

**BRIGHTON & HOVE CITY COUNCIL**  
**PLANNING APPLICATIONS SUB-COMMITTEE**

**2.00PM - 7 APRIL 2004**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

Present: Councillor Carden (Chair); Councillors Forester, Hamilton, Hyde, K Norman, Older, Paskins, Pennington (Deputy Chair), Mrs Theobald (OS), Tonks, Watkins and Wells.

Co-opted Members: Mrs J Turner, Disabled Access Advisory Group (DAAG); Mr J Small, Conservation Areas Advisory Group (CAAG).

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**170. PROCEDURAL BUSINESS**

**170A. Declarations of Substitutes**

170.1 There were no substitutes.

**170B. Declarations of Interest**

170.2 There were no declarations of interest.

**170C. Exclusion of Press and Public**

170.3 The Sub-Committee considered whether the press and public should be excluded from the meeting during consideration of any of the items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Section 100A(3) of the Local Government Act 1972.

170.4 **RESOLVED** – That the press and public be not excluded from the meeting during consideration of any item appearing on the agenda.

**171. MINUTES**

171.1 **RESOLVED** - That subject to the foregoing amendments the minutes of the meeting held on 17 March 2004 be approved and signed by the Chair as a correct record of the proceedings.

## 172. PETITIONS

172.1 No petitions were received.

## 173. UPDATE ON DECISIONS DELEGATED TO OFFICERS AT PREVIOUS MEETINGS

### Application BH2003/03692/FP - Land r/o Whichelo Place

173.1 The Development Control Manager referred to Application BH2003/03692/FP suggesting that the terms of the proposed Section 106 Obligation agreement would need to be varied in line with a similar Obligation relating to two disabled persons bungalows in Maytree Walk, Hove. The Solicitor to the Sub-Committee confirmed that the requirements of the obligation as originally envisaged might not be acceptable to the applicant, but that a requirement that the property be allocated a wheelchair bound person or to the family of an individual had a disability or disease which would be likely to render them wheelchair bound in future would ensure that the spirit of the Sub-Committee's intention could be met. Councillors Hamilton and Watkins were of the view that the issue was one of ensuring that a sufficiently high rental value was obtained in order to recover additional the costs of providing a unit to the higher specification required by a wheelchair user, and that the Council's own nomination rights be revisited. Mrs Turner (DAAG) stated that she was concerned that there was a misunderstanding regarding how disabled units were allocated and means by which tenants received housing benefit towards the rent and urged that further talks take place with the relevant Housing Allocations Officers. The Solicitor explained that whilst a nomination could be received from a registered social landlord, that the Council itself could not insist on nomination rights.

173.2 Members were in agreement that this matter should be pursued with the applicant, but that in the event that a satisfactory agreement could not be reached that the matter be referred back to the Sub-Committee for their further consideration.

173.3 **RESOLVED** - That Officers be authorised to amend the wording of the Proposed Section 106 Obligation in respect of Application BH2003/03692/FP – Land r/o Whichelo Place be varied to reflect that applied to the two disabled dwellings at Maytree Walk and that this be used as the basis for further negotiations with the applicant. The matter to be referred back for further consideration by the Sub-Committee in the event that agreement cannot be reached.

173.4 In answer to questions relating to the site at 65-75 West Street, Application BH2001/00848/FP the Planning Officer confirmed that the funding for the affordable housing scheme for which approval had been given had not materialised and that a further application was awaited. It was noted that Enforcement notices had been served on the Tesco Store at Palmeira House, 82 Western Road and that supporting papers in order to prosecute were being prepared.

173.5 It was noted that Application BH2003/03056/FP, 8 Downside, Hove was likely to be withdrawn as the property had recently been sold.

173.6 **RESOLVED** - That the position be noted.

#### **174. TO CONSIDER THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

174.1 **RESOLVED** - That the following site visits be undertaken by the Sub-Committee prior to determining the applications:-

<u>APPLICATION</u>	<u>SITE</u>	<u>SUGGESTED BY</u>
* BH2004/00432/FP	Toilets, Queen's Park	Councillor Carden
BH2004/00281/FP	Brighton Rugby Club Waterhall	Development
Control Manager		

\*It was noted that this application had now been withdrawn and would not now be the subject of a site visit.

[**Note:** Item 176 sets out a full list of future site visits.]

#### **175. PLANS LIST APPLICATIONS, 7 APRIL 2004 (SEE MINUTE BOOK)**

##### **(i) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS OR APPLICATIONS DEPARTING FROM COUNCIL POLICY**

##### **Application BH2003/02082/FP, 9-11 The Upper Drive, Hove**

175.1 The Planning Officer referred to the proposal for the demolition of two dwellings and for the redevelopment of the site and the construction of 5 blocks to provide a total of 41 flats, of which 16, (roughly 40% ) would be affordable. Notwithstanding that the proposal had been amended several times in order to reduce its height, bulk and to produce a more contemporary design it was still considered to represent an over development of the site which would be out of character with the area, and detrimental to residential amenity.

175.2 Mrs Green spoke on behalf of objectors to the scheme referring to the over development of the site, to its poor design and to the lack of parking in an area where this was already at a premium.

175.3 Councillor Mrs Theobald stated that she considered the design to be poor and totally out of keeping with the surrounding area and in particular to the very poor level of accommodation that would be provided by the affordable element of the scheme which would be located at the rear of the site. Mr Small (CAAG) enquired whether given that the application had been amended and re-submitted on previous occasions and was likely to be so again, whether it would be possible for Officers to draw up a design brief for the site. The Development Control Manager explained that this could be investigated, but would be dependent on whether there was sufficient capacity to do so. In answer to queries from Councillor Older regarding whether there were in anomalies in requiring a "modern" or a "contemporary" design, it was explained that a "good" design solution was required for the site and in the view of the officers this had yet to be achieved.

175.3 **RESOLVED** - That Planning Permission be refused by the Council for the reasons set out in the report.

#### **Application BH2003/02691/FP, The Babylon Lounge, Kingsway, Hove**

175.4 The Planning Officer explained that the application was considered by the Sub-Committee at its meeting on 14 January 2004 following a site visit at which time it was resolved that this application together with BH2003/02803/CA for the demolition of a number of existing shelters should be deferred to enable Officers to address concerns raised by Councillors.

175.5 A subsequent meeting had been held with the applicants, however, no amendments had been submitted and appeals had been lodged against non-determination of both applications. The views of the Sub-Committee were now sought as to its likely decision should it have been in a position to determine the applications. These views would then form the basis of the Council's case at appeal. Reference was made to additional letters of objection received in respect of the proposals and to a further joint letter of objection received from the local Ward Councillors. A copy of the previous minute had also been provided to Members of the Sub-Committee for ease of reference.

175.6 Although there have been many objections, approval is recommended on the grounds that without redevelopment existing problems are likely to continue and the proposal provides an opportunity to regulate and control the use to safeguard neighbours' amenities. However, the applicants would first be required to enter into a Section 106 Planning Obligation, with a management plan to include staggered closing times of

the various facilities, the establishment of a residents' liaison group to act as a forum for resolving any ongoing operational problems and new taxi pick-up facilities; these measures would ameliorate existing and potential noise nuisance and disturbance from patrons leaving the premises. The design was also considered to be superior to the existing poorly maintained structure and would replace a building of little architectural merit with a modern design covering a slightly larger footprint. Photomontages indicating the current structure and what was proposed were displayed in order to facilitate comparison.

175.7 Councillor Wells stated that he regarded the proposed building to be of a poor design and was concerned that notwithstanding the staggered closing times of the various elements of the establishment that large numbers of patrons would be accessing the Kingsway very late at night. Notwithstanding that a taxi rank would be provided, patrons would not have a monopoly on taxis available in the locality and if taxis were not immediately available it was inevitable that individuals would exit using neighbouring streets and that there could be an even greater potential for noise and other nuisance than existed at present. Councillor Paskins concurred in this view and thought that in reality greater numbers could be leaving the premises at any one time than at present which could exacerbate existing problems. Reference was also made to the previously expressed concerns of the Police and to potential delays in deploying officers into the area in the event of any problems.

175.8 Councillor Tonks considered that the proposals represented a better seafront building than currently in situ and that the detailed conditions proposed would ensure that proper controls were put into place. The setting up of a residents liaison group would ensure that any recurring problems were addressed on an on-going basis.

175.9 Councillor Mrs Theobald stated that the main reasons the applications had been deferred had been in order to enable the applicants to seek to address the many issues and concerns raised by the Sub-Committee, residents and other consultees, it was very disappointing that they had chosen not to do so. Councillor Watkins echoed these concerns, considering that the attitude taken by the applicant and his agents was regrettable. Councillors Hyde and Older also referred to the poor quality of the proposed building, which in their view was also over massed and represented an over development of the site, stating that they would prefer a smaller better designed building. The current premises had become a night club by "stealth" and was not appropriately located, given its close proximity to a large number of residential properties. Although rigorous conditions were recommended to ensure proper controls were put into place (which did not currently exist), many Members remained of the view that the application was unacceptable. Councillor Pennington referred to the concerns raised by the Council's own Estates Surveyor regarding the manner in which the

establishment was currently operated and considered that these should be taken on board. Mr Small (CAAG) requested that should Members be minded to refuse the planning application, that the views expressed by CAAG and by Hove Civic Society could also be taken on board at appeal.

175.10 Members generally agreed that provided suitable replacement shelters could be achieved the demolition of those existing would be acceptable.

175.11 **RESOLVED** - That the Council is minded to refuse Planning Permission the Council on the grounds that the proposed development was contrary to policies SU10 of the Brighton and Hove Local Plan Second Deposit Draft in that it failed to support or enhance the character of the local area and that it was an excessive and inappropriate form of development, which constituted over development. Further, that any late night noise nuisance which could result from such activity would be detrimental to the amenity of neighbouring residential properties.

[**Note:** Councillor Hyde proposed that the application be refused, this was seconded by Councillor Older. On a vote Councillors Hyde, K Norman, Older, Paskins, Mrs Theobald, Watkins and Wells voted that the application should be refused. Councillors Carden (Chair), Forester, Hamilton, Pennington and Tonks voted that the application be granted. On a vote of 7 to 5 the application was refused on the grounds set out above].

#### **Application BH2003/02803/CA, The Babylon Lounge, Kingsway, Hove**

175.12 **RESOLVED** – That the Council would be minded to grant Conservation Area Consent subject to the following conditions and to informatives:

1. 00.03 – Conservation Area Consent.
2. The existing shelters shall not be demolished until a planning application for replacement shelters has been submitted to and approved by the Local Planning Authority and documentary evidence is produced to show that contracts have been entered into by the developer to ensure that building work is commenced within a period of six months following commencement of demolition.

**Reason:** To ensure the provision of satisfactory replacement shelters and to comply with policies BE8 of the Hove Borough Local Plan and HE6 of the Brighton and Hove Local Plan Second Deposit Draft.

#### **Informatives:**

1. This decision is based on drawing nos 3370/8 submitted on 21 August 2003.

2. This “minded to” decision to grant Conservation Area Consent has been taken having regard to the policies and proposals in the East Sussex and Brighton and Hove Structure Plan, Hove Borough Local Plan and Brighton and Hove Local Plan Second Deposit Draft set out below and to all relevant material considerations:

Hove Borough Local Plan

BE9 – Demolition in Conservation Areas

E12 – Removal of unsympathetic features.

Brighton and Hove Local Plan Second Deposit Draft

HE8 – Demolition in Conservation Areas.

**Application BH2004/00449/FP, 58a Islingword Place, Brighton**

175.13 It was noted that this application had been the subject of a site visit prior to the meeting. The Planning Officer referred to the previous application which had been refused (and subsequently dismissed on appeal) on the grounds of over-development with no excessive bulk with no private usable amenity space. The roof garden as proposed was acceptable particularly as measures had been proposed to ensure that unacceptable degrees of overlooking did not occur.

175.14 Mr Jarvis spoke as the applicant's agent in support of the application stating that the applicant had sought to be flexible and to address the concerns raised by neighbours and to ensure that neighbouring dwellings were not overlooked.

175.15 Councillor Edmond-Smith spoke as a local Ward Councillor on behalf of objectors stating that although they had no objections to the proposed dwelling in principle they were very concerned regarding the accuracy of the submitted drawings and in particular regarding overlooking from the roof garden and loss of privacy, and noise disturbance which could result. In recognising that Hanover was densely populated, if similar applications were to be considered in future and it was a condition that amenity space at roof top level if necessary was to be provided, careful consideration would need to be given to the effects that roof terraces could have upon neighbouring residents.

175.16 Councillor Paskins suggested that as potential use of the roof terrace appeared to be the issue causing concern that a condition restricting the use not after 9.30pm and not before 8.30am be applied.

175.17 Councillors Pennington and Forester did not consider it appropriate to condition use of a garden, but Councillor Mrs Theobald considered that

potential problems of noise and overlooking arising from the provision of roof level amenity space needed to be addressed.

175.18 Councillor Forester remained of the view that it was inappropriate for use of such a small space which amounted to little more than a balcony to be restricted by condition. The Development Control Manager explained that Members considered there to be sound planning reasons for applying such a condition and as such, the tests for applying a condition had been met.

175.19 Councillor Watkins stated that in his view when a garden was at first floor level or above this should be treated differently from an enclosed more conventional garden space given that there was far greater potential for noise nuisance and overlooking. Councillor Older was in agreement that it was appropriate to consider applying conditions when considering roof level amenity space.

175.20 **RESOLVED** - That planning permission be granted by the Council subject to the conditions set out in the report and to the addition of a condition that the roof level amenity space could not be used between 9.30pm and 8.30am.

[**Note 1:** Councillor Pennington wished it recorded that he had abstained from voting.]

[**Note 2:** Councillor Norman wished it recorded that he had voted against the application.]

**Application BH2003/03174/FP, Linwood House, Roedean Way, Rottingdean**

175.21 It was noted that this application had been the subject of a site visit prior to the meeting. The Planning Officer confirmed that whilst the immediate locality was not characterised by higher density development there was no objection to this in principle as it would make more effective and efficient use of a large site in accordance with central government policies. It was not considered that the development would cause demonstrable harm to the character or appearance of the locality. The scheme had been amended twice in order to seek to overcome concerns regarding its siting, scale, mass, design and layout.

175.22 Councillor Wells considered that in the proposed location the development would represent an over development which would be entirely out of keeping with the locality and, to the fact that if agreed it could set a precedent for further applications in the area which would destroy its character. Councillor Hyde concurred in this view stating that she was sure that the government targets referred to were not intended to result in the provision of additional accommodation at the cost of quality family dwelling



houses, she considered the Council should be required to agree a detailed policy to address this issue and that there should be a moratorium on considering such applications until an agreed policy had been put into place and referred to the letter to that effect that Members had received from Ivor Caplin MP. The proposed blocks were of such massing and design as to be totally at variance with the scale and design of the neighbouring family dwelling houses. Councillor's Older and Mrs Theobald referred to the potential loss of a family dwelling house and to the destruction of the essential character of the area that would result. Councillor Older also referred to the adjacent downland which was archaeologically sensitive and should be respected. Councillor Mrs Theobald also referred to the fact that off road parking would be provided in front of the development which was considered unsightly. Councillor's Tonks and Watkins referred to the existing building which was in their view ugly. The proposal would only be marginally bigger than the existing footprint and would not set a precedent, as any future applications would be judged on their individual merits.

175.23 Councillor Hyde re iterated her concerns raised at the previous meeting regarding the sale of the restrictive covenant for financial gain by the Council, which she considered was completely inappropriate given that the covenant had obviously been imposed in order to protect the unique character of the area. She considered the proposed development to be contrary to Policies QD2 and QD4 and to the sections of the Brighton & Hove Local Plan relating to the Built Environment.

175.24 The Development Control Manager confirmed that the existence or otherwise of a restrictive covenant had played no part in influencing the Officer's recommendations and the Solicitor confirmed that this issue was not a material planning consideration. Councillor Pennington suggested that the covenant could be out of date, particularly bearing in mind that the existing property had been constructed in the 1940's prior to introduction of modern planning controls.

175.25 **RESOLVED** - That Planning Permission be refused by the Council as it is contrary to Policies QD2 and QD4 Paragraph 3.8 of ENV2 of the Brighton Borough Plan, and that it does not respect and is out of character with the area and is detrimental to its visual amenity and is also contrary to the sections of the Brighton & Hove Local Plan relating to the built environment.

[**Note** : Councillor Hyde proposed that the application be refused on the grounds set out above. This was seconded by Councillor Mrs Theobald. On a vote Councillors Hyde, K Norman, Older, Mrs Theobald Watkins and Wells voted that the application should be refused. Councillors Carden (Chair), Forester, Pennington and Tonks voted that the application should be refused. Councillors Hamilton and Paskins abstained. On a vote of 6 to 4 the application was refused.

**Application BH2004/00202/FP & BH2004/00459/CA, Land r/o 21-22 Queen's Road, Brighton**

175.26 It was noted that this application had been the subject of a site visit prior to the meeting.

175.27 The Planning Officer referred to additional letters of objection that had been received. It was noted that the application had been the subject of a site visit prior to the meeting.

175.28 The Planning Officer referred to the previous appeal decision in respect of the site explaining that although that appeal had been dismissed, the Planning Inspector had been of the view that the scheme had only failed on design grounds. As with the previous scheme, permission was currently sought to develop the garden site to form one 3 bedroom and one 1 bedroom house. The revised design had sought to address the comments of the Planning Inspector and advice from Conservation Officers in using a basically traditional approach, adapted to deal with the complexities of the site. Both houses would have first floor terraces to the rear and share the central courtyard, within which a replacement tree would be planted. Cycle and bin stores would be within the central courtyard.

175.29 The footprint of the proposed building and the relationship with the adjoining buildings was virtually identical to the previous refusal, save for the front building line, which would be against the back edge of the twitten.

175.30 Mr Beresford spoke as an objector to the scheme expressing concerns that the scheme which was currently set further forward in the site than was previously the case did not respect the current alignment of buildings and would be more intrusive into the street scene. Although the applicant's agent was present at the meeting he confirmed that he did not wish to speak regarding the proposed scheme. Councillor Williams spoke as a Local Ward Councillor objecting to the scheme and referring to the concerns of local residents. Councillor Williams amplified on the points made by the previous speaker stating that although the building line currently proposed would respect the original configuration of buildings with the street scene, as none of the nearby existing buildings followed the original building line that this would actually serve to increase the impact of the development which would be detrimental and would make it overly dominant.

175.31 Councillor Tonks referred to the tightly packed nature of the existing street scene stating that in his view the proposals would have a detrimental effect within the conservation area. Whilst accepting the principle of development of the site, he did not consider that what was currently proposed was acceptable. He was also of the view that trees at the site should be carefully chosen and protected in order to seek to ensure their survival. Councillor Paskins and other Members were in agreement. Councillor Paskins considered that a lower scale development, two rather than three storeys would be preferable and that any large scale building into the roof (if a three storey building was proposed) should be resisted; she would also prefer a good specimen of a hardy British tree should be planted. Councillors Hyde and Older agreed that the building was set too far forward and that a lower scale of development would be preferable.

175.32 The Development Control Manager explained that as the Planning Inspector's decision had agreed the principle of a three storey dwelling at the site this might be hard to resist but that Officers could seek to negotiate further regarding this and the other issues raised.

175.33 **RESOLVED** - That consideration of the application be deferred to enable further negotiations to take place with the applicants regarding the configuration and scale of the proposed development, (it would be preferable for it to be set further back) and the species of trees to be planted.

#### **Application BH2004/000459/CA, Land r/o 21-22 Queen's Road, Brighton**

175.34 It was noted that this application had been the subject of a site visit prior to the meeting. In the light of the comments set out in Paragraphs 175.26 - 175.33 it was agreed to defer consideration of the application to enable further discussions to take place with the applicants regarding the manner in which the buildings were to be configured within the site and in order to address the concerns and objections raised.

175.35 **RESOLVED** - That consideration of the application for demolition of the rear boundary wall be deferred for the reasons set out above.

#### **(ii) DECISIONS ON MINOR APPLICATIONS LIST DATED 7 APRIL 2004**

175.36 The recommendations of the Director of Environment were agreed with the exception of those reported in Parts (iii) and (iv) below and items deferred for site visits as set out in the agenda items below and following the Plans List.

**(iii) DECISIONS ON MINOR APPLICATIONS WHICH VARY FROM THE RECOMMENDATIONS OF THE DIRECTOR OF ENVIRONMENT AS SET OUT IN THE PLANS LIST (MINOR APPLICATIONS ) DATED 7 APRIL 2004**

175.37 There were none.

**(iv) OTHER APPLICATIONS**

**Application BH2004/00450/FP - Flat 4, 40 Brunswick Square, Hove**

175.38 Whilst he had no objection to the applications in principle, Councillor Watkins was anxious that the extractor fans be provided in such way to prevent noise nuisance to neighbouring residences.

175.39 **RESOLVED** - That planning permission be granted by the Council subject to the conditions set out in the report.

**Application BH2004/00452/LB - Flat 4, 40 Brunswick Square, Hove**

175.40 **RESOLVED** - That the Council is minded to grant listed building consent, subject to GOSE approval and to the conditions set out in the report.

**Application BH2003/03131/FP - The Franklin Tavern, 157-158 Lewes Road**

175.41 The Planning Officer referred to the objections received from the neighbouring estate agents premises, stating that it was not considered that the front porch extension which was of modest size had been sited to minimise its effect on the adjoining property and would not have a negative impact on the visibility and therefore viability of the adjoining site.

175.42 Councillor Forester stated that whilst she had no objections to the scheme overall, she did not consider that it was appropriate for the disabled access to be located to the rear of the building, considering that this should be located to the side of the building as part of a larger extension. Councillor Forester also queried use of the rear beer garden. Mrs Turner (DAAG) agreed stating that it was important to ensure that the toilet facility was easily accessible and that it was of sufficient size to allow for the turning circle required by a wheelchair user.

175.43 Members were in agreement that these officers be authorised to deal with and clarify these issues before the issue of consent.

175.44 **RESOLVED** - That the Council is minded to grant planning permission and that Officers be authorised to deal with the issues relating to the use of the rear garden and to negotiate a more appropriate location and dimensions for the disabled toilet facility.

**Application BH2003/03594/FP - Westmount, Finsbury Road**

175.45 Councillor Paskins had no objections to the proposals in principle but considered that by making the parking spaces slightly narrower, the required number of parking spaces could be provided and would compromise less of the green space and without the need to transfer the existing saplings. It would also be appropriate to prevent parking across the existing carriage driveway. Mrs Turner (DAAG) stated that it was very important to ensure that the two disabled bays were sufficiently wide. In answer to questions the Planning Officer explained that the disabled bays would be designated for use by residents.

175.46 The Planning Officer explained that as the parking bays were to be provided on private land, double yellow lines could not be provided across the carriage driveway, but that these points would be conveyed to the applicant's agents.

175.47 **RESOLVED** - That planning permission be granted subject to the conditions set out in the report.

**Application BH2004/00038/FP – Car Park r/o 6-8 St James's Street**

175.48 The Planning Officer stated that the site was the customer car park to the rear of the Safeway supermarket and that it was proposed to provide a proprietary 3 metre high steel palisade of fencing across the car park to prevent pedestrian and vehicular access to the more southerly section of the car park outside store opening hours to prevent vandalism that was apparently occurring to the rear of the premises in St James place. Condition 3 of the original permission granted many years ago was not considered enforceable.

175.49 Councillor Forester referred to the number of cars which might be pushed back onto local streets, given that local residents had previously had use of this facility and to the fact that residents did not consider that the proposed conditions would resolve existing problems and to potential access problems for fire engines in an emergency. Councillor Hyde stated that it would be useful to know the numbers of cars parking outside store opening hours. Councillor Pennington considered that potential vandals could gain access via Little George Street.

175.50 Councillor Paskins referred to the original conditions of grant which had provided for local residents to use the car park outside hours in an area where parking was at a premium, given that vandals could only gain access to four houses at the location indicated she was of the view that further investigations were needed. It was inappropriate to deprive residents of parking without "proof" of a real problem. Councillor Mrs Theobald was in

agreement and that if a problem was identified it might be more appropriate to provide security to the individual houses.

175.51 **RESOLVED** - That consideration of the application be deferred pending further investigation regarding the precise nature of vandalism referred to that was being given rationale for closing the area off during the hours the store was closed.

**Application BH2004/00357/FP – 112 Longhill Road**

175.52 Councillor Hyde referred to the potential works close to the party wall of the two properties and the Planning Officer responded that it did not appear that it was intended to remove the existing party wall.

175.53 **RESOLVED** - That planning permission be granted by the Council subject to the conditions set out in the report.

**Application BH2004/00259/OA - 137-139 Preston Road**

175.54 Councillor Mrs Theobald was in agreement that the application should be refused but hoped that further negotiations would result in an appropriate use for the site in the near future.

175.55 **RESOLVED** - That Outline Planning Permission be refused by the Council for the following reasons:

1. The applicant has failed to demonstrate that the proposal meets the relevant criteria for the development of sites with buildings in excess of 18m, as laid out in adopted Supplementary Planning Guidance. The proposal therefore fails to comply with policies ENV3 of the Brighton Borough Local Plan, QD1, QD3 and QD4 of the Brighton Borough Local Plan and SPGH15 - Tall Buildings.

Informative:

1. This decision is based on drawing nos.48/282/1A & 48/281/2A, submitted on 27 October 2003.
2. The applicant is advised to resubmit a full application for the development of this site, accompanied by supporting documents as required by adopted SPGBH15 - Tall Buildings.

**Application BH2004/00265/FP - 130-134 Western Road (Waitrose)**

175.56 The Planning Officer referred to deliveries on Sundays / Bank Holidays explaining that the ability to do this and the hours during which this could occur already existed as part of the earlier permission (1999) and, that permission to operate on these days was not being sought.

175.57 Mr Amereno spoke on behalf of local residents and stated that following a meeting with the local store manager and representatives acting for Waitrose stores that agreement had been reached regarding hours of operation which was addressed the concerns of residents and was acceptable to them and met the operational requirements of the store. Mr Waldren spoke as the applicant's agent and confirmed that this was so and that all parties were in agreement to amend the hours during which deliveries could take place as follows: -

Saturday 7.00am - 9.00pm;

Sunday / Bank Holidays 10.00am - 12.30pm

All lights would be turned off within the store within 40 minutes of it closing.

175.58 In answer to questions Mr Walden confirmed that delivery times could be controlled to ensure that these were staggered to take place at 15 minute intervals and that the company was willing to agree to be bound by a "Good Practice Statement" which was enforceable by the local authority. Members welcomed the pragmatic and proactive approach taken by all parties which had resulted in a satisfactory solution to the concerns highlighted by local residents considering that this was an example which should be followed by other large store chains as an example of best practice. Councillor Older commented that it was regrettable that it had not been possible to tie a certain other large store chain into adopting a similar "Good Practice Statement."

175.59 Councillor Pennington requested that details of agreement reached be notified to Local Ward Councillors and to and the organisations representing local residents.

175.60 **RESOLVED** - That Planning Permission be granted by the Council subject to the conditions set out in the report and to the amended hours of operation (Condition 4) as agreed between the applicants and local residents set out below:

Saturday 7.00am - 9.00pm (previously 9.30pm); and

Sunday / Bank Holidays 10.00am - 12.30pm (previously 4.00pm)

## **(v) TREES**

### **DECISIONS**

175.61 **RESOLVED** - (1) That Permission to fell the trees which are the subject of the following applications be approved as set out in the report:

BH2004/00615/TPO/F – 7 Northgate Close, Rottingdean; and

BH2004/00617/TPO/F – 16 Overhill Gardens, Brighton

(2) That Permission to fell the tree which is the subject of the following application be refused for the reasons set out in the report:

BH2004/00508/TPO/F – 16 Ladies Mile Road, Brighton

## DELEGATED

175.62 **RESOLVED** - That details of the applications determined by the Director of Environment under delegated powers as set out in the report be noted.

## (vi) DECISIONS ON APPLICATIONS DELEGATED TO THE DIRECTOR OF ENVIRONMENT

175.63 **RESOLVED** - That the decisions of the Director of Environment, on other applications using her delegated powers be noted.

[**Note 1:** All decisions recorded in this minute are subject to certain conditions and reasons recorded in the Planning Register maintained by the Director of Environment. The register complies with legislative requirements.]

[**Note 2:** A list of representations, received by the Council after the Plans List reports had been submitted for printing, was circulated to Members (for copy see minute book). Representations received less than 24 hours before the meeting were not considered in accordance with resolutions 129.7 and 129.8 set out in the minutes of the meeting held on 16 January 2002.]

## 176. SITE VISITS

176.1 **RESOLVED** - That the following site visits be undertaken by the Sub-Committee prior to determining the applications:-

<u>APPLICATION</u>	<u>SITE</u>	<u>SUGGESTED BY</u>
*BH2004/00432/FP	Toilets, Queen's Park	Councillor Carden
BH2004/00281/FP	Brighton Rugby Club Waterhall	Development Control Manager

\* It was noted that this application had been withdrawn and would not now therefore be the subject of a site visit. The Development Control Manager confirmed that it was unlikely that there would be any site visits prior to the next scheduled meeting on 28 April and if that was the case the above would be held over to a future date.

## 177. PROGRESS ON CURRENT APPEALS



177.1 The Development Control Manager circulated a sheet giving details of forthcoming planning inquiries or appeal hearings.

#### **178. APPEAL DECISIONS**

178.1 The Sub-Committee noted letters from the Planning Inspectorate advising on the results of Planning Appeals, which had been lodged as set out in the agenda. In answer to questions by Councillor Mrs Theobald, it was noted that where decisions had been made by Officers under delegated authority this was set out on the agenda. The decisions in respect of Tesco stores Rottingdean were noted and welcomed.

#### **179. APPEALS LODGED**

179.1 The Sub-Committee noted the list of Planning Appeals, which had been lodged as set out in the agenda. Councillor Pennington (Deputy Chair) requested that it would be useful if it could also be indicated whether appeals lodged had been dealt with under Officers delegated authority or whether they had been the subject of a Committee decision.

The meeting concluded at 5.55 pm

Signed

Chair

Dated this

day of

2004