information sheet in 1974 which stated some facts.

1.36 Vitally

that the cliff height restriction was a FACT  
was imposed by the Brighton Marina Act  
could not on any account be exceeded  
and was a requirement.

1.37 What can be clearer? More unequivocal?

### **The Squarabout Share Space 'Myth'**

1.38 It has been conclusively shown in this Inquiry that the much heralded Harbour Square as share spaced is not shared space.

1.39 It is a road which represents potential real and present danger to users of the Marina and especially those who have impaired mobility or are visually challenged.

1.40 It is not a public square, not public realm.

It has an inaccessible refuge in the middle of a roundabout, noisy and polluted by fumes.

Certainly not an "open space" that can be used by all the residents of the Marina as put forward by Mr. Reid when he adopted Mr. Gavin's evidence to set out what areas made up the overall percentage of the Developments open space.

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### **Harbour Square**

1.41 Harbour Square is situated at the most vital junction of the Marina. If this fails the Marina dies.

1.42 Very simply it is a flawed concept and cannot work. The applicants admit that this squarabout will not work at weekends.

1.43 It is required to cope with significant extra traffic which requires a high speed of traffic flow to work.

1.44 It is an admitted fact that if traffic speed is low then there is gridlock and congestion.

1.45 It also fails if only a limited number of people cross the road and it takes no account of the vulnerable, old or infirm.

1.46 We therefore believe that the traffic infrastructure of the Marina will simply not cope with the significant additional strains imposed by the proposed development.

1.47 This represents a significant loss of amenity to residents.

1.48 These concerns are manifest and include the Brighton Marina Co – as clearly a fall back scheme is required.

1.49 However there is no proof and none has been provided at the Inquiry that such a fall back scheme of traffic light scheme can ever work either.

Neither does the Unilateral Planning Obligation Agreement, should this scheme be allowed, allow a measure on failure.

Thus what the Unilateral Planning Obligation may deem to be a 'success' may allow chaos and leave open the real possibility in our submission of accidents and injury.

### **Speed and Safety**

1.50 We have deep concerns regarding highway safety regarding this development and that Explore have predicated this on the basis of a maximum speed of 20mph.

1.51 Our position is that there is the Brighton Marina Bye Law 7 of 15 mph which starts at the bottom of the ramps and carries penalties in the event of speed in excess of it.

1.52 This is an existing legitimate enforceable law well founded and required for the Marina roads.

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1.53 The present speed limit of 15mph has served us well for many years and as far as we are aware there has never been a serious/fatal traffic accident in the Marina.

1.54 It is not an arbitrary limit but is necessary for safety, in what is essentially a leisure destination where people do not expect speeding traffic.

1.55 Inevitably if this development were to proceed there will be a substantial increase in the population of the Marina and the proximity of vehicles and people will be close. It is intended to encourage people and vehicles to share the space at the foot of the ramps. So why have an increase in the speed limit?

1.56 We would have thought this development would necessitate not an increase, but a reduction in the speed limit, with more people and vehicles sharing less space.

1.57 Any increase above the existing 15 mph - in maximum road traffic speeds - in our view manifestly leads to an unacceptable potential increased risk of injury and fatalities to residents and users of the Marina.

1.58 This is a potential risk which is a foreseeable risk. There is an issue of the duty of care to any resident or visitor which should be considered **NOW**.

### **Car Parking**

1.59 The reduction in the provision of parking in the multi-storey car park proposed and changes to the configuration, access and egress are unacceptable.

1.60 The proposed development does not comply with car park policy SP4.

1.61 The car park management scheme is complex and demonstrates that the development is putting strain on the infrastructure.

1.62 The existing planning conditions to Multi Storey Car Park have not been reflected or taken into account in the future car park management plan.

1.63 There are vital requirements in these conditions for highway safety.

1.64 Also clear obligations for the provision of adequate car parking and flexibility for users of the whole development.

1.65 Furthermore the obligations for the provision of coach parking within the Marina have simply been blatantly ignored. Not good enough.

### **Transport Interchange**

1.66 The Location of the Bus Station is inappropriate and will result in a loss of amenity for residents of the Marina and cause nuisance.

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It has to be noted that it has been tried before in the location of Palm Drive and spectacularly failed. It had to be moved to its present location.

1.67 We draw the Secretary of State's attention to the fact that SPG20 had the location of a much more ambitious and appropriate Transport Interchange at the Eastern end of the Multi-Storey Car Park. This is a far more suitable location.

We would also point out that by sheer weight of numbers, that if the developments of both Brunswick and Explore were to be built, that the central locus of the Marina would indeed be here and not in Palm Drive.

1.68 Also the proposed Transport Interchange by being located on Palm Drive perpetuates the North South divide of the Ramps and is an extension of the Ramps.

1.69 Palm Drive is an area of existing pleasant cafe culture which is more suitable for share space. This would be destroyed and is a loss of amenity.

### **The Admin Building : Mini - Roundabout (Inner Harbour)**

1.70 This junction is also vital for the smooth running of the Marina. The appellant is now predicting significant queuing at this junction at peak times.

1.71 Given the number of buses and coaches using the roundabout for turning this would lead to a failure and gridlock.

1.72 It also needs to be borne in mind that the Controlled Entry System to the existing Residential Estate is a fact, cannot be wished away and is currently an existing planning obligation. One set of conditions does not expunge another.

### **Loss of Light for Existing Residents**

1.73 It is an admitted principle that there will be loss of light to residents of the Octagon. We believe this to be material and that the appellant's claims of the newly discovered reflected light lack credibility.

1.74 This is unacceptable and not good enough.

1.75 Even if true (which we do not accept), reflected light is borrowed light and is not as good as direct light. This is not good enough.

### **Recreation and Outdoor Play Areas**

1.76 The Marina is already deficient in open and green space.

1.77 The proposed development exacerbates this to an unbelievable extent.

1.78 There is clearly and unarguably inadequate recreation and outdoor area provided within the proposed development.



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What little there is provided is of poor quality and in left over areas.

The entire ethos of children playing under ramps or far from home is not an acceptable concept nor is it a safe environment to any meaningful community.

1.79 Furthermore, what is provided outside the Marina such as the Rottingdean informal sports area, Rottingdean Terraced Gardens etc is of little if any direct relevance to the current or future residents within the Marina. The proposed sites are not immediately accessible.

It is logical and plain common sense that if you have children - that you do not buy or rent a property if you have no safe garden/play space for them very close by.

Self evidently a walk or drive for two to three miles is not close by.

And what is more, 'research' by Mr. Reid, the Appellants Expert, to demonstrate a feasibility study to one proposed off site space, is quantified by him as one walk at a brisk pace to the Peter Pan fun area. This we are expected to accept is supposed to equate to a walk by a two year old. We do not think so.

1.80 Simply not good enough.

And what about the fact there is a bye-law restricting any young person under 14 years old to be on the Marina without the supervision of an adult?

Legitimately required in an area where water is close by. Once again this was not known by the appellants and once again they choose to ignore it.

One cannot be so irresponsible to ignore a safety requirement imposed and in place for years by the Marina? Can one?

### **Emergency Access**

1.81 We have very real concerns that should this development proceed that there is no guarantee that the additional emergency access works at the Western end of the Marina on which the Explore application was predicated would in fact be provided given the wordings of the Unilateral Planning Obligation and the Planning Conditions.

This also has ramifications for the non provision of the RTS bus service assumed.

1.82 They are therefore in our view serious issues with health and safety for all existing and future residents. We are owed a duty of care by all parties including the Secretary of State.

1.83 This is especially so given the additional residential population plus visitors if this additional emergency access were ultimately not provided.

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1.84 The emergency services correspondence to the Brighton & Hove City Council in November 2008 was very clear that this additional emergency access is an integral part of the whole scheme.

1.85 Also they were clear that no further developments at this site should be progressed without it being a condition that the option of a proper access/egress route on the eastern side is properly developed.

1.86 Explore have so far refused for this to be included in conditions or the Unilateral Planning Obligation.

1.87 There is a serious point of principal here that all existing and possibly future residents must be able to rely on these emergency access routes so that access for Emergency services is in no way compromised.

1.88 We therefore urge the Secretary of State to have great caution as the detail and obligations are not at all clear regarding emergency access.

1.89 Mr. Lindblom stated at the inquiry he was being deliberately elastic in using certain phraseology in the Unilateral Obligation Agreement.

1.90 We do not think that these important matters should be trifled with. We require clarity not vagueness on important points in issue.

1.91 If this development were to be allowed there must be clear, unconditional, binding and unequivocal undertakings that the emergency access works are undertaken and are completed, with no additional flood risk before the Explore development proceeds; and the costs of which be wholly borne by the Development company and not in any circular way be borne by the existing residents of the Marina.

### **Costs to Residents**

1.92 We are also deeply concerned that as the Brighton Marina Co would be a party to the Unilateral Planning Obligation - then there may be costs and obligations associated with the development which may ultimately fall to the Brighton Marina Co and may thus be passed onto existing residents via additional service charge contributions.

1.93 This would be unreasonable and unfair. No costs or works or obligations arising from the Explore Development alone or their consequences should be passed on to existing residents.

For instance :

maintenance/repair of the ramp columns and the possible damage and need for earlier repair as a result of the heavy construction loads.

Consequences of the breach of the sea wall to provide the additional egress

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and there are many, many other matters arising from this development either through obligation or condition.

1.94 We have to be protected as the very nature of this proposal makes the quantum on expenditure open ended. It must be appreciated that there is too much vagueness.

### **BHCC Points of Objection**

1.95 We fully support the BHCC essential points of objection. The appellant has not in our opinion been able to overcome these. For these reasons alone the appellant must fail because there is no room for manoeuvre, absolutely none.

### **Conclusion**

#### **Sense and Spirit of Place**

1.96 The Marina has a sense of place and care must be taken to not inflict fatal wounds upon the spirit of Brighton Marina as a place, as a MARINA

1.97 The Marina was founded to be a Marina.

1.98 We remind the Secretary of State of the 1968 Brighton Marina Act - which clearly states in its very opening words that the purpose of the Act was a creation of a Marina.

That it would be of public and local advantage to increase the facilities at Brighton for the sport of yachting, cruising and boating.

1.99 The marina as we have demonstrated is located in a unique location that does not have any disturbing impact on its immediate surroundings.

As it is today it does not interfere with the immediate visual aspects to either the west or east, north or south.

It is without parallel a sympathetic development that was ahead of its time and has stood the test that its original developers were held to.

1.100 The buildings we build will last longer than we do and the decisions that emerge from this process will dictate the future of this special unique site as far ahead as can be seen.

1.101 It will stand as a record of the vision and values of the present generation and of those who govern.

1.102 The spirit and sense of place as a Marina and its special unique setting deserve the protection that future generations, would say, had they a voice to express themselves here.

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1.103 We ask the Secretary of State to bear these messages in mind when deciding the Explore Application.

1.104 The Marina has the potential to be one of the crown jewels of Brighton and the UK - if appropriately developed but sadly this proposal does not achieve this.

1.105 The Western End of the Marina does need development but our message to Explore is, try again. What is currently proposed is not the right solution.

1.106 The Marina is lively, vibrant & cosmopolitan. It is a magnificent achievement.

1.107 Explore Living's current ill considered, ill judged, inconsistent proposals would in our view fatally mar the UK's largest Marina as a Marina.

1.108 This would indeed be a Shakespearian tragedy of truly epic proportions if allowed.

1.109 The appeal should be dismissed.

**Peter Martin BSc FIA IMC**  
**Chairman – Brighton Marina Residents' Association**

**16 December 2009**