

Screening opinion

Brighton & Hove City Council

Decision Required Under Delegated Procedure

Date: 01 April 2019

Report to: Nicola Hurley, Planning Manager

From: Eimear Murphy, Principal Planning Officer

Subject: Environmental Impact Assessment Screening Opinion: 1st Central County Cricket Ground, Eaton Road, Hove BH3 3AN

Ward affected: Goldsmid

1. Purpose of the report

- 1.1 To provide a formal screening opinion in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, as amended, as to whether an Environmental Impact Assessment (EIA) is required in relation to a proposed development including 4 Phases as follows:

Phase 1: Full planning application for demolition of existing public house, single dwelling and single storey commercial building to rear; construction of new mixed-use building on the south west corner to include:

- Re-provision of restaurant/bar (circa 550m²)
- New build flexible commercial space (circa 1300m²)
- New build circa 40 residential flatted units (circa 1900m²)
- Ground and basement parking provision

Phase 2: Full planning application for demolition of existing cricket offices and part of Sharks Stand to south west stand. Provision of new build two storey hospitality facility to accommodate new hospitality and events facilities; a new reception/club shop; new corporate boxes and board room as follows:

- Ground floor event and hospitality space (circa 600m²)
- First floor event and hospitality space (circa 500m²)

Phase 3: Outline planning application to establish the principle of the enhancement of the north end of the cricket ground, which currently contains temporary public facilities with limited spectator points, bars and toilets with a scheme modernise the north end with two new stands

of permanent seating either side of the bowling sight screens, improvements to spectator facilities including bars, refreshments and toilets summarised as follows:

- New build food and retail floorspace (circa 60m²)
- New build stand facilities (circa 740m² – 1,520 seats)
- Provision of new AstroTurf terracing for spectator viewing areas (circa 1970m²)
- Improvements to hardstanding (circa 270m²)

Phase 4: Outline planning application to establish the principle of development with South East Corner Improvement. This will include new seating to mitigate the loss of the existing south west stand as a result of Phase 2, new toilet and bar facilities referred to as:

- New build stand facilities (circa 400m² – 768 seats)

1.2 The site is identified as 1st Central County Cricket Ground, Eaton Road, Hove BH3 3AN.

2. Recommendation

2.1 To adopt a formal screening opinion that **EIA is not required** for the proposed development as detailed in the ECE Planning [the 'agent'] letter dated 21st March 2019 on behalf of the Sussex County Cricket Ltd [the 'applicant'] and the accompanying site location plan – 6616-LOC-01

3. Information/Background

3.1 On the 16th of May 2017, the 2011 Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations and 2015 amendments were replaced by the Town and Country Planning (Environmental Impact Assessment) Regulation (2017).

3.2 Government guidance on the application of the new Regulations is contained within the Planning Practice Guidance and the former Circular 2/99 has been withdrawn.

3.3 Regulation 6 (Requests for Screening Opinions) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 states that a person who is minded to carry out development may request the relevant Planning Authority to adopt a screening opinion. Regulation 6 sets a three week period in which the Planning Authority must issue a screening opinion unless an extension is agreed. The agreed target is 11th April 2019.

3.4 The site is located on the north side of Eaton Road, Hove and includes the Sussex County Cricket Ground, the Cricketers Public House, No.1 Eaton Road, and a chalet-type commercial building to the south of the site. The site is defined on a site location plan reference 6616-LOC-01 and covers an area of approximately 3.8 hectares. The main access for

pedestrians and vehicles is to the east side of the Cricketers Public House, part of the approach being shared with access to 'Ashdown' an L-shaped flatted block. Another access is located to the north east of the site, adjacent to the access to Cromwell Court and north of the detached dwelling at No.66 Palmera Avenue.

- 3.5 The internal perimeter of the site is largely contained by a high wall to the west and east sides. That to the east is constructed of brick, part with render. To the west the boundary is also defined by a brick wall against which fence panels have been attached and forms the rear boundaries to residential dwellings that front Wilbury Road. The southern boundary is defined in part by the rear elevation of Ashdown.
- 3.6 There are a number of buildings including spectator stands and facilities within the site which are as a result of ad hoc builds. There are also a number of 'temporary' buildings which are indicated as approaching the end of life.
- 3.7 The site is surrounded on all sides by development, predominantly residential including detached dwellings, a number of which have been converted to flats and purpose-built flatted blocks ranging in storey heights.
- 3.8 The proposed development comprises four phases which are summarised in paragraph 1.1. Phases One and Two would be submitted for full planning permission with Phases Three and Four for Outline Planning Permission. As a result, the formal application would be a hybrid of a combined full and outline application.
- 3.9 The site is located within the built up boundary of the City. It is contained by perimeter development that largely post-dated the cricket ground. It is designated as an All Open Space Area and is covered with a blanket Tree Preservation Order as well as an Article 4 Direction.
- 3.10 There are a number of designated Conservation Areas in the vicinity of the site containing designated (listed buildings) and non-designated (locally listed buildings) heritage assets. There are also some locally listed buildings that are not within a designated Conservation Area but are within the vicinity of the site. The closest Conservation Areas are as follows:
 - The Drive Conservation Area
 - The Willett Estate Conservation Area
 - Brunswick Town Centre Conservation Area
- 3.11 Beyond these are:
 - The Avenues Conservation Area
 - Cliftonville Conservation Area
 - Denmark Villas Conservation Area

- Hove Station Conservation Area

3.12 St. Ann's Wells Park which is to the east of the site is an Area of Special Local Importance.

4. Statutory and General Considerations

4.1 The purpose of this screening opinion is to establish whether the development is likely to have significant effects on the environment, and represents EIA development. In accordance with the Regulations and guidance the Local Planning Authority must first give consideration as to whether the development falls into Schedule 1 or Schedule 2 of the Regulations.

4.2 Schedule 1 developments are those for which an EIA would be mandatory. The proposed development is not of a type listed within the descriptions contained in Schedule 1.

4.3 Schedule 2 developments mean development, other than exempt development, of a description mentioned in column 1 of the table in Schedule 2 where:

(a) any part of the development is to be carried out in a sensitive area

or

(b) any application threshold or criterion is the corresponding part of column 2 of that table is respectively exceeded or met in relation to that development.

4.4 The Regulations define 'sensitive areas' as including Sites of Special Scientific Interest, areas covered by Nature Conservation Orders, National Parks, the Broads, World Heritage Sites, Areas of Outstanding Natural Beauty and Scheduled Ancient Monuments. The definition of sensitive areas does not include Conservation Areas or Listed Buildings. The site is not in a sensitive area.

4.5 The site is not situated wholly or partly within a 'sensitive area' as defined by Regulation 2(1) of the Regulations and therefore criterion (a) does not apply.

4.6 The proposal does however fall within the first column of paragraph 10 (b) of Schedule 2 and is considered to be defined as 'urban development projects', in the broad sense. Notwithstanding this. The proposed development would not exceed the thresholds listed in the second column of paragraph 10(b) as listed below:

(i) The development includes more than 1 hectare of urban development which is not dwellinghouse development; or

- (ii) the development includes more than 150 dwellings; or
- (iii) the overall area of the development exceeds 5 hectares.

- 4.7 The EIA Regulations implement Directive 85/337/EC (as amended). The cases of The Queen (on the Application of Save Britain's heritage) v Secretary of State for Communities and Local Government, Lancaster City Council [2011] (Court of Appeal) and Commission v Ireland (C-50/09) [2011] (Court of Justice of the European Union) held and accepted that the annexes to the Directive, which appear as Schedules 1 and 2 to the EIA Regulations, refer to sectoral categories of projects, without describing the precise nature of the works which may comprise such a project, and that the Directive must be interpreted in a purposive manner. Moreover, it was recognised that the European Court of Justice had said repeatedly that the scope of the Directive was very wide and its purpose very broad.
- 4.8 Although Regulation 10(b) does not specifically mention the construction of residential development, it is considered that case law requires a broad interpretation of the Regulations. As such, it is considered the proposal would fall under the definition of Paragraph 10(b) of Schedule 2 which covers 'urban development projects'.
- 4.9 Where developments are listed under Schedule 2 column 1, the next stage is to identify whether the development is within a defined 'sensitive area'. The 2011 Regulations defines 'sensitive areas' as including Sites of Special Scientific Interest, areas covered by Nature Conservation Orders, National Parks, the Broads, World Heritage Sites, Areas of Outstanding Natural Beauty and Schedules Ancient Monuments. The definition of 'sensitive areas' does not include Conservation Areas or Listed Buildings. While the site shares a boundary with and is close proximity to Conservation Areas that contain listed buildings, the site is not within this 'sensitive area' as defined by the Regulations.
- 4.10 Although forming the boundary of one Conservation Area, it does not follow that every Schedule 2 development affecting these areas will automatically require an Environmental Impact Assessment. It will be necessary to judge whether the likely effects on the environment of that particular development will be significant in that particular location.
- 4.11 The development proposed should be considered against column 2 criteria of Schedule 2 Part 10(b) (which includes urban development projects).
- 4.12 The proposal involves an urban development of more than 1ha of urban development which is not dwellinghouse development. The proposal would provide up to 40 units of accommodation. The site area relating to non-residential development comprises approximately 0.36

hectares. The total area of the development site is 3.8ha and does not exceed 5ha. It does not meet thresholds (i), (ii) and (iii) as set out above in paragraph 4.6.

- 4.13 The Planning Practice Guidance (PPG) advises that Schedule 2 projects should be assessed on whether the proposal is likely to have significant effects on the environment, taking account of the selection criteria set out in Schedule 3. If this assessment finds that environmental effects are likely, then an EIA will be required. The PPG also advises that only a very small proportion of Schedule 2 development will require EIA.

5. Schedule 3 Assessment

- 5.1 Schedule 3 of the Regulations requires the proposal to be assessed against three main selection criteria: Characteristics of the Development, Location of the Development, and Characteristics of the Potential Impact.

Characteristics of the Development

- a) Size of the development – covering an area of approximately 3.8 hectares the development relates to an existing sports facility within which there are a number of ancillary uses and activities including a public house, commercial uses, hospitality and events facilities, reception/club shop; corporate areas and board room; stands, toilets and bar areas as well as associated parking. The proposed application includes a mix of uses including the replacement of the existing public house with a new restaurant/bar, provision of up to 40 units of accommodation, new flexible commercial space, ground and basement parking provision; ground and basement car parking; replacement stands; new hospitality and events facilities; new reception/club shop; new corporate boxes and board room; modernised stands to the northern end of the site with improved spectator facilities including bars, refreshments and toilets; new seating to the south east corner to compensate for the loss to the south west with new toilet and bar facilities.

The development proposed is divided into four phases but would be submitted as a single hybrid planning application.

- b) Cumulation with other development – As the site is contained by existing development, including single dwellings, dwellings converted into flats and purpose-built flatted buildings, account needs to be taken of the relation and potential impacts that may arise. A more recent application, BH2019/00127 was lodged and is under consideration. It proposes the 'Redevelopment of site incorporating demolition of existing buildings and erection of buildings between three and seven storeys and basement level

to provide 80no flats (C3) and hotel (C1) with associated basement parking, plant, landscaping and associated works.' It is currently under consideration.

- c) The use of natural resources – The Screening Request advises that the use of natural resources will be limited in the proposed demolition and construction. The demolition, construction and the operation of the development will use energy (fuels, gas and electricity). The effects are not considered to be significant within the context of EIA Regulations. The agent's attention is drawn to the fact that there are high pressure gas pipelines running into the site adjacent to the Sussex Cricketer Public House and on the opposite side of the access serving Ashdown.
- d) The production of waste – There are a number of buildings and structures on the existing site, some of which are proposed for demolition and replacement. Waste will arise from the demolitions proposed. The proposal will also involve new building and excavations associated with the formation of new foundations as well as the creation of a new access and an underground carpark. The excavations and construction works will result in the production of waste. The Screening Request advises that the proposed redevelopment will be carried out in accordance with good practice construction measures aimed at limiting the production of waste during demolition and construction phases. Further, that measures will be put in place to manage and reduce waste production by the future occupiers, such as the provision of refuse and recycling stores.
- e) Pollution and nuisances – the demolition and construction will generate dust and potential impacts on air quality and noise which the Screening Request advises is anticipated to continue for approximately 30 months per phase but perhaps longer with Phase One. There are likely to be disturbances from noise, vibrations, dust and light pollution as a result of phases of the development. A Construction Management Plan is proposed to be drawn up which will limit the hours of construction and control dust. Once the development is in use there will be potential impacts on air quality such as additional vehicle movements relating to the residential and commercial uses which need to be carefully assessed to ensure that the Air Quality is within acceptable tolerances.
- f) The risk of accidents, having regard in particular to substances or technologies used – the Screening Request advises that best practice measures are proposed during the demolition, construction and implementation phases to prevent the risk of accidents within the site. The proposed end uses will not involve the handling or processing of substances or technologies that are likely to have a significant impact on the environment.

- g) Risk to human health – given the proximity to existing established residential dwellings, in particular the flatted development of 'Ashdown', the Screening Request advises that best practice measures are proposed during the demolition, construction and implementation phases to prevent the creation of any risks that may result in water contamination or air pollution, for example.

5.2 The Location of the Development needs to be considered in respect of the environmental sensitivity of the site and surrounding area, looking at the following factors:

- a) The existing land use – the site is used for sport and recreation with a public house and detached residential unit. Despite the presence of buildings within the site it is designated as an All Open Space Area and is covered with a blanket Tree Preservation Order. It is also adjacent to and forms the boundary with a designated Conservation Area. There are a number of other Conservation Areas containing Listed Buildings and Locally Listed Buildings. The Screening Opinion advises that the capacity of the site and the setting of heritage assets needs to be assessed to ascertain if change can be accommodated without causing harm.
- b) The relative abundance, quality and regenerative capacity of natural resources in the area – Although there are existing buildings, structures and stands, the site contains a high percentage of open space including the cricket green, grass spectator areas, spaces in around and between buildings. As indicated above, the site is covered by a blanket Tree Preservation Order. Therefore, the impact on the open space and on existing trees both within and adjacent to the site needs to be considered as well as mitigation measure to assist in regeneration.
- c) The absorption capacity of the natural environment, paying particular attention to the following areas: wetlands, coastal zones, mountain and forest areas, nature reserves and parks, wildlife protected areas, areas where the environmental quality of standards laid down by the EU legislation have already been exceeded, densely populated areas, and landscapes of historical, cultural and archaeological significance – the site is an All Open Space Area and creates a semi-natural green space which over time, has become confined by perimeter development. As a result, where trees exist, there is a requirement for their retention. Where trees would be harmed or lost as a result of the development proposals, mitigation measures should be presented. In addition, the scheme should seek to minimise its impact on the natural environment. The site lies within Flood Zone 1 (Source: Flood Map Planning, April 2019) and is not identified as being at risk from flooding. However, the Environment Agency's flood mapping does not provide details of risks of surface water flooding which should

be taken into consideration including the potential for contaminants to seep into ground waters. The Screening Request should seek to ensure that the natural environment forming part of those adjacent areas are identified and to ensure that the development does not negatively interfere with or harm the natural environment and also seeks to improve the environmental and natural quality of the site and buildings.

5.3 Characteristics of the Potential Impact – the potential significant effects of the development need to be considered in relation to the criteria set out in paragraphs 5.2 and 5.3 above, and having regard in particular to:

- a) The extent of the impact (geographical area and size of the affected population) – the site extends to 3.8ha and is located within a predominantly urban residential area within the city of Brighton. Typical of such areas, there are a number of other uses present including recreation and sport, religious, schools, retail and commercial. It is within a sustainable location in terms of public transport accessibility and for access to local services.
- b) The transfrontier nature of the impact – there are no transfrontier impacts predicted as part of the proposed development.
- c) The magnitude and complexity of the impact – Across the four phases, the development is a new access off Eaton Road, up to 45 units of accommodation above a new public house and restaurant with ground and basement car parking for 60 cars. The indicative plans present a building of part of 7 to 8 storeys. It is indicated that there would be 1200m² of lettable flexible B1 commercial floorspace. The south west stand and part of the offices would be replaced with 685m² of hospitality/corporate boxes and board room, new reception/club area and event space including a bar with link, foyer area and space for entertainment; new wc facilities at various locations; permanent spectator stands and further spectator facilities including bar and refreshment areas. The proposal, by reason of its height alone, would have some visual impact on those parts of the Conservation Areas to the west, north, south and south east of the site. The tall building is likely to be visible from and within views of heritage assets. It would also have an impact on the streetscene and skyline of the immediate area. It would be within the setting of a number of heritage assets. The relationship and impact on existing levels of residential amenity is a consideration given the presence and distances between existing properties and the site. The ground floor units to the rear of Ashdown do not appear to have a particularly positive amount of residential amenity and any further development should seek to ensure that this is not exacerbated but improved. The proposal could potentially generate additional vehicular movements, which would be likely to have some impact on the local road network and the ability of junctions in the immediate area to accommodate such increases. There is the

potential overspill car parking in surrounding streets which may already have capacity issues. There would also potentially be an impact on the water and sewerage system locally.

- d) The probability of the impact – Should the proposal achieve planning consent and be implemented, the potential impacts outlined in c) above are highly probable.
- e) The duration, frequency and reversibility of the impact – Once implemented, the development is likely to remain for the foreseeable future and is only reversible if the site is redeveloped in the future.

6. Conclusion

6.1 The proposal is considered to be Schedule 2 development and falls into category 10(b). Through the assessment of the proposal using the Schedule 3 criteria, it emerged that the site, although not within a 'or adjacent to a 'sensitive area' (as defined in regulation 2(1)), it is located adjacent to and within close proximity of Conservation Areas and Listed Buildings.

6.2 Whilst it is deemed that EIA is not required for the proposed development it is however recommended that a planning application be supported by the following information and documents which should set out how the local environmental issues can be addressed through the normal development management process:

- Air Quality Assessment may be required
- Arboricultural Report
- Biodiversity Checklist
- Contaminated Land Assessment/ Ground Investigation
- Daylight/ Sunlight / Overshadowing Assessment (including the development itself and existing residential units)
- Demolition and Construction Environmental Management Plan/s
- Design & Access Statement (to include Townscape Analysis, Skyline and Visual Impact Assessment)
- Heritage Assessment (including the setting of designated and non-designated heritage assets)
- Lighting Strategy (for the site and buildings)
- Landscape Scheme and Statement
- Noise Assessment

- Stage 1 Ecology Assessment
- Sustainable Development Statement
- Sustainability Checklist
- Surface water drainage
- Tall Buildings Study/Assessment
- Transport Statement (including Parking Survey and Travel Plan)
- Waste Management Report

Please note that this is not an exhaustive list as there may be matters / issues to be identified in the pre-application response which is not part of the Screening Opinion process.

7. Consultation

7.1 The Council is not required to carry out formal consultation when adopting a screening opinion.

Planning Manager

Murphy

Date

3 April 2029

As such the previous application EIA development status is not considered relevant to the current proposal screening opinion.

