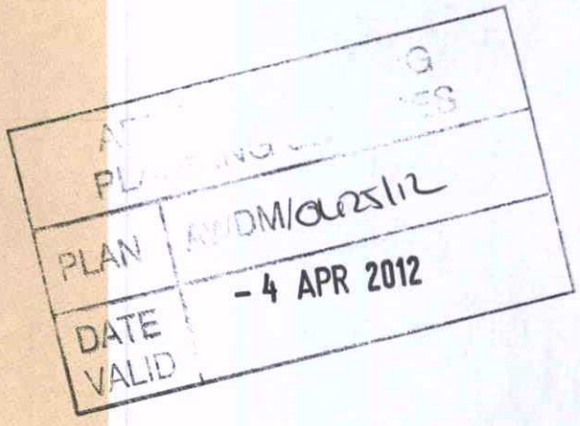
PLAINVIEW PLANNING



Planning Statement

Change of use from live/work to residential

8 Broad Reach

Shoreham-by-Sea

BN43 5EY

28th March 2012

Reference: 10025 AR/IWC/JN

Plainview Planning Ltd, 5 Strand Court, Bath Road, Cheltenham, GL53 7LW

T 01242 501003 **E** info@plainview.co.uk

www.plainview.co.uk

PLAINVIEW PLANNING

Contents

1. INTRODUCTION AND BACKGROUND 1
2. SITE CONTEXT 2
3. PROPOSAL 5
4. PLANNING HISTORY 5
5. JUSTIFICATION 6
6. PLANNING POLICY 13
7. CONCLUSION 15

List of Figures

Figure 1: No.8 Semi-detached block 2
Figure 2: View of live/work units (red) with application block in background (green) 3
Figure 3: Context and Character of the Ropetackle Development 3
Figure 4: Extract from Proposals Map 4
Figure 5: Alleged uses of Live/Work units on Broad Reach following survey by applicant 7

1. INTRODUCTION AND BACKGROUND

1.1 This planning statement has been produced in support of a planning application seeking to change the use of a unit designated as "live/work" to an entirely C3 residential use. The applicant seeks to regularise a situation which has been identified by planning enforcement. Currently, the "work" designated area is being used as a domestic kitchen. It is important to note however that the applicant does work from home and has a large office upstairs.

1.2 The unit in question was part of a larger scheme known as "Ropetackle" granted permission under reference number SU/216/02/TP on the 3rd April 2003. Condition 35 of the permission states that;

"The accommodation within the 'live/work units' denoted on the plans as work areas or offices shall be used solely for the purposes within Use Class B1 'business' and the associated residential accommodation shall be occupied solely by persons (including their dependants) working on the same premises."

1.3 Due to this condition, a change of use is now sought. This change will be justified via discussion of the following key points;

(1) The live/work use is inappropriate;

(2) Condition 35 is flawed;

(3) That there is an oversupply of office accommodation in the locality;

(4) The potential for any precedent effect is defendable.

1.4 A section 73 application to remove the condition is not believed to be appropriate in this case as it would result in the condition being removed for all the live/work properties in Ropetackle. It is part of our case that the individual character of the application site justifies the change of use.

2. SITE CONTEXT

2.1 The site is located within a relatively recent perimeter block style development known as "Ropetackle", on the east bank of the Adur, south west Shoreham-by-Sea. The site is highly accessible, with easy access to bus stops on Old Shoreham Road (A283), which connects directly to the High Street and the town centre 400 metres to the east. Shoreham-by-Sea rail station is located 900 metres (10 minute walk) to the east.

2.2 Broad Reach (road) runs the external circumference of Ropetackle. No. 8 (the application site) is the only semi-detached block within the development (Figures 1 & 2), and sits outside the defined perimeter block to the north west of the development, and adjacent to a block of 4 storey flats, again outside the perimeter, known as "Bowline Point" (Figure 3). The application block commands an impressive view over the Adur and beyond, and retains an individual character when compared to the mass of development surrounding it.

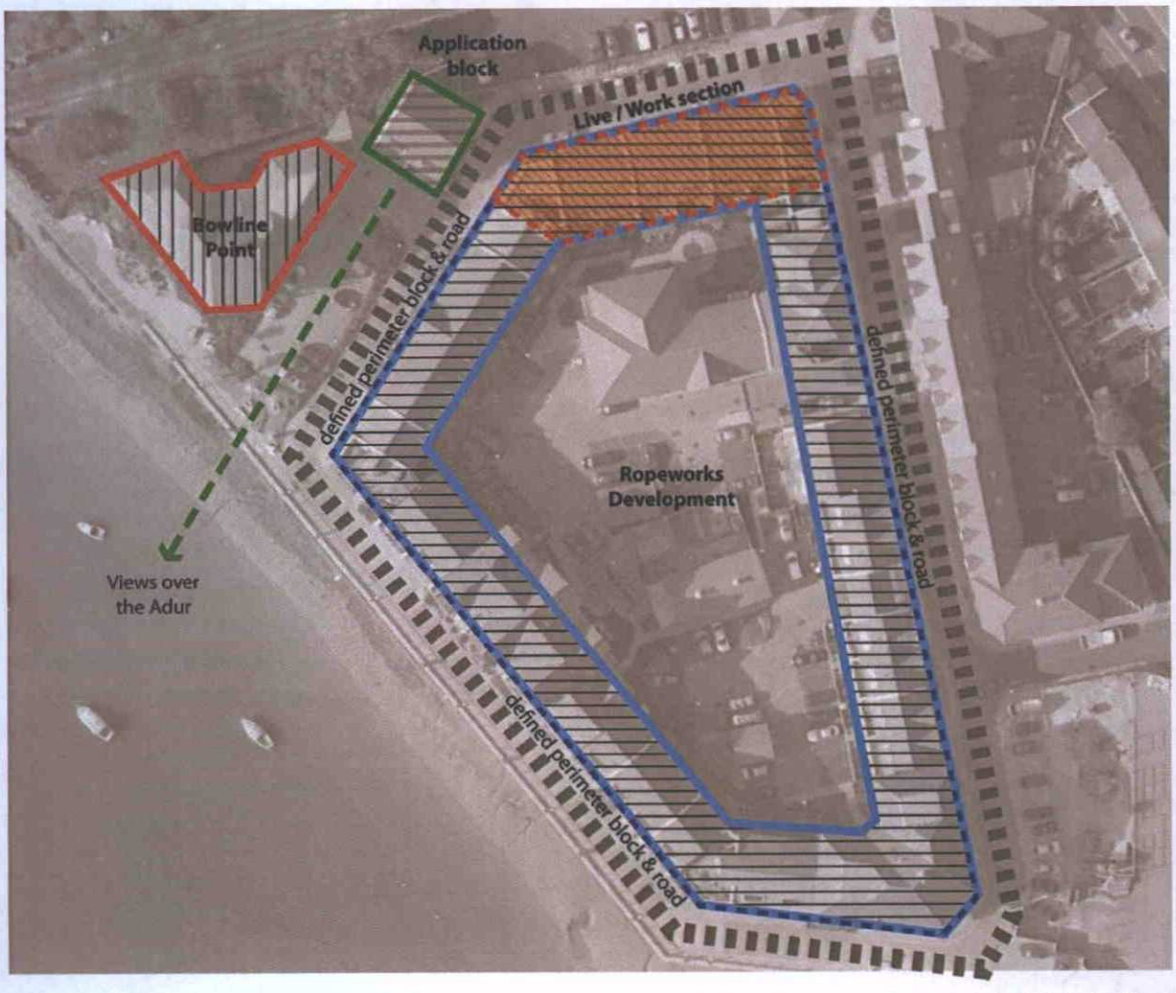
Figure 1: No.8 Semi-detached block



Figure 2: View of live/work units (red) with application block in background (green)

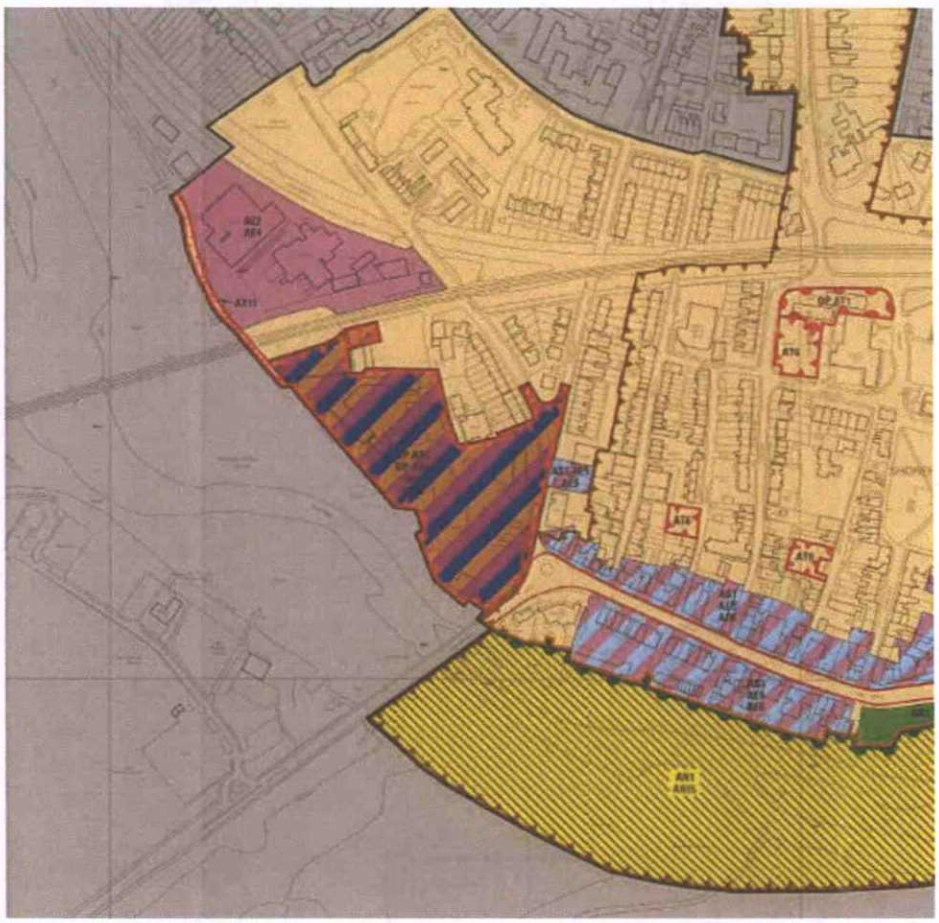


Figure 3: Context and Character of the Ropetackle Development



2.3 The adopted proposals map (Figure 4) indicates the site is within a Housing Area (relating to unsaved Policy AH1), Business, Industry and Warehousing Area (Policy DP.AE4), Shopping Area (Policy DP.AS1) and Policy Area AT10.

Figure 4: Extract from Proposals Map



SUMMARY

The site is very accessible, has great connections to local facilities, and the town centre is a short walk to the east. It is therefore in a sustainable location for housing. Within the Ropetackle development, the unit carries an individual and separate definable character when compared to adjacent buildings and areas.

3. PROPOSAL

3.1 The proposal involves changing the use of the whole unit to C3 residential. Currently, a B1 use has been imposed on areas defined as "live/work" via Condition 35 of application reference SU/216/02/TP.

4. PLANNING HISTORY

4.1 The application property is showing no planning history on the Adur District Council Public Access System. The Ropetackle development was granted in April 2003 and sought;

Mixed Use Development Inc. Residential, Retail, Office, Community Facility Cafe/Bar; Car Parking, Access Rd & River Walk/Cycleway | Ropetackle & Adj Land (Incl. Railway Arches, 25 & 27 Old Shoreham Road) Shoreham-By-Sea West Sussex

4.2 There are two other applications worthy of note in the Ropetackle development;

4.3 **Application Ref: ADC/0419/07** at No. 1 Broad Reach sought variation of condition 35 of planning permission SU/216/02 to allow the existing live-work unit to be occupied as separate office and residential units at No. 1 Broad Reach Ropetackle. This application was refused on the 13th September 2007 due to worries that a separate office unconnected to the residential use would create excessive traffic and cause parking issues.

4.4 **Application Ref: ADC/0259/09** at No. 10 Broad Reach sought an application for certificate of lawfulness for existing use of live-work unit wholly and exclusively as a dwellinghouse. This application was granted on 13th August 2009 based on the 4 year residential use rule.

5. JUSTIFICATION

5.1 The following five points will be analysed and discussed to show that the application development is acceptable given policies in the adopted development plan, and other material considerations;

(1) The live/work use is inappropriate;

(2) Condition 35 is flawed;

(3) That there is an oversupply of office accommodation in the locality;

(4) The potential for any precedent effect is defendable.

〉 *1. The live/work use is inappropriate*

5.2 This application and those at No.1 and No. 10 show that officially there is dissatisfaction with the current arrangement with the live/work units on Broad Reach. Analysis on the ground also shows that, unofficially, the use of the units is not taking place as intended by the restrictive Condition 35.

5.3 Figure 2 shows the results of a site visit attempting to determine the uses of each property on Broad Reach. We can only be sure that two of the 10 properties are using them for the intended live/work purpose, three are unlikely, and five we are relatively confident are not.

5.4 The facilities on site are also restrictive for a B1 use. Part of the intention of Live/Work is to provide a space for work which goes beyond what would usually be permitted as ancillary to a residential use. In judging when a B1 use goes beyond ancillary, one would likely first look into whether any extra people have been employed, and secondly, the comings and goings of people and deliveries.

5.5 On Broad Reach, there is no extra customer/employee parking, minimal space to take deliveries safely on residential streets, in close proximity to other residential units, and a

totally residential style which is indistinguishable from the surrounding prevailing style. Thus, the current environment at Broad Reach is not appropriate for B1 uses beyond that which would be permitted as ancillary to a residential use, making the condition and the designation of Live/Work units appear unnecessary. The live/work concept is an interesting planning phenomena, but generally exists to massage employment floorspace figures rather than to offer up a genuine planning solution.

5.6 The lack of demand for a non ancillary (more intensive) B1 use of the units is clearly evidenced in Figure 2 which is partly the result of the issues raised above. We believe the inappropriateness of the live/work units here to be a strong material consideration.

Figure 5: Alleged uses of Live/Work units on Broad Reach following survey by applicant

Property Number on Broad Reach	Complying with Condition 35?	Current use
1	YES	B1 and Residential
2	UNLIKELY	Residential
3	UNLIKELY	Residential
4	UNLIKEY	Not strictly B1 use – Possibly A1
5	NO	Residential
6	YES	B1 and Residential
7	NO	Residential
8	NO	This application – B1 space currently a kitchen
9	NO	Residential
10	NO	Residential

〉 2. Condition 35 is flawed

5.7 Condition 35, and its reasoning is as follows;

"The accommodation within the 'live/work units' denoted on the plans as work areas or offices shall be used solely for the purposes within Use Class B1 'business' and the associated residential accommodation shall be occupied solely by persons (including their dependants) working on the same premises."

Reason: in the interests of residential amenity and to maintain a 'mixed' use development in accordance with the requirements of the Planning Brief and policies AG1 of Adur District Local Plan and G1 of the West Sussex Structure Plan.

5.8 Circular 11/95; *Use of conditions in planning permission* lays down six criteria to test the validity of planning conditions. In addition to these, the Secretary of State take the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. A condition has to be;

(1) necessary;

(2) relevant to planning;

(3) relevant to the development to be permitted;

(4) enforceable;

(5) precise; and

(6) reasonable in all other respects.

5.9 We contend that the condition is invalid based on criteria 1 *necessary*; 4 *enforceability*; 5 *preciseness;* and 6 *reasonable in all other respects* for the following reasons.

Necessity

5.10 Paragraph 15 of Circular 11/95 states that;

"as a matter of policy, a condition ought not to be imposed unless there is a definite need for it. The same principles, of course, must be applied in dealing with applications for the removal of a condition under section 73 or section 73A: a condition should not be retained unless there are sound and clear-cut reasons for doing so."

5.11 As evidenced above in point 1, the use of the condition is unnecessary given that there is clearly not a "definite" need for it. The use of the B1 areas is highly unlikely to be intensified beyond anything that would be considered purely ancillary to the residential use.

5.12 Furthermore, the policies quoted for the condition reason are not relevant. AG1 of the Adur District Local relates to development boundaries, and G1 of the West Sussex Structure Plan which is not statutory has been replaced.

A condition has to be enforceable

5.13 Paragraph 26 of Circular 11/95 states that; "A condition should not be imposed if it cannot be enforced."

5.14 Condition 35 has to be treated as one condition for the purposes of removing it via a hypothetical Section 73 application, which means the whole condition has to be enforceable. We can however break the condition down into two parts, each of which intrinsically relies on the other to exist and therefore fundamentally important.

(1) The accommodation within the 'live/work units' denoted on the plans as work areas or offices shall be used solely for the purposes within Use Class B1 'business'...

(2) ...and the associated residential accommodation shall be occupied solely by persons (including their dependants) working on the same premises."

5.15 Part 1 of the condition we agree is enforceable, but not precise enough which will be discussed later. The same however cannot be said of part 2. Firstly the wording is unclear. One assumes dependants do not have to work on the premises as it would be entirely unreasonable to ask the young and elderly dependants to commit to a working schedule. Assuming "dependants" do not have to work, and considering the application property is also a three bedroom family dwelling, it would seem impossible or "intolerably" difficult to determine;

(a) When someone such as a young person stops being a "dependant";

(b) If a non dependant gets another job;

(c) If a non dependant retires;

(d) If the main occupier becomes incapacitated as a result of accident or illness;

(e) If the main occupier becomes bankrupt.

Preciseness

5.16 The residential aspect of the unit is accessed through the area designated for B1 use. This seemingly results in an unavoidable breach of the condition as technically the B1 use area is being used for residential purposes.

Reasonable in all other respects

5.17 Condition 35 can also be seen to be too restrictive. Many standard live/work conditions involve percentages, for example; a condition is usually imposed to ensure that the designated workspace of each L/W unit is at no time less than between 25% and 40% of the total floor area and its area of residential floorspace at no time exceeds between 60% and 75%.

5.18 This sort of condition prevents uncertainty as to whether a material change of use from a L/W unit to residential use has taken place if, for example, part of the workshop is converted to a

living room. Such a condition also allows for a flexible interchange of living and working space and for the use of the unit solely for B1 purposes if required.

3. The oversupply of office accommodation

5.19 The Adur Employment Land Review Update (June 2011) was produced as an evidence base to support the creation of the Districts Local Development Framework documents, and represents the most up to date analysis of the employment land availability.

5.20 The document estimates that the take-up of office floorspace in the District was 1,800 square metres between 2001 and 2010, whilst remarking that there is a very small office market in the District. It concludes by stating that based on past take up, and with levels of vacant office space standing at 6,600 square metres as of Spring 2011, that there is 3.7 years of office supply in the District.

5.21 The document also identifies that there will be a surplus of 3,772 square metres of office floor space over the 2011-2028 period based on 2011 employment growth forecasts by Cambridge Econometrics. It does however highlight the lack of quality sites to meet current market demands, which is required to attract higher value added activities and inward investment. This is seen as a key priority to have translated into the LDF.

5.22 As highlighted in section 1 (live/work is inappropriate) and 2 (the condition is flawed), the site would be considered "poor quality" for business purposes. Based on the criteria set out in Adur Employment Land Review Update, there would be serious conflict with:

- The nature and intensity of use of the employment site;
- Road Access and Parking;
- Physical constraints to the development and use of this site;
- Nature of any bad neighbour or adjacency issues.

5.23 Site constraints and context have ultimately lead to two planning applications for changes to the current B1 imposition, as well as a number of units adjacent to the site using them in

conflict to Condition 35. The current situation of a B1/C3 split at the application site is not appropriate or required in terms of current District employment space requirements.

5.24 Paragraph 22 of the now adopted NPPF states that;

"Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities."

5.25 The NPPF statement is highly relevant in this regard given the age of the Local Plan, and a different use should be approved given the information above. The NPPF is covered in more detail in Section 6 of this Statement.

5. Defending the precedent effect

5.26 Notwithstanding the above, we are aware that the council may also be concerned that a precedent will be set, causing a chain reaction of similar applications on Broad Reach. The application site is however quite separate from the main terrace of live/work units, and is of an entirely different style and character. Section 2 – 'Site Context', and Figure 3 of this statement highlights this fact with the key points being that the unit is part of the only semi-detached block in Ropetackle, is of an entirely individual style, and commands a long vista over the Adur River.

SUMMARY

The designation of the live/work units is inappropriate and not necessary in this location, and enforcement of the condition is not possible. It would be difficult for any B1 use to occur within the units which would be considered beyond simply ancillary to the residential use. The lack of facilities, and the restrictive nature of the condition means the work/office space provided is considered "poor quality", and this is translated to the current evidenced use of the units in contravention of the condition. There is also evidenced an oversupply of B1 office space in the district.

6. PLANNING POLICY

6.1 The National Planning Policy Framework (NPPF) was published on the 27th of March 2012 and states that in decision making, where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would **significantly and demonstrably** outweigh the benefits, when assessed against the policies in the NPPF as a whole; or
- specific policies in the NPPF indicate development should be restricted.

6.2 The Adur District Local Plan was adopted in 1996, and could therefore be considered out of date in line with the NPPF principle. Although preparation has started on more relevant development plans, none have yet been submitted for examination or adopted.

6.3 Of the saved Local Plan policies, none relate to the retention of B1 office uses, or otherwise create a conflict with this application. Indeed, there is some support for the proposal. Policy AH6 states that;

POLICY AH6

Within the built-up area planning permission will not be granted for development (including changes of use) that would lead to the loss of existing dwellings and other types of residential accommodation, especially those which are suitable for small households and households not easily able to compete in the existing housing market.

6.4 The explanatory text for the policy affirms the importance in safeguarding the District's existing residential accommodation from reduction by loss to unnecessary non-residential development either by way of redevelopment or by change of use. In enacting Condition 35, families would apparently have to move out of the property or severely displace if one of a number of potential situations occurred such as a "non dependant" getting another job, bankruptcy, retirement, or death.

6.5 This displacement leads effectively to the loss of a home for the occupiers and unnecessary housing pressure elsewhere. This process is highly unsustainable, and therefore conflicts with the Local Plan and the NPPF.

6.6 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. The NPPF strongly supports this notion, especially where local plans are out-of-date.

6.7 Section 5 of this Statement presents strong material considerations in favour of this application based on the inappropriateness of its use, the flawed condition, and the oversupply of office space.

6.8 In line with the NPPF statement, there is nothing which would **significantly and demonstrably** outweigh the benefits of this application which could cause a refusal, nor are there any specific policies in the NPPF which indicate that this development should be restricted.

7. CONCLUSION

7.1 We seek to justify the change of use of the property via the following key points;

(1) The live/work use is inappropriate;

(2) Condition 35 is flawed;

(3) That there is an oversupply of office accommodation in the locality;

(4) The potential for any precedent effect is defendable.

7.2 Each point represents a strong material consideration in support of the application. Furthermore, there are seemingly no conflicting policies in the current adopted development plan to refuse the application, and there is support in National Policy; especially on sustainability grounds.

7.3 The NPPF states that when a local plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of doing so would **significantly and demonstrably** outweigh the benefits. No part of this application can result in such an effect.

7.4 With all points considered, we respectfully ask that the application is approved.

Submission Notes

Invalid applications are frustrating for applicant and LPA alike. We have reviewed the national and local application requirements and believe that we have submitted necessary documentation to enable the determination of this application.

Should you disagree, we urge you to read Section 3 of Guidance on Information Requirements and Validation (DCLG, March 2010). The key points are:

- Some LPAs have been too rigid in their validation requirements (para 26);
- LPAs should make proportionate requests for information (para 27);
- In some circumstances the supporting information may be inadequate or its quality may be a concern. These are not grounds for invalidating applications. (para 34).

We consider that we have included enough information to enable this application to be determined and we would welcome prompt validation.

Feedback

At Plainview Planning we want to help LPA and Inspectorate staff to process our applications and appeals as easily as possible.

In an effort to improve our documentation and processes, we are inviting feedback from all LPA and Inspectorate case officers via a very short online feedback form. All submissions are anonymous.

Click here to let us know what you think about our planning submissions
Or simply type **goo.gl/kmjzH** into your web browser.

Thank you.

Copyright

The contents of this document must not be copied or reproduced in whole or in part without the written consent of Plainview Planning Ltd.

Copyright © 2011 Plainview Planning Ltd. All Rights Reserved
Registered Office: The Courtyard, 30 Worthing Road, Horsham, West Sussex RH12 1SL Registered in England and Wales No. 06563374