

COMMITTEE REPORT

BY THE DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOOD SERVICES
READING BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE: 9 September 2015

ITEM NO. 10

Ward: Abbey

Application No: 151012/FUL

Address: The Forbury Hotel Apartments, Abbey Square, Reading,

Proposal: Change of use from 17 residential units (Class C3) to 17 serviced accommodation units (Class C1) (Retrospective)

Applicant: Forbury Properties Limited

Date Valid: 25 June 2015

Application target decision date: 24 September 2015

26 week date: 24 December 2015

RECOMMENDATION

Delegate to Head of Planning, Development and Regulatory Services to (i) GRANT full planning permission subject to completion of a S106 legal agreement or (ii) to REFUSE permission should the legal agreement not be completed by the 24 September 2015 (unless the Head of Planning, Development and Regulatory Services agrees to a later date for completion of the legal agreement). The legal agreement to secure the following:

1. Use

- no Apartment shall be used for any use other than as a C1 Use
- no Apartment shall be used or occupied as a residential dwelling or dwelling-house (C3 Use)
- not to let or licence for occupation or permit or suffer occupation of any of the Apartments for a continuous period of more than 3 months to the same occupier or occupiers
- other than those Customers staying in accordance with the above, not to let or licence for occupation or permit or suffer occupation of any Apartment for a continuous period for more than 3 months to the same Customer or Customers
- not to require Customers of any Apartment to agree to any minimum period of occupation (of whatever duration)
- to provide to the Council within 14 days of written request evidence regarding the use or occupation of the Apartments or any of them

And the following condition:

1. Approved plans

Informatives:

1. Positive and Proactive Statement
2. S106 Legal Agreement

1. INTRODUCTION

- 1.1 The application site comprises a ten storey building located on the north side of Abbey Square. It is understood that the building was constructed from 2004, with

completion occurring in 2008. Vehicular access is possible beneath an undercroft on Abbey Square. The building has a part brick and part olive green render finish. Although planning permission was granted for 17 residential units in 2002, the applicant has detailed that since the completion of the development it has never been occupied for residential use, and instead been 17 serviced accommodation units in association with the hotel operations at the adjoining Forbury Hotel. File notes from a withdrawn application at the site in late 2006 also detail this to be the case (see relevant history section below).

- 1.2 The surrounding area comprises a broad mix of uses. The applicant is also the owner of the adjacent Forbury Hotel, which is to the north of the application site and fronts onto The Forbury. The Forbury Hotel is Grade II listed (Shire Hall) and was converted for hotel use following permissions 05/00124/FUL & 05/00125/LBC, opening for use in 2008. Deliveries, servicing and some parking is shared with the use/access at the application site on Abbey Square. To the east is the Grade II listed Reading Crown Court, with The Blade office building to the south-east and St Lawrence House residential flats to the south. To the west is Davidson House, which is predominantly offices, with retail uses at ground floor. To the west of Davidson House is the Market Place / London Street Conservation Area. The site is within the Central Core and Office Core of the Reading Central Area Action Plan. It is located marginally outside of the primary shopping area and a tall buildings cluster.
- 1.3 This application is required to be considered at Planning Applications Committee by virtue of being a 'major' application, involving a change of use of over 1000sqm (1689sqm) of floorspace.
- 1.4 The location site in relation to the wider area is shown below at figure 1.1, together with external site photographs and an aerial view.



Figure 1.1 - Site Location Plan (not to scale)



Site photographs showing, left, front (south) elevation and, right, rear (north) elevation.



Aerial view looking north (prior to the construction of The Blade)

2. PROPOSALS

- 2.1 Full planning permission is sought for the change of use of the ground and nine floor building from 17 residential units (Class C3) to 17 serviced accommodation units (Class C1). The serviced accommodation units are already in use and therefore this application is retrospective in nature, seeking to regularise the use in operation at the site since 2008. The Class C1 use class is wider than just hotels, and also includes apart-hotels / serviced accommodation whereby the units offer short-term self-contained accommodation. Such accommodation is for a maximum period of three months in this instance and is run in conjunction with the adjoining Forbury Hotel.
- 2.2 During the course of the application the demise of ground floor cycle and waste storage facilities has been clarified. Furthermore, a revised plan detailing the accurate existing internal layout of the top floor unit has been provided. Both were sought and received following an officer site visit on 28/07/2015. It was seen that there are 17 2-bed units in total (2 per level at floor 1-8, with a single unit at floor 9). A vehicular parking space and cycle space is provided for each unit at ground floor level.

3. PLANNING HISTORY

Application site

- 3.1 01/01064/FUL - Development of seventeen apartments in new building on ground floor and nine floors. Granted following completion of S106 Legal Agreement 22/11/2002. Correspondence from September 2004 regarding alterations to the approved development detail that works had commenced on site.
- 3.2 06/01311/FUL - Change of use of top floor from a residential apartment (C3 Use Class) to a health and beauty suite (Sui Generis Use). Withdrawn prior to decision being issued. Correspondence between the planning officer and agent details the intention to use the building as serviced accommodation.
- 3.3 150549/CLP - Certificate of Lawfulness for Proposed Use as serviced apartments. Withdrawn following officer advice that a certificate would not be issued and instead full planning permission should be sought.

Other relevant applications elsewhere in the borough

- 3.4 "The Faculty", 23-27 London Road - 09/01339/FUL - Retrospective change of use from flats (Use class C3) to 15 serviced apartments (Use class C1) comprising 12 x 1 bedroom units and 3 x 2/3 bedroom units with associated parking. Granted 9/10/2009.
- 3.5 100 Kings Road - 12/00519/FUL - Change of use and external modifications to vacant former office building (B1 use) to provide a 57 suite apart-hotel (C1 use) and gymnasium (D2 use). Granted following completion of S106 Legal Agreement 27/6/2012.

4. CONSULTATIONS

i) RBC - Transport

- 4.1 The Transport Development Control section advise that the site is located within Zone 1, Central Core Area, of the Borough's Revised Parking Standards and Design

SPD. This area lies at the very heart of the of the town centre consisting primarily of retail and commercial office developments. This area is defined as having the best transport hubs, with both the main railway station and bus interchanges. This area also contains the largest proportion of public car parking spaces.

4.2 Access to the site is provided off Abbey Square and leads to the car park, which is located immediately under and to the rear of the building. The car park makes provision for 19 spaces and is operated by the hotel staff for the joint use of the hotel and the serviced apartments. There is no potential for any on street parking to occur due to the extensive on-street parking regulations and the site is located outside of a residents parking area.

4.3 Given the above there are no objections to this proposal.

ii) RBC Environmental Health - Environmental Protection

4.4 The Environmental Protection Team has confirmed no objection to the proposals and that there have been no complaints recorded in relation to the site since its construction.

iii) Public consultation

4.5 Notification letters were sent to adjoining occupiers on The Forbury and Abbey Square on 30/06/2015. Three site notices (two on Abbey Square and one on The Forbury) were erected on 06/07/2015, expiring on 27/06/2015. A press notice was published on 09/07/2015, expiring on 30/07/2015. No responses have been received.

5. LEGAL AND PLANNING POLICY CONTEXT

5.1 Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority to have special regard to the desirability of preserving a listed building or its setting or any features of special interest which it possesses.

5.2 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority in the exercise of its functions to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

5.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy framework (NPPF) - among them the 'presumption in favour of sustainable development'.

5.4 The application has been assessed against the following policies:

5.5 National

National Planning Policy Framework
National Planning Policy Guidance

**5.6 Reading Borough Local Development Framework
Core Strategy (2008) (Altered 2015)
CS1 Sustainable Construction and Design**

- CS2 Waste Minimisation
- CS5 Inclusive Access
- CS9 Infrastructure, Services, Resources and Amenities
- CS17 Protecting the Existing Housing Stock
- CS20 Implementation of the Reading Transport Strategy
- CS24 Car / Cycle Parking
- CS25 Scale and Location of Retail, Leisure and Cultural Development
- CS33 Protection and Enhancement of the Historic Environment

5.7 Reading Central Area Action Plan (2009)

- RC6 Definition of the Centre
- RC7 Leisure, Cultural and Tourism in the Centre
- RC9 Living in the Centre

5.8 Sites and Detailed Policies Document (2012) (Altered 2015)

- SD1 Presumption in Favour of Sustainable Development
- DM1 Adaptation to Climate Change
- DM2 Decentralised Energy
- DM3 Infrastructure Planning
- DM4 Safeguarding Amenity
- DM12 Access, Traffic and Highway Related Matters
- Section 11.4 Apart-Hotels

5.6 Reading Borough Council Supplementary Planning Documents

- Revised Parking Standards and Design SPD (2011)
- Sustainable Design and Construction SPD (2011)

6. APPRAISAL

Main issues

6.1 The main issues are considered to be:

- i) The principle of development - land use matters
- ii) Impact of the proposed use, including amenity & quality of accommodation
- iii) Transport
- iv) Other matters - Sustainability
- CIL

i) The principle of development - land use matters

6.2 The first consideration in any change of use application is establishing the principle of the loss of the existing lawful use. In this case there is a general presumption against the loss of residential accommodation, with Policy CS17 stating:

“planning permission will not be granted for any loss of residential accommodation or land unless there are exceptional circumstances. Planning permission will not be granted for a net loss in the number of residential units or gross floor area”

6.3 Given the proposals seek the loss of the lawful 17 residential units at the building, the applicant has therefore provided information which it considers amounts to exceptional circumstances. The information submitted is summarised as follows:

- The property has been in use as serviced apartments for a considerable length of time (since 2008) without generating complaints or problems, is in a generally sustainable location and would have been likely to have been granted planning permission when the use began.
- The application is similar to a number of other permissions which have been granted by the Council in the same circumstances: Change of use from residential to serviced apartment (retrospective), 23-27 London Road, Reading (09/01339/FUL) - this was considered under the same policy terms as are currently in force; Apart-hotel, Crown Street, Reading (05/00776/FUL); Apart-hotel, London Street, Reading (05/01049/FUL). As such, there have been similar authorised uses in the vicinity not causing local concern or environmental problems.
- Physically the building does not have any materially greater impact upon the surrounding properties as there is no deviation from the building previously approved.
- Statement by the maintenance manager of the hotel, who has worked at the building in excess of 15 years and confirms the status of the apartments for that use and not as a residential use at any time.
- The apartment building is combined with the hotel building for business rating purposes, (demand notice for 2014/2015 provided), and the apartment building has never been separately rated from the hotel for any purpose whatsoever.
- All services are provided by the Forbury Hotel. The apartments are serviced regularly by the 24/7 hotel staff. Occupiers can use all the hotel facilities.
- Over the last 12 months, the apartments have been on average 76% occupied at any one time. The breakdown of occupancy is as follows: 47% of stays are up to 7 nights; 32% of stays are of 1-2 weeks; 21% of stays are in excess of 2 weeks.
- The use is available for all, although the majority of occupiers are business users. Copies of reservation forms from August / September 2008 are provided, detailing stays of between 6 and 17 nights.

6.4 The supporting information has been duly considered by officers. In short, it is considered that this is sufficient to amount to exceptional circumstances and therefore support the principle of the loss of the existing residential use. In particular, the evidence to suggest a residential use has never been occupied in practice (consistent with records associated with a withdrawn application in 2006 - see history section above) and the site has instead only been occupied as serviced apartments for 7 years (3 years short of immunity from enforcement action) is considered to be pertinent. In addition, a similar scenario arose at the "The Faculty", 23-27 London Road, which was granted under the same Core Strategy and Central Area Action Plan policy context which remains in place today. Furthermore, at the time of the 01/01064/FUL residential permission at the site there was no policy requirement for affordable housing (given not more than 25 units were proposed), meaning the 'loss' of residential would not include any loss of affordable housing in this instance. With all of these factors and others cited by the applicant in mind, it is therefore considered that the loss of residential accommodation can be suitably justified in this particular instance.

6.5 Moving on to consider the principle of the proposed use, Policy RC9v details that "where proposals for serviced apartments fall outside the C3 use class, they will be located within the central core". This reinforces the general policy position of RC6, which details that "other main town centre uses will take place in the Central Core" and Policy CS25, whereby "main town centre leisure and cultural development will take place in... the centre of Reading". The site is located within the Central Core of the Reading Central Area Action Plan and, accordingly, the

principle of the proposed serviced accommodation units is therefore considered appropriate.

ii) **Impact of the proposed use, including amenity & quality of accommodation**

- 6.6 Policy RC9v states that serviced apartment uses “will not be permitted unless the duration of occupation of residents is restricted, to ensure the units are used on a short stay basis and not as residential flats, and information monitoring the implementation of this restriction is regularly supplied”. Paragraph 8.34 of the supporting text to the policy elaborates by stating that “these uses should not be seen as a way of introducing flats by the back door” and seeking to restrict the use by Section 106 Legal Agreement or condition. Section 11.4 of the Sites and Detailed Policies document also echoes this requirement. In the cases cited by the applicant it is acknowledged that the use was restricted by condition, but a more recent example at 100 Kings Road in 2012 (see history section above for details) secured the proposed use via legal agreement. In this case, in particular owing to the policy requirement for the monitoring of the use restriction, it is not considered possible to secure all elements via condition. Instead, it is considered more appropriate to secure the following via Section 106 Legal Agreement:
- no Apartment shall be used for any use other than as a C1 Use
 - no Apartment shall be used or occupied as a residential dwelling or dwelling-house (C3 Use)
 - not to let or licence for occupation or permit or suffer occupation of any of the Apartments for a continuous period of more than 3 months to the same occupier or occupiers
 - other than those Customers staying in accordance with the above, not to let or licence for occupation or permit or suffer occupation of any Apartment for a continuous period for more than 3 months to the same Customer or Customers
 - not to require Customers of any Apartment to agree to any minimum period of occupation (of whatever duration)
 - to provide to the Council within 14 days of written request evidence regarding the use or occupation of the Apartments or any of them
- 6.7 With these measures it place it is considered that the proposed use would accord with the relevant local policy and guidance. It is considered that this obligation would comply with the National Planning Policy Framework and Community Infrastructure Levy (CIL) in that it would be: i) necessary to make the development acceptable in planning terms, ii) directly related to the development and iii) fairly and reasonably related in scale and kind to the development.
- 6.8 In terms of the impact of the proposed use on existing and future nearby occupiers and users, it is not considered to raise any significant issues. There are residential occupiers located to the south of the site, at St Lawrence House, whereby there is a degree of mutual overlooking between the two buildings. However, this is not considered to worsen as a result of the change of use from the lawful existing use to the proposed (existing) use. Furthermore, as already demonstrated by Environmental Protection colleagues, there have been no noise complaints since the construction of the building. The other immediate neighbouring buildings are not in residential use and no significant adverse amenity impacts are envisaged.
- 6.9 With regard to the quality of accommodation for future short term occupiers, it is considered that the units, as witnessed during an officer site visit, provide a high standard living environment. Each of the units provides spacious and well serviced accommodation, with regularly sized rooms and good levels of outlook and

external terraces. A lift within the building provides access to all floors, with step free access being possible via the rear entrance. Step free access from Abbey Square was not possible owing to archaeological constraints which arose during the course of the original permission. In addition, suitable cycle and waste storage facilities are provided for the occupiers. With the applicant also confirming that guests have use of the hotel facilities during their stays, it is evident that a suitable standard of accommodation is provided at the site.

iii) Transport

- 6.10 Based on the Transport Development Control observations (detailed at section 4i) above), there are no transport based concerns with the proposals.

iv) Other matters

Sustainability & energy

- 6.11 Given the application is a 'major' application, in line with Policies CS1, DM1 and DM2, information regarding sustainability and energy has been submitted with the application. However, given the nature of the proposal (being retrospective and having been in use for 7 years) it is not considered feasible to insist on full BREEAM standards to be sought or Decentralised Energy measures to be incorporated. Instead the applicant has submitted commentary detailing how the building complies with sustainability/energy standards. For example, the applicant has detailed how the building was built in line with 2005 Building Regulations for a residential use, which are more stringent than those for commercial uses. In addition, it is stated that water/energy use is minimised throughout the building with water/energy saving appliances. As such, in this particular instance, it is considered that the applicant, through commentary submitted with the application, has sufficiently demonstrated the sustainability and energy principles incorporated within the building accord with the general thrust of the relevant policies. It is not considered necessary to secure any further details via condition in the context of these particular proposals.

Community Infrastructure Levy (CIL)

- 6.12 The applicant duly completed a CIL liability form as part of the submission of this application. On the basis of the information submitted the proposal would not be CIL liable.

v) Equality

- 6.20 In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation. It is considered that there is no indication or evidence that the protected groups have or will have different needs, experiences, issues and priorities in relation to this particular application.

7. CONCLUSION

- 7.1 The proposals are considered to be acceptable within the context of national and local planning policies, as detailed in the appraisal above. As such, full planning

permission is recommended for approval, subject to the recommended condition and completion of the S106 Legal Agreement.

Plans and documents:

Site Location Plan, as received 10/06/15

11416/10 Block Plan, as received 10/06/15

11416.50 Site Plan, as received 21/08/15

1385/GA/001 Rev H Ground Floor Plan General Arrangement, as received 21/08/15

1385/GA/003 Rev H Floor Plan Floors 1-8 inclusive General Arrangement, as received 25/06/15

1385/GA/004 Rev G Top Floor Plan General Arrangement, as received 21/08/15

Planning, Design and Access Statement 11416/pda/v3 dated June 2015 by David Bennett Architect, as received 10/06/15

5x Registration forms for The Forbury, dated August & September 2008, as received 10/06/15

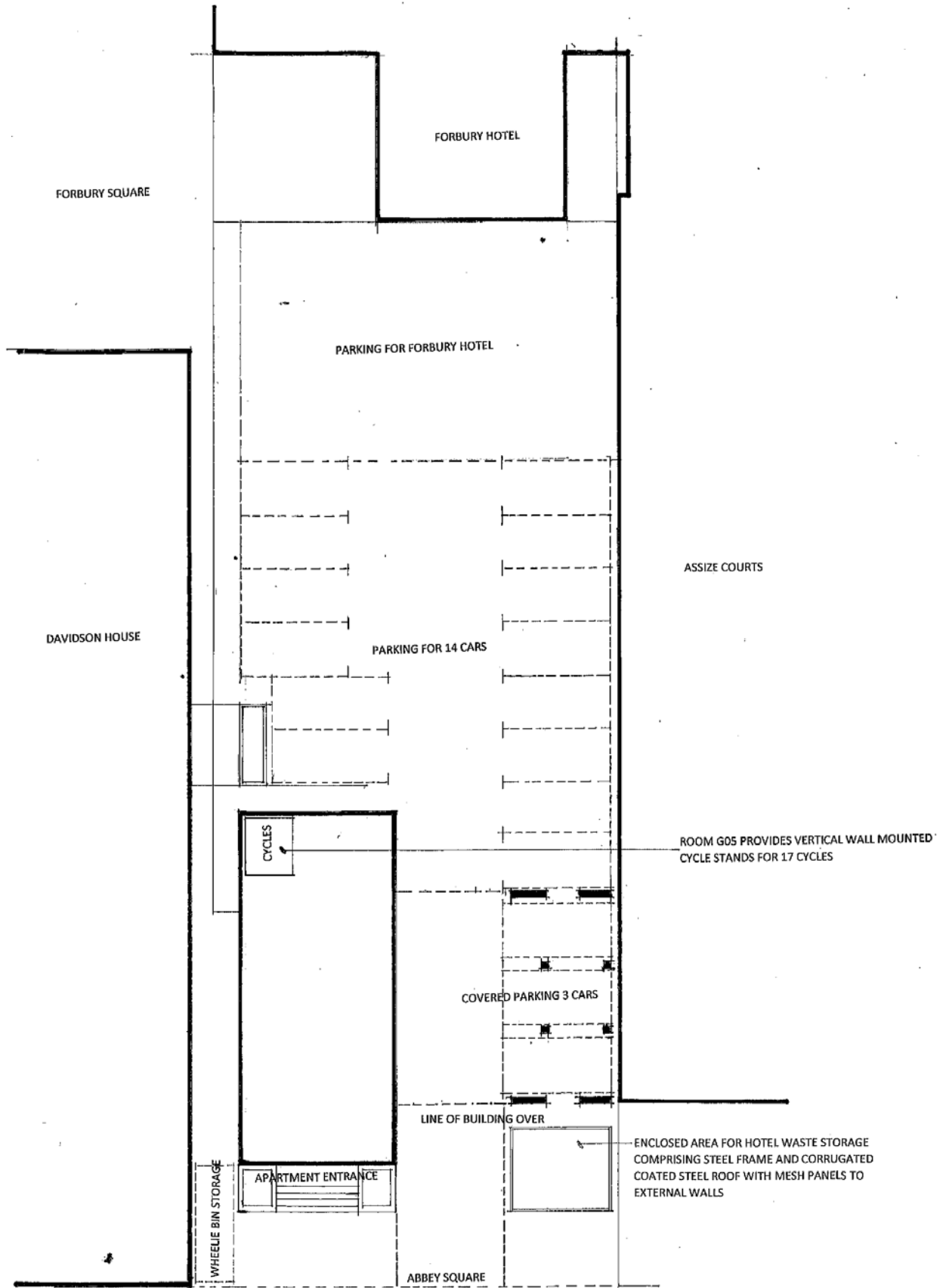
Business Rates form Ref 1004211026001, as received 10/06/15

Letter from The Forbury Maintenance Manager, dated & received 10/06/15

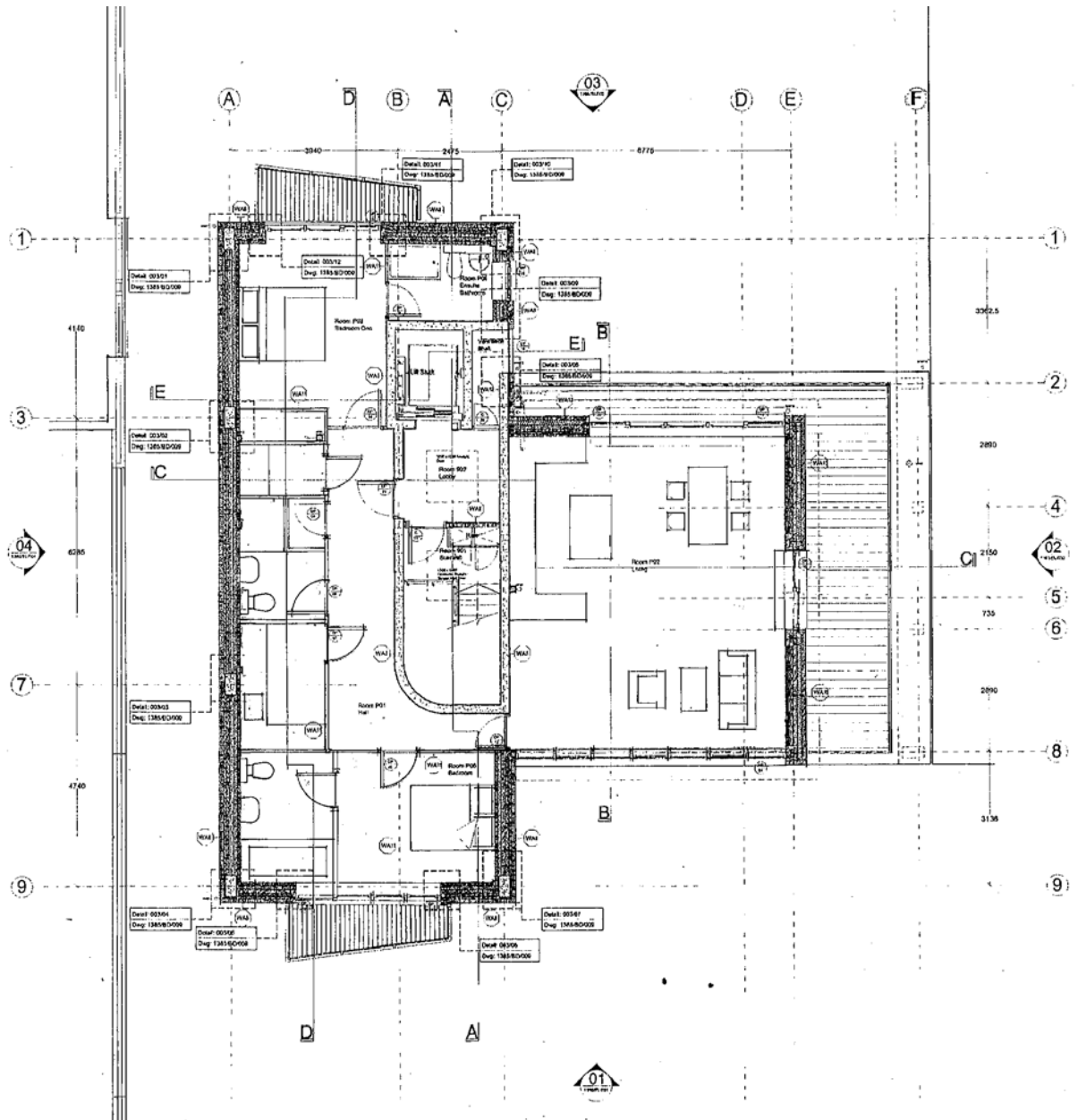
Energy Efficiency Statement 11416/ees/v3 dated June 2015 by David Bennett Architect, as received 24/06/15

Sustainability Statement 11416/sus/v3 dated June 2015 by David Bennett Architect, as received 24/06/15

Case Officer: Jonathan Markwell



Site Plan



Top floor plan