

BRIGHTON MARINA APPEAL
BY
EXPLORE LIVING
STATEMENT OF CASE ON BEHALF OF
SUSSEX POLICE AUTHORITY
SEPTEMBER 2009

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Planning Inspectorate Ref:

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JBR1294/TC0880.soc

Date:

September 2009

Authorised by:

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1. CASE OUTLINE

- 1.1 This Rule 6 Statement is submitted by RPS on behalf of Sussex Police Authority in respect of the appeal by Explore Living against the decision of Brighton and Hove City Council to refuse planning permission for redevelopment of land at Brighton Marina.
- 1.2 The application (reference BH2007/03454) was reported to the Brighton and Hove Planning Committee on 12 December 2008 with a recommendation for approval. The Officer's recommendation was overturned by Members and the application was refused by the Council on the following grounds:
- "1. The proposed development, by reason of siting, layout and height, would be overly dominant and would not relate satisfactorily to existing development within the Marina and would fail to preserve the setting of views of strategic importance, in particular views into and out of the Kemp Town Conservation Area, the Sussex Downs Area of Outstanding Natural Beauty and the cliff which is a site of special scientific interest. The proposal would therefore fail to comply with Policies QD1, QD2, QD3, QD4, HE3, HE6, HE11 and NC8 of the Brighton and Hove Local Plan and Policies S1, S6, EN1, EN2, EN3 and EN26 of the East Sussex and Brighton and Hove Structure Plan.*
 - 2. The proposed development would cause material nuisance and loss of amenity to residents living opposite and within the Marina. In addition by reason of north facing views and overshadowing the proposed development would cause loss of amenity to occupiers of the residential units in the cliff building. The proposal would therefore be contrary to the requirements of Policy QD27 of the Brighton and Hove Local Plan.*
 - 3. The applicant has failed to demonstrate that the proposed scheme reflects and responds to the current housing need in the city. In particular, through the provision of the appropriate housing unit mix and size. The proposal is therefore contrary to Policy HO3 of the Brighton and Hove Local Plan.*

4. *The applicant has failed to demonstrate that the proposed development would result in a scheme with an adequate provision of outdoor amenity and recreational space. The proposal is therefore contrary to the requirements of Policy HO6 of the Brighton and Hove Local Plan.*
5. *The applicant has failed to demonstrate that educational facilities would be provided to meet the needs of the residents of the proposed development. The proposal would therefore be contrary to the objectives of Policy HO21 of the Brighton and Hove Local Plan.*
6. *The proposed development would be in a high probability flood zone as defined in PPS25: Development and Flood Risk and does not pass the exception test as set out therein”.*

1.3 The reasons for refusal given by the Local Planning Authority do not address the concerns of Sussex Police Authority and do not relate to the evidence to be presented at the Inquiry on behalf of the Police. The Police were consulted on the application and engaged directly regarding scheme design. The Police also submitted representations regarding contributions from the development towards the provision of additional Policing infrastructure necessary to allow fulfilment of their statutory obligation to provide an efficient and effective Police Service. Evidence presented to the Inquiry will focus only on this issue and on the nature of the financial contribution/provision of development in-kind that the Police are seeking to mitigate the impacts of the proposed development.

1.4 The evidence presented will show that the representations were made prior to preparation of the report to the Planning Committee. Several letters were sent to the Local Planning Authority setting out the requirements of the Police arising from the development proposals. The evidence will demonstrate that the position of the Police has been consistent in respect of demonstrating the need for the development to contribute towards provision of Policing infrastructure. It will also be shown that the approach taken by the Police to quantifying and specifying the nature of their requirements has developed in accordance with the principles outlined in Circular 05/2005.

- 1.5 The evidence will demonstrate that correspondence with the Local Planning Authority and the appellant's agents commenced prior to determination of the planning application. It will also be demonstrated that discussions in this regard are ongoing.
- 1.6 To place the request for contributions into context, the evidence presented will demonstrate the statutory requirement of the Police to deliver an efficient and effective Police service and to contribute towards reducing crime and the fear of crime. The evidence will also show that funding of the Police through central grant allocations and the community charge precept is sufficient only to support the revenue stream (maintenance of the existing Force estate and delivery of operational policing) and does not make sufficient dedicated provision for new capital projects. The evidence will explain that funding of such projects is delivered either through rationalising the existing Police estate, or through borrowing, with repayment of loans made from the revenue stream. The evidence will also show that the funding of Police infrastructure via the development process is now recognised as appropriate, subject to meeting the tests outlined in Circular 05/2005.
- 1.7 The evidence will have regard to the established and emerging planning policy context, which supports engagement of the Police in the planning process and which supports the provision of adequate social infrastructure to support new development.
- 1.8 The evidence will show that in order to deliver an efficient and effective Police service within Brighton and specifically for the Marina development itself, a neighbourhood Police facility should be located within the development site. The size and type of facility sought will be specified. The evidence will also explain the basis for seeking a one-off contribution towards the set-up costs for additional Police Officers and staff required to deliver policing of the development site.
- 1.9 The Police Service is a population-driven service; the level of crime is directly related to the scale of the population. Where development proposals result in an increase in population this has a direct impact on the level of crime and therefore the demands placed on the Police Service. This necessitates expansion of infrastructure to maintain an appropriate level of service.

- 1.10 The evidence will demonstrate the rationale supporting the Police request for funding, placing the development proposals within a strategic context and will explain the methodology behind the claim.
- 1.11 The evidence will also consider the planning policy context in detail. It will explain the level of existing support for delivery of social infrastructure via the development process and emerging support for the Police within the Brighton and Hove Core Strategy.
- 1.12 Regard will also be had to regional and national level policy that provides support for the Police position in respect of the appeal.
- 1.13 The evidence will also consider the stance of the Local Planning Authority prior to determination of the planning application and will place this in the context of emerging policy within the Brighton and Hove Core Strategy that identifies a need for Policing infrastructure within the Brighton Marina development area.
- 1.14 Consideration will also be given to supplementary planning guidance that exists for the Marina and the implications of this guidance for the position of the Police at the Inquiry.
- 1.15 The qualifications and experience of the witness will be described as a Preface to the evidence.
- 1.16 The case to be presented on behalf of Sussex Police at the appeal is outlined within this Rule 6 Statement. The evidence will demonstrate that to secure a sustainable form of development the Marina proposals should incorporate Policing infrastructure within the site in the form of a Police neighbourhood facility. The evidence will also justify developer contributions towards the set-up costs of Police Officers and staff necessary to deliver an efficient and effective Police service.
- 1.17 While Sussex Police are not a party to the Statement of Common Ground being produced by the appellants and Local Planning Authority, the Police are continuing to negotiate with the appellants to seek to agree a mutually acceptable position ahead of the Inquiry. If such a position can be reached and included within any unilateral undertaking, Sussex Police will advise the

Inspector accordingly and therefore reserve the right to withdraw from presenting evidence to the Inquiry.

- 1.18 While every effort has been made at this stage to identify all documents to which reference will be made, Sussex Police Authority reserves the right to bring forward such additional material as is relevant and necessary to a full examination of the merits of the Police case.

2. PLANNING POLICY FRAMEWORK

- 2.1 The evidence will make reference to the following planning policies and planning guidance in support of the Police Authority's case.

National Policy/Guidance

- 2.2 **PPS1: Delivering Sustainable Development.** Reference will be made to the obligation within the PPS to ensure that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities (paragraph 5). The evidence will also cite the requirement that when preparing Development Plans, Planning Authorities should seek to *"promote communities which are inclusive, healthy, safe and crime free, whilst respecting the diverse needs of communities and the special needs of particular sectors of the community"* (paragraph 27 (iii), PPS1).
- 2.3 Reference will also be made to the obligation for Planning Authorities to prepare robust policies on Design and Access. Key objectives include ensuring that developments *"create safe and accessible environments where crime and disorder or fear of crime does not undermine the quality of life or community cohesion"* (paragraph 36, PPS1).
- 2.4 The evidence will refer to **PPS3: Housing**, which includes the obligations to create places, streets and spaces that are *"visually attractive, safe, accessible, functional, inclusive..."* (paragraph 14) and the obligation to ensure that, when assessing design quality, spaces are safe, accessible and user-friendly (paragraph 16). The evidence will give consideration to these obligations and place them in context.
- 2.5 The evidence will make reference to the obligations within **PPS6: Planning for Town Centres**, which provides national policy on planning for retail, leisure and other town centre uses (paragraph 1.8). Reference will also be made to paragraph 2.19, which advises Local Planning Authorities of their statutory duty under S.17 of the Crime and Disorder Act 1998 to exercise their functions with due regard to the potential impact on crime and disorder. The obligation to create attractive, safe and well-designed buildings and public spaces is cited as well. In addition, the evidence will make reference to obligations with the PPS

regarding the night-time economy and impacts on the perception and fear of crime.

- 2.6 Reference will be made to obligations within **PPS12: Creating Strong Safe and Prosperous Communities through Local Spatial Planning** to produce a Sustainable Community Strategy (SCS) setting out the strategic vision for a place, and to the need for such strategies to align with the spatial planning process. The evidence will refer to the need to plan for appropriate provision of infrastructure to support development (paragraph 2.5, PPS12), and the requirement for the infrastructure planning process to identify as far as possible infrastructure needs and costs, phasing of development, funding sources and responsibilities for delivery. The evidence will refer to the obligation that the Core Strategy should also include the specific infrastructure requirements of strategic sites.
- 2.7 The role of the Police as key stakeholders/delivery agencies in the spatial planning and infrastructure delivery process will be referred to and the implications of this requirement will be examined in the context of planning for major strategic sites (paragraph 4.29, PPS12).
- 2.8 The evidence will refer to **Circular 05/2005: Planning Obligations** and to the tests within and will consider the Police case against its provisions. Consideration will also be given to the provisions of **Circular 11/95: The Use of Conditions in planning Permissions** and the extent to which guidance could be used to secure provision of appropriate Police infrastructure to support the development.

Regional Policy - South East Plan, May 2009

- 2.9 The evidence will refer to the South East Plan, which establishes a spatial strategy for the South East Region over the period to 2026. Reference will be made to The Vision for the Region and to the following Policies, which are relevant to an assessment of the appeal proposals:

- Policy CC1: Sustainable Development
- Policy CC6: Sustainable Communities and Character of the Environment

- Policy CC7: Infrastructure and Implementation
- Policy SP2: Regional Hubs

Brighton and Hove Local Plan – Adopted 2005

2.10 The Brighton and Hove Local Plan, adopted in 2005 provides the local adopted development plan framework against which all planning applications should be determined. The majority of the Local Plan policy has been saved by the Secretary of State under paragraph 1 (3) of Schedule 8 to the Act 2004.

2.11 The evidence will refer to the adopted Local Plan and policies within that are of relevance to an assessment of the appeal proposals. Reference will be made to the following policies:

- Policy QD2: Design – Key Principles for Neighbourhoods
- Policy QD7: Crime Prevention through Environmental Design

Creating a City of Opportunities – A Sustainable Community Strategy for the City of Brighton and Hove

2.12 The evidence will refer to the SCS, which sets out a long-term plan to improve the economic, social and environmental well-being of Brighton and Hove. Reference will be made to the obligations under the SCS to ensure a better quality of life for deprived communities and to reduce crime. The implications of the SCS for spatial planning will be examined by the evidence and the obligations in respect of the appeal proposals will be addressed by the evidence.

Brighton and Hove City Council – Core Strategy (June 2009)

2.13 The evidence will refer to the emerging Core Strategy and will examine its status as a material consideration. Regard will be had to the most up-to-date version of the document (Proposed Amendments Paper – June 2009) and to the proposed amendments contained therein. Specific regard will be paid to the following Policies:

- DA2: Brighton Marina, Gas Works and Black Rock Area

- CP9: Infrastructure and Developer Contributions

Supplementary Planning Guidance

2.14 The evidence will also refer to the following documents produced by the City Council:

- Supplementary Planning Guidance Note: Brighton Marina – Masterplan for Enhancement
- Planning Advice Note 04 – Brighton Marina Masterplan

2.15 In addition, the evidence will draw upon guidance contained in the emerging “Securing Police Infrastructure through the Planning System” toolkit document prepared by the Association of Chief Police Officers (ACPO), which explains in detail the methodology and rationale behind the claim for developer contributions.

3. CONCLUSIONS

- 3.1 The outline of the case for seeking contributions from the appeal proposals towards Police infrastructure and the policy framework documents relied upon to present this case are set out above. Sussex Police will continue to negotiate with the appellants ahead of the Inquiry to seek agreement on the issues of concern to the Police. If it is possible to reach agreement, the Police would be willing to issue a statement to this effect; under such circumstances it is anticipated there would be no reason for the Police to present evidence to the Inquiry.