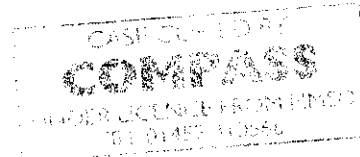


Appeal Decisions

Hearing held on 28 May 2002

by C F Trewick MRICS

an Inspector appointed by the First Secretary of State



The Planning Inspectorate
4/05 Gate Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date

18 JUN 2002

Appeal A - ref: APP/Q1445/C/01/1080128

Vale Works, 35a Vale Road, Portslade, Brighton

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.
- The appeal is made by Policy Best Ltd against an enforcement notice issued by Brighton & Hove Council.
- The Council's reference is: BH2001/01678/FP.
- The notice was issued on 30 November 2001. The breach of planning control as alleged in the notice is: "change of use of the land without prior permission from B1 (light industrial) to B8 (warehousing) with trade counter".
- The notice requires the cessation of the B8 (warehousing) use of the land, within a period of 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) & (g) of the 1990 Act.

Summary of Decision: The appeal is allowed, the notice is quashed and planning permission is granted subject to conditions, as set out in the Formal Decision below.

Appeal B - ref: APP/Q1445/A/01/1078387

Vale Works, 35a Vale Road, Portslade, Brighton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Policy Best Ltd against the decision of Brighton & Hove Council.
- The application (ref: BH2001/01678/FP), dated 17 July 2001, was refused by notice dated 17 October 2001.
- The application sought permission for: "change of use from B1 (light industrial) to B8 (warehouse) including trade sales (retrospective)".

Summary of Decision: The appeal is allowed, and planning permission is granted subject to conditions, as set out in the Formal Decision below.

Preliminary matter

1. At the Hearing, an application for costs was made by Policy Best Ltd against the Council. That application is the subject of a separate Decision.

Background to the appeals

2. 35a Vale Road is a commercial property in a side-street off the Boundary Road district shopping centre. It comprises a two-storey building of about 1000m², set back behind a forecourt. Until about 3 years ago, the premises had apparently been used for light industrial purposes (what would now fall within Class B1). The premises then lay vacant

for six months or so. They were then occupied by the present appellant, a firm which provides parts and accessories for motor vehicles. Most of the property (both floors) is used for storage of these items, some of which are bulky, although part of the first floor is used as administrative offices for the company (which has other properties in Sussex). The parts and accessories are distributed to the trade by the company's own vans, and there is a sales area in the front corner of the building.

3. This use was commenced without planning permission, and an application for retrospective permission was submitted in July 2001. Permission was refused, and that decision is the subject of appeal B. Subsequent to the refusal, the Council issued an enforcement notice in respect of the unauthorised use, and it is this notice that is the subject of appeal A. The appeal on ground (a) against the enforcement notice and the appeal against the refusal of permission are both concerned with the same question: should planning permission be granted for this use? So, it is convenient to deal with them as one item.

APPEAL A (ground (a) only) & APPEAL B

Planning policy

4. The Development Plan for the purposes of section 54A of the 1990 Act comprises the East Sussex and Brighton and Hove Structure Plan (approved in 1999) and the Hove Borough Local Plan (adopted in 1995). Judging from the refusal notice and the enforcement notice, the key policies in these Plans are E5 & E7 of the Structure Plan, and BE1, EM1 & TR17 of the Local Plan.
5. Policy E5 indicates that the loss of existing suitably located industrial and commercial sites (B1, B2 & B8) to other uses will be resisted. Policy E7 says that support will generally be given for the re-use of vacant or underused employment premises for appropriate business, industrial or warehousing activities. Policy EM1 states that permission will not be granted where there would be a significant loss of land used for B1 or B2 purposes, except where it involves a B8 use, and certain criteria are met.
6. The two remaining Local Plan policies are not concerned specifically with employment matters. BE1 sets out general guidelines presumably applicable to all proposals. One of these is that adequate provision should be made for access by people with disabilities. TR17 says that all development should avoid any increase in dangers to users of adjacent pavements or roads.
7. There is also the emerging Brighton & Hove Local Plan to be taken into account, although it is only at Second Deposit stage. This new Plan is at too early a stage for its intended policies to be regarded as firmly established. However, I take the Council's point that the adopted Local Plan is now quite old, pre-dating the Structure Plan, and, indeed, that both of the statutory Plans pre-date the latest national policy guidance for this part of England – RPG9 (published March 2001). So, the emerging Plan is a material consideration. In the notices, the Council referred to the following policies in this Plan: employment policies EM3 & EM7; shopping policy SR2; transportation policies TR1, TR12 & TR17; and amenity policy QD27.

The main issues

8. From this policy background, and from all that I have read, heard and seen in relation to these appeals, I consider that there are 3 main issues to be examined. Firstly, there is the

extent of the retail sales element here; secondly, how the use of these premises stands in relation to employment policies; and finally the implications of the use in traffic terms.

The first issue

9. This first issue is significant because the Council says that a retail use is being carried on, and that this is causing harm to the nearby shopping centre. This objection seems to stem from policy SR2 in the emerging Local Plan, which relates specifically to retail development. I should firstly say that it is by no means unusual for properties involved in the distribution of goods to include a trade counter, where those in that particular trade can call personally and buy what they need. A small business, for example, may only need a single small item, or need an item urgently. In the case of this property, I see no reason to doubt that the 'over-the-counter' trade sales is ancillary to this storage and distribution use.
10. It is not denied by the appellant that it is not only members of the motor trade who call at the premises and buy parts or accessories. In short, there is nothing to stop the general public buying items here. The 'trade counter' area does have merchandise on display; it is suggested that some of these items may be of more interest to the ordinary car owner than to the trade (for example, small cans of touch-up paint and car polish), but it is an arguable point. The fact is that the size of this 'trade counter' area is small, both in itself and by comparison with the whole of the premises. My view is that the retail element here is not strong enough to be regarded as a separate use, and therefore policy SR2 does not fall to be considered. In any event, I am given no evidence that whatever non-trade sales take place here are on a scale which has harmed the vitality or viability of the nearby shopping centre (one of the tests in policy SR2).
11. However, the Council does have a point in saying that this 'trade counter' area could be expanded in the future, if the development of the retail element were found to be advantageous in business terms. A more prominent role for retail sales could well be inappropriate in shopping policy terms. However, the appellant is willing to accept the imposition of a condition which would have the effect of restricting the size of the 'trade counter' area to its present limits. To my mind, that would meet the Council's concerns in this respect.

The second issue

12. Given that the primary use being carried on here falls within Class B8, I find nothing within the Structure Plan policies that militates against such a use of these premises. The purpose of policy E5 is to protect the level of existing stock of B1, B2 and B8 premises, but does not seek to prevent changes within those categories. So, I do not see that the replacement of a B1 use by a B8 use is in conflict with that policy. Since this B8 use has involved the re-use of vacant employment premises, it would also seem to be in accord with policy E7. However, I appreciate that the policy requires the new use to be 'appropriate', and the Council argues that, particularly because of the retail and traffic implications, this use is not appropriate. I have already dealt with the retail aspect, and I shall be dealing with traffic and parking concerns shortly.
13. Policy EM1 of the adopted Local Plan is aimed at maintaining land in industrial or business uses, but it expressly states that a change to Class B8 would be allowed, where 3 criteria are met. One of these is that the number of jobs to be created would not be significantly less than those likely to be generated by a B1 or B2 use. The Council's own statistics indicate

that some 25 employees could be expected if these premises were in B1 industrial use; yet it is not disputed that 24 persons are currently employed at these premises. The difference is so small as to be insignificant. A further criterion is that there should be no unacceptable increase in traffic noise, nor should there be an adverse effect on the amenities of nearby residents. There is no suggestion that this use generates excessive traffic noise, nor, indeed, any other sort of noise. The Council did suggest that increased traffic and the parking and delivery difficulties at the site played some part in harming residents' amenity. I shall be dealing with these difficulties in a moment, but I am not convinced that they actually have a direct effect on the amenity of nearby residents in their homes, provided that delivery and dispatch of goods does not occur at anti-social times. In this respect, the appellant concurs with the suggestion of a condition to prevent such activities outside normal work hours. The remaining criterion is that "there are no other suitable sites available". It is not clear what steps are required from an applicant to satisfy this requirement. It is suggested that the help of the Council's Economic Development Department could have been sought, but I see no reference in the Plan to that being necessary. Nor is it clear what is meant by "suitable". Looking at the accompanying text to the policy, maybe it means "appropriate". If so, then my remarks at the end of paragraph 12 above also apply here.

14. As for the policies in the emerging Local Plan, EM3 is also concerned with retaining the best sites for industry. It says that land in industrial use will not be released for other uses unless the site has been assessed and found to be unsuitable for modern employment needs. Again, however, the policy seems to regard "industrial" as including B8, so I do not consider that this B8 use falls foul of this policy. I appreciate that this policy would come into play if the use here were to be considered as a retail use (although the Council appears to accept that the internal layout of the building - reasonably described as 'labyrinthine' - limits its suitability for use for modern industrial purposes). However, I have concluded that the retail element here is not strong enough to constitute a separate use.
15. Policy EM7 of the emerging Plan states that permission for primary warehouse development will not be permitted unless it can be demonstrated that such proposals are essential to the economy of Brighton and Hove, and unless they comply with several other criteria. It is not clear in what way a proposal has to be demonstrated as being essential to the local economy. I note that Policy Best Ltd is a Sussex firm that started in a property in Worthing in 1995, and has since expanded into having 8 units in the area, with a current annual turnover of £5million, and 84 employees. However, the text accompanying EM7 indicates to me that the rationale behind the policy is the need to maximise employment levels. Yet, as already referred to, the actual employment figures for this use are equivalent to those that might be expected from a B1 industrial use. The policy further indicates that permission will not be granted if there are existing vacant, or proposed permitted, warehouse premises in the city, but the appellant has provided details of his search for suitable premises over a period of 6 months or so. Of the other criteria within this policy, I have already looked at residential amenity (also raised by policy QD27), and I shall be looking at the matter of traffic and parking next.

The third issue

16. So, conscious that policy TR17 of the adopted Local Plan says that all development should avoid any increase in dangers to users of adjacent pavements or roads, I now turn to consider this matter. Firstly, I should say that the Council has concentrated on the difficulties caused by the size of the forecourt to these premises. Although letters from a

nearby resident and from local Councillors have remarked on the traffic problems in the area generally, there is little comment by the Council on this aspect, so I assume it is not seen as an objection of great weight. All I will say is that Vale Road is close to the shopping centre, and seems to carry some traffic leaving that area. It tends to be heavily parked, but it is relatively wide, and for much of its length is a one-way street. I heard that, as far as Norway Street (opposite the site), it forms part of an agreed route for Tesco delivery lorries. So, although this use of the appeal premises is likely to generate more traffic than, say, a B1 use, there is no compelling evidence before me that it causes undue difficulties in the wider area.

17. Therefore, I shall consider in more detail the matter of parking and deliveries at the site. There can be no argument that the forecourt area available to these premises is restricted in area. Currently, there are marked spaces for some 14 cars. Policy TR17 in the emerging Local Plan refers to the Council's parking standards - these would require the provision, as a maximum, of 20 car spaces for B8 premises of this size. So, the actual provision is some way short of this.
18. Moreover, and perhaps more seriously, the arrangement of these parking spaces is highly unsatisfactory. It depends almost entirely on double-parking, such that many of the vehicles could not be moved without the shuffling-around of other vehicles. Because of the limited size of the forecourt, this would necessitate more movements than would otherwise be necessary across the pavement and into the carriageway.
19. There is also the matter of deliveries to the premises. There is a delivery area on the west side of the property's frontage. However, it appears to me that there is a likelihood that access to it will be blocked by parked cars, and, even if not, there is evidence that some delivery drivers tend to simply park in the road outside, at times partly on the pavement.
20. Criticism of these arrangements is understandable. Vehicles moving backwards and forwards across the pavement and in the carriageway, plus the occasional use of the pavement by parked vehicles, add to the hazards faced by pedestrians and other motorists alike. In my view, the alternative layout suggested by Mr Waller (plan no: P100B) would go some way to improving the parking and delivery situation (it also includes a parking space for a disabled driver). As Mr Stride rightly pointed out, it would still have failings. But it should be borne in mind that less than ideal consequences could also arise were the premises to revert to the Council's favoured use, B1, over which the Council would have no planning control. In fact, the Council's parking standards would normally require 26 spaces for a B1 use, rather than the 20 for a B8 use. Deliveries and other vehicle movements would still be likely to occur with a B1 use, although I accept that a storage and distribution use such as this one is likely to have a greater total of such movements.
21. To my mind, the reality is that the parking and delivery arrangements should not be judged against some ideal, as might be the case where a brand-new development is taking place. The present site has obvious limitations, but are the consequences of this B8 use (incorporating some forecourt layout improvements, which can be made the subject of a condition) so much worse than possible alternative B1 uses as to warrant refusing permission? From all the evidence before me, I am not persuaded that they are.
22. As for policy TR1 of the emerging Local Plan, it states that development proposals "should provide for the demand for travel they create", which I have just dealt with, but it goes on to say that, in so providing, they should maximise the use of more sustainable alternatives to

the car. In this respect, I note the relatively low provision of on-site parking, the parking restrictions that are in place around the site, and the close proximity to railway station and bus routes. These factors may combine to discourage use of the car, in favour of use of public transport, as well as cycles (to which emerging policy TR12 refers), even though the very limited forecourt space does not allow specific provision to be made for cycle parking.

Overall conclusions

23. So, I find that the case put forward by the Council is insufficiently compelling to warrant refusing planning permission. I have taken into account all other points that have been raised, whether by the Council, or by others, but none outweigh the considerations set out above which have led to my conclusion. Accordingly, I shall allow the appeals. The enforcement notice will be quashed, and permission granted for the use, subject to conditions as referred to in paragraphs 11, 13 & 20 above. It follows that there is no need to consider Appeal A under grounds (f) & (g).

FORMAL DECISIONS

Appeal A

24. In exercise of the powers transferred to me, I allow the appeal and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under section 177(5) of the Act, as amended, for the development already carried out, namely the change of use from B1 (light industrial) to B8 (warehousing) with trade counter, at Vale Works, 35a, Vale Road, Portslade, as shown on the plan attached to the notice, subject to the following conditions:
- 1) The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of any one of the following requirements not being met:
 - i) within 3 months of the date of this decision, there shall have been submitted for the approval of the local planning authority schemes showing (a) the limits of the trade counter section of the building that is open to customers, and (b) a revised layout of the parking and delivery area within the forecourt; and the said schemes shall include timetables for their implementation.
 - ii) within 11 months of the date of this decision, the schemes shall have been approved by the local planning authority or, if the local planning authority fail to approve either scheme, or fail to give a decision within the prescribed period an appeal shall have been lodged and accepted by the First Secretary of State.
 - iii) in the event of an appeal being made in pursuance of requirement (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the First Secretary of State.
 - iv) all works comprised in the schemes as approved shall have been implemented, and completed within the timetable set out in the approved scheme.
 - 2) That part of the trade counter section of the building that is open to customers shall not be extended beyond the limits shown on the approved scheme referred to in condition (1) above.

- ## Appeal B

- ### Further information

- C. Forewick

THOSE INVOLVED IN THE HEARING

FOR THE APPELLANT

Mr S Bareham	- of DMH Planning, of Brighton
Mr G E Waller	- of The Civil Engineering Practice, of Portslade
Mr K Anderson	- of Policy Best Ltd, the appellant company

FOR THE COUNCIL

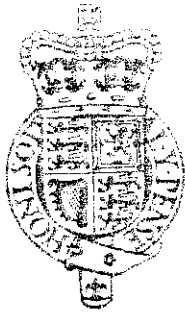
Ms E Thomas	- Senior Planning Officer (Planning Policy)
Mr J Ford	- Senior Planning Officer (Development Control)
Ms N Astley	- Enforcement Officer
Mr B A Stride	- Principal Traffic Engineer

FURTHER DOCUMENTS AT THE HEARING

Document 1 – attendance sheet

Document 2 – set of 6 photos of the premises

Document 3 – the text of the costs application



Costs Decision

Hearing held on 28 May 2002

by C F Trewick MRICS

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date 18 JUN 2002

Costs application relating to appeals in respect of 35a Vale Road, Portslade, Brighton
Appeal refs: APP/Q1445/C/01/1080128 & A/01/1078387

- The application is made under the Town and Country Planning Act 1990, sections 78, 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Policy Best Ltd for an award of costs against Brighton & Hove Council.
- The hearing was in connection with appeals against an enforcement notice and a refusal of permission relating to a change of use of the premises to Class B8 (warehouse).

Summary of Decision: The application is allowed in the terms set out below in the Formal Decision and Costs Order.

The submissions for the appellant

1. The application is made on the grounds that the Council's reasoning in relation to their objections to this use amounts to unreasonable behaviour. The Council's objections cover 4 matters: loss of B1/B2 floorspace, retail impact, impact on amenity, and highway considerations.
2. None of the policies cited require an applicant to show that the premises are unsuitable for B1/B2 use. In fact, the relevant policies make no distinction between B1, B2 or B8. So, the change of use cannot be contrary to these policies. In any event, the Council appears to have ignored the applicant's letter (dated 4 September 2001) supporting the application, which set out details of the poor condition and layout of the building, and explained the difficulties the letting agents had experienced in finding new tenants.
3. The Council's concern in respect of loss of industrial floorspace seems to be because other uses would produce higher levels of employment. The Council says that B1 use could reasonably be expected to result in 25 jobs. The Council was aware that the premises did in fact accommodate 24 jobs (although there is no record that this information was passed to a consultee, the Economic Development Section, which seemed to be under the impression that there were only 20 employees). In the decision report, the case officer said that, if it were in B1 use, the number of staff would be "likely to be significantly greater than the 24 in the applicant's business". The difference between 24 and 25 is not significant. The refusal of permission was therefore based on a flawed analysis of the relevant issues.
4. The Council's Planning Policy section has regarded the premises as a DIY retail warehouse, and assumed that Halfords and Kwikfit are competitors. As a visit to the property would have confirmed, the property is not a retail warehouse. The applicants stated that they supply parts to, not compete with, Halfords and Kwikfit. This mistaken information has led the Council to an incorrect assessment of the impact of this use on the nearby shopping centre. Moreover, there has been an incorrect assumption that the retail element could grow

uncontrolled. But if retail sales grew to a point where they ceased to be ancillary to the B8 use, then there would be a material change of use requiring permission. Alternatively, a condition could have been imposed to limit the retail operation.

5. Although policies relating to harm to residents' amenity were cited in the reason for refusal, letters from consultees have not suggested any such harm. The Council has produced no evidence to support the contention that there is conflict with policy, albeit that, at the hearing, it was suggested that it was the traffic problems which could be harming the residents' quality of life.
6. In asserting that the use does not provide for sufficient parking, there has been no reference to the fact that parking standards are maximum figures, and that the previous B1 use produced a higher requirement than a B8 use.
7. It is reasonable to assume that the Council's decision to issue an enforcement notice was based on the same considerations as with the refusal of permission. A planning authority is not bound to take enforcement action just because there is no permission. Nor was there any discussion with the appellant, to see if a compromise solution was possible.
8. In summary, the Council has incorrectly assessed this matter, leading to an unnecessary refusal of permission and enforcement notice. This is unreasonable behaviour which has led to the appellant incurring unnecessary costs in pursuing these appeals

The response by the Council

9. The application should be resisted. The decision notice on the application was clear, and the reasons given for refusal were precise and relevant. It was reasonable to stress the policies in the new Local Plan, since it is more up-to-date than the adopted Local Plan, which itself is older than the Structure Plan. The emerging Local Plan is in conformity with the Structure Plan, so it follows, for example, that policy EM7 is in line with approved policy. There is no evidence that this use is essential to the city's economy. The lead given in the latest planning policy is clear – concentrate on B1, and no more B8. Anyone applying for B8 had to look at employment figures. In this respect, the first application by the appellant had stated that there were 20 employees. It has to be recognised that B1 office use of this property would be likely to generate 55 jobs (using Serplan figures). Marketing the premises for 6 months is not adequate to establish unsuitability for industrial use – for example, it was not apparently advertised in the Commercial Property Register. As for policy SR2, the onus is on the appellant to assure the Council that a use will not harm nearby shopping areas. In this case, the Council still does not know what percentage of turnover is retail sales. On the highways aspect, it was reasonable to query the parking layout, irrespective of the fact that, for a B1 use, there would normally have been a similar or higher requirement. It is accepted that an enforcement notice should not be used simply to remedy lack of permission. But in this case, there were substantial objections to the planning application, so it was necessary to follow up the refusal with an enforcement notice.

My conclusions

10. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only

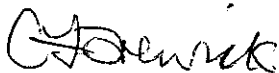
be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.

11. I agree with the appellant that, in respect of a B8 use of these premises, there is no policy requirement for it to be determined whether the premises were unsuitable for B1/B2 use. However, it seems to me that the underlying basis for the Council's objection lay in its assessment that the retail element here was on such a scale as to amount to a separate use. This would lead to policy EM3 of the emerging Local Plan coming into play. This requires an assessment to determine whether the site is unsuitable for modern industrial purposes. There does seem to have been some carelessness in how the officers came to the view that there is a separate retail use, and, of course, it is not the conclusion I reached in the matter. However, such conclusions are largely a matter of judgement, and, on balance, I do not consider that the Council acted unreasonably in that respect.
12. Of more concern to me is the fact that its reason for refusal, repeated almost word-for-word in the enforcement notice, says categorically that "it is considered that harm is caused by the retail sales element to the Boundary Road/Station Road district shopping centre". Yet no evidence has been produced at any stage to back up this assertion. There seems to have been an assumption that harm was being caused. To my mind, that does amount to unreasonable behaviour. Indeed, it seems to me that the Council has subsequently shifted its position to one of being more concerned, not with the present situation, but with the opportunity that exists for expansion of the retail side of the business. This is a justifiable concern, but it could have been met by a condition attached to a permission.
13. I agree with the appellant on the matter of employment figures. One of the requirements of policy EM1, echoed by emerging policy EM7, relates to employment generation. However, by any standard, the difference between 25 jobs (expected for B1/B2 industry) and 24 (actual for this use) is insignificant. There was clearly some confusion on the Council's part regarding the number of jobs here, but the letter from Policy Best Ltd, accompanying the application, makes it very clear (in bold letters) that there are 24 staff. No evidence has been put before me to show that the Council had evidence at the time of their decision to contradict this figure. It was unreasonable of the Council to take the position that there was a significant difference in employment terms.
14. On the matter of parking and loading/unloading, I consider that the Council was on firmer ground. It seems to me that the Council's concern did not so much revolve around the number of spaces, but rather the disposition of the spaces. The forecourt arrangements are clearly unsatisfactory, and I do not doubt that the shuffling on cars on and off the forecourt, and the manoeuvring and parking of delivery lorries, has repercussions for other users of road and pavement. Whether this amounts to a loss of amenity for nearby residents is arguable, and for the Council to seek better forecourt arrangements, for safety reasons, is justifiable - that has been recognised by the appellant, who has produced an alternative layout. The Council remains dissatisfied by that, and it is not unreasonable to take that view, even though the conclusion I reached was that a degree of pragmatism is justified, because of the limited potential for further improvement, and the existence of a fall-back position (return to uncontrolled B1 use).
15. Thus, my conclusion is that, in taking these decisions (refusing permission and issuing the enforcement notice), the Council has acted unreasonably in 2 respects: firstly, in stating that the use caused harm to the nearby shopping centre, and, secondly, in its comparisons

between employment levels as between the current B8 use and alternative B1/B2 industrial uses. As a result of the Council's actions in these respects, I do not doubt that the appellant has had to incur some unnecessary expense. I therefore conclude that an award of partial costs is justified.

Formal Decision and Costs Order

16. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990, and all other powers enabling me in that behalf, I HEREBY ORDER that Brighton & Hove Council shall pay to Policy Best Ltd the costs of the appeal proceedings, limited to those costs incurred in dealing with the following matters: (a) the alleged harm to the nearby shopping centre, and (b) the comparison between actual employment levels and those likely with B1/B2 uses. Such costs are to be assessed in the Supreme Court Costs Office if not agreed.
17. The proceedings concerned (a) an appeal under section 78 of the Town and Country Planning Act 1990 against the refusal of planning permission for change of use from B1 (light industrial) to B8 (warehouse) with trade counter (retrospective), at Vale Works, 35a Vale Road, Portslade, Brighton, and (b) an appeal under section 174 of the Town and Country Planning Act 1990 against an enforcement notice relating to the same change of use at these premises.
18. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Supreme Court Costs Office is enclosed.



Inspector