

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

**2.00PM - 19 MAY 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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**1. PROCEDURAL BUSINESS**

**1A. Declarations of Substitutes**

1.1 There were no substitutes.

**1B. Declarations of Interest**

1.2 Councillor Hamilton declared an interest in Application BH2004/00844/OA The Acorn Nursery, The Rise, Portslade, which did not preclude him from speaking or voting thereon. The Chair, Councillor Carden, also declared an interest in this application by virtue of his position as an LEA Governor on the Board of Governors of Portslade Community College. It was noted that this did not preclude him remaining in the Chair, speaking or voting thereon. Councillor Hyde declared a personal interest in Application BH2004/00914/FP by virtue of her daughter's residence in a nearby property albeit that she had not expressed an opinion in respect thereof. The Chair, Councillor Carden, declared an interest in application BH2004/00395/FP, 51 Tongdean Avenue and indicated his intention to vacate the Chair during consideration of this item and that Councillor Pennington would take the Chair.

1.3 The Development Control Manager referred to Application BH2004/00991/FP, 113 Dean Court Road. The Applicants were the parents of one of the Council's enforcement officers, but he had no involvement with the processing of this particular application.

**1C. Exclusion of Press And Public**

1.4 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 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.

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

## 2. MINUTES

2.1 Councillor Hamilton referred to Application BH2004/00526/FP, 43-45 Norway Street, Portslade, paragraph 185.72 of the minutes stating that it should be noted that Mr Collier had spoken on behalf of the Vale Park Residents' Association.

2.2 **RESOLVED** – That the minutes of the meeting held on 28 April 2004 be approved and signed by the Chair as a correct record of the proceedings.

## 3. PETITIONS

3.1 No petitions were received.

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

4.1 The Development Control Manager reported that she had no updates to report to this meeting.

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

5.1 **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>
BH2004/00914/FP	5 Wayland Heights	Councillor K Norman
BH2004/00880/FP	r/o 8-10 Bankside	Councillor Mrs
Theobald		
BH2004/00885/FP	The Barley Mow, 92 St George's Road	Councillor Hyde
BH2004/01235/FP	Rugby Club, Waterhall (floodlighting)	Development Control Manager
BH2004/03698/OA	Student Housing, Falmer	Development Control Manager
* Implemented Scheme		BCT Conversion,
Richmond Terrace	Development Control	

Manager

\*PRIOR TO FUTURE MEETING – DATE TO BE SET

[**Note:** Item 7 sets out a full list of future site visits].

## **6. PLANS LIST APPLICATIONS - 19 MAY 2004**

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

#### **Application BH2004/00437/CA, The Sea House Public House, 1 Middle Street**

6.1 It was noted that consideration of the application had been deferred by the meeting of the Sub-Committee held on 28 April pending consideration of its design by the Architect's Panel. The Panel had considered the application at their meeting on 4 May and had considered it acceptable subject to careful detailing. Condition 12 had been added in order to satisfy their comments.

6.2 Ms Blok spoke as an objector to the scheme referring to the concerns of residents regarding significant numbers of people in the area late at night and additional noise. The development was considered imbalanced in terms of the needs of residents. Mr Turner spoke in support of the scheme on behalf of the applicants.

6.3 Councillor Older expressed her disappointment that a new scheme had not been placed before the Sub-Committee for their consideration. Given the concerns expressed by a number of Members concerning the design this was what she had anticipated would be the case. Councillors Mrs Theobald and Wells echoed these views, stating that they were disappointed that the design had remained unchanged, they did not like the overhang of the upper floors and did not consider the submitted design to be in keeping with the surrounding conservation area. Councillors K Norman and Watkins concurred. Councillor Watkins also referred to the fact that a lift was not proposed for access to the upper floors of the building considering this to be a serious omission.

6.4 The Development Control Manager referred to the view of the Sub-Committee that the views of the Architects Panel should be sought. This had been done and she referred the Sub-Committee to their view that it would be a quirky and interesting building located as it would be in an area of very mixed development, but that it would require careful detailing, choice of materials and finishes. Councillor Pennington referred to his concerns regarding the rendered finishes and glass to be used. Provided these were of suitable quality and took account of the corrosive effects of the sea air, he considered the proposals to be acceptable. The Planning Officer displayed samples of materials that had been submitted.

6.5 Whilst accepting that the existing building was dilapidated to the point that it could not be restored some Members expressed concerns regarding the proposed design solution which was not considered to be of sufficiently high quality. Councillor Older and Mr Small, CAAG, referred to the importance of providing a blue plaque indicating the building's past history and that this should be provided at the applicant's expense.

6.6 **RESOLVED** – That Conservation Area Consent be granted by the Council subject to the conditions set out in the report.

**Application BH204/00435/FP, The Sea House Public House, 1 Middle Street**

6.7 Following the discussions and decision set out in paragraphs 6.1 to 6.6 above a vote was taken regarding whether or not Planning Permission should be granted by the Council. On the Chair's casting vote Planning Permission was granted.

6.8 **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 requiring a blue plaque to be provided to the front of the building at the applicant's expense.

[**NOTE:** On a vote Councillors Carden (Chair), Forester, Hamilton, Pennington (Deputy Chair), Tonks and Watkins voted that the application be granted. Councillors Hyde, K Norman, Older, Paskins, Mrs Theobald and Wells voted that Planning Permission should be refused. On the Chair's casting vote approval was granted.]

**Application BH2004/00490/FP, 121 Valley Drive**

6.9 It was noted this application had been the subject of a site visit prior to the meeting and that a further letter of objection and photographs had been received from the occupier of 119 reiterating their original objection on the grounds of loss of light and overshadowing.

6.10 Councillor K Norman referred to some apparent discrepancies in the submitted drawings and to the measurements that had been taken during the course of the site visit. It was important to ensure that this was addressed and that what was built accorded with that for which permission had been given. The matter was clarified by officers.

6.11 **RESOLVED** - That Planning Permission be granted by the Council subject to the conditions set out in the report.

**Application BH2004/00594/FP, Hove Polyclinic, Nevill Avenue**

6.12 It was noted that this application had been subject to a site visit prior to the meeting. Mr Calder-Brown spoke on behalf of objectors to the scheme on grounds of additional traffic generation, noise and loss of amenity for neighbouring properties. Mr Abbey spoke on behalf of the applicants and Councillor Willows spoke as a Local Ward Councillor indicating his objections which accorded with those of local residents. Also he did not consider the proposed location on site to be appropriate.

6.13 The Planning Officer explained that the nursery was required by South Downs Health NHS Trust on this site to cater for its staff working in the western side of the city. There were currently a number of unfilled vacancies for key healthcare workers and the NHS Trust was of the view that many of them could be filled if potential recruits knew day care would be available for their children.

6.14 Notwithstanding objectors' views that two alternative sites proposed by them would be better, evidence had been provided by the applicants indicating why this was considered the most suitable. In order to overcome objections and the original refusal the building had been redesigned to be of a lesser height with windows principally facing the south and away from neighbouring properties, whilst maintaining good design detail to the northern elevation. Detailed cross-sections were shown indicating the height of the proposed building relative to the land levels of surrounding gardens. A dedicated area of open space set away from the boundary with adjacent properties would be contained by an acoustic screen of the correct specification to prevent noise breakouts. In answer to questions the Planning Officer explained that use of this play area would be limited to certain times of the day and would be 'staggered', ie not all of the children would be using it at any given time. A travel plan to assist the reduction of car movements to and from the nursery had also been provided. Photographs indicating the style and appearance of the buildings to be used were also shown.

6.15 Councillor Watkins referred to potential air-conditioning considering that the location and type to be used would be crucial. He was also of the view that the proposed 'portacabin' structure had many shortcomings and that a number of design issues remained to be resolved. Councillors Mrs Theobald and Hyde, whilst generally welcoming the proposal, considered it regrettable that sufficient monies were not available to provide a permanent purpose-built building, considered that the two play areas to be provided would be very small and that the number of proposed parking spaces could prove inadequate. Councillors Hyde and Paskins referred to the proposed acoustic arrangements considering it vital that these provide a proper buffer between the proposed nursery and neighbouring properties. It was also vital to ensure that use of these play areas was properly supervised and controlled and that did not spill out onto other grassed areas of the site which could create the potential for noise nuisance. Councillors Paskins and Forester queried whether it was necessary to provide air-conditioning plant and

whether it might be possible to control/regulate temperatures within the building using a sustainable solution. Councillor Tonks welcomed the proposal which would provide a needed resource for key NHS workers.

6.16 The Development Control Manager stated that detailed discussions had taken place with the applicants over a period of time and that having weighed up the relevant factors, the design was considered acceptable in this instance and was recommended for approval.

6.17 **RESOLVED** – That Planning Permission be granted by the Council subject to the conditions and informatives set out in the report and to the imposition of conditions relating to the type and operation of the proposed air-conditioning units.

**Application BH2004/00844/OA, The Acorn Nursery, The Rise, Portslade**

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

6.19 Mr Page spoke on behalf of objectors to the scheme expressing their concerns regarding this application which was part of a larger project to build 48 new homes. They considered that this application should be deferred and that the two should be considered together. Objectors also considered that the proposed nursery would be overly dominant and would result in noise nuisance and loss of amenity for local residents.

6.20 Ms J Powell of the Early Years Partnership spoke in support of the application which would replace an existing facility. The building would provide care for toddlers, babies and pre-school children and would include offices and training rooms, available for the community to run services for parents, childcare staff and childminders. Priority for places would be given to local residents. The nursery had been designed to be sympathetic with the nearby open Downland with a planted green roof which would enhance its appearance when viewed from the Downs.

6.21 The Planning Officer explained that the main issues in considering this outline application were the appropriateness of the layout having regard to the proposed development of the remainder of the college site for housing, the effect on neighbouring amenity, the adjacent open countryside and Downland and highway safety. Given that materials had been chosen to blend with and respect the building's hillside location it was considered that with the imposition of suitable conditions there would be no adverse impact on neighbouring properties, there were no objections on traffic or transport grounds subject to implementation of a suitable Travel Plan, the application was therefore recommended for approval.

6.22 Councillor Watkins referred to the separate application in respect of housing at the site enquiring whether it would be prudent for both

applications to be considered together. The Planning Officer responded that they were separate, the application before the Sub-Committee was for outline consent and that the principle of housing provision at the site was already firmly established. Councillor Hyde referred to an electricity pylon located in the vicinity of the site and was informed that this was some distance from that of the proposed nursery. Councillors Mrs Theobald and Paskins referred to the access road which would service the nursery and housing expressing concerns regarding both the turning circle and the number of car parking spaces to be provided. The traffic engineer responded that there was no history of the area being an accident black spot and issues regarding access, egress etc would be considered as part of the housing application and would be treated as a "reserved" matter.

6.23 Councillor Paskins reiterated her concerns, considering that the access road would be poor and awkward and that in reality there would be traffic problems. Councillor Hamilton was of the view that as this was an outline application details of the scheme would have to follow.

6.24 Several Members referred to the desire of the Sussex Downs Conservation Board, that replacement tree planting at the site would be welcomed and the Planning Officer confirmed that Condition 10 of the proposed permission had sought to address these issues.

6.25 **RESOLVED** - That outline planning permission be granted by the Council subject to the conditions and informatives set out in the report.

**Application BH2004/00571/FP, Chandlers Garage & Showroom, Carlton Terrace, Portslade**

6.26 The Planning Officer referred to various suggested amendments to the proposed conditions set out in the additional representations list (for copy see minute book).

6.27 Mr Grey spoke on behalf of objectors to the scheme, referring to the additional traffic flows which would result in the approach to a level crossing where significant delays were already experienced at peak traffic periods considering that traffic and road safety problems would result. Mr Kitchen spoke on behalf of Aldi Supermarkets, the applicant, setting out their company's ethos both in terms of the proposed retail use of the site and the proposed housing. Councillor Kielty spoke as a neighbouring Ward Councillor setting out his objections to the scheme which he considered should be refused on traffic safety grounds, citing the close proximity of the gate controlled level crossing at Portslade Station and the additional congestion and delays that could result by virtue of the additional traffic generated and, because excess traffic/parking generated would simply spill out onto neighbouring roads exacerbating existing problems.

6.28 Councillor Pennington referred to the fact that the applicant anticipated that only one lorry delivery per day would take place and requested to know whether or not that could be made a condition of grant. The applicant confirmed that his company would be happy to agree to and comply with such a condition. Councillor Hamilton, whilst not averse to the general principle of the development, was concerned regarding the potential additional traffic delays that could result in the vicinity of the level crossing as a result of the pedestrian build-outs. Such build-outs could worsen the potential for delays. Councillor Watkins echoed these concerns also, citing tailbacks that could emanate from the Hallyburton Road box junction. The traffic engineer explained that the build-outs were designed to safeguard pedestrians but that if Members considered it appropriate for such condition to be withdrawn, this could be revisited. The provision of free parking on the site could be of benefit to the area generally and could reduce the existing on-street parking pressures. Councillor Mrs Theobald considered the level of residents parking to be made available could prove to be inadequate.

6.29 Councillor Paskins welcomed the scheme but was disappointed that at present it appeared that sustainability requirements had only partially been met. Councillors Hyde, Older, Mrs Theobald and Wells referred to the money to be expended under the percentage for art scheme for the gates stating that it was too high a sum for something that should be provided by the applicants in any event. Referring to the apparent disparity between the sum put forward for percentage for art and percentage for sport, the Development Control Manager explained that the sums allocated were worked out using different formulas and that works carried out under the percentage for art were required to provide improved amenities/a landmark feature for the locality. Councillor Wells suggested that this could provide an opportunity to hold a design competition for local artists. The Development Control Manager explained that the Percent for Art Group would be responsible for deciding who would be commissioned for any given piece of art work. However, it could be suggested to them that local artists be considered for this scheme.

6.30 Mrs Turner, DAAG, enquired regarding the dimensions of the disabled flats, and was informed that these had not been allocated but that a significant number of good sized two bedroom flats would be provided by the scheme.

6.31 **RESOLVED** - That the Council is minded to grant planning permission subject to the submission of satisfactory revised plans of the entrance to the flats in the south-east corner over the main store showing this re-designed and set back from the frontage, completion of a Section 106 Agreement to secure the provision of:

a) a minimum of 10 residential units of 'affordable' accommodation, managed through a Registered Social Landlord; b) a package of highway



measures as contained in the Transport Assessment submitted on 10/02/04 which includes improvements for pedestrians at the junctions of Boundary Road with Portland Road, improvements to the junction of Carlton Terrace and Victoria Road, a carriageway narrowing on Carlton Terrace and accessibility measures at the northbound bus stop in Carlton Terrace adjacent to the application site be revisited on the terms set out in paragraph 6.28 above; c) a financial contribution of £10,000 towards the provision of real time bus information located at bus stops within close proximity of the site, d) a financial contribution of £12,700 towards outdoor recreation space and sports facilities within close proximity of the site, e) a Percent for Art scheme to ensure the design of the gates to the proposed vehicular access to the site are commissioned and designed by a local artist; and the conditions set out in the report and, to the following amendments:

At the end of e) in the Recommendation section of the report (relating to Percent for Art), the following is to be added: to the value of a minimum sum to be agreed during negotiation of the Section 106 agreement, and a maximum value of £18,000;

Condition no. 4 is to be amended to allow 2 additional hours of opening Monday – Wednesday, so that the main store may be open between the hours of 8am – 8pm Monday through to Saturday. It is not considered that this would adversely affect amenity, and these hours have been agreed with Environmental Health.

There is a wall which currently exists on the western boundary of a varying height between 1.4 – 2.4 metres, and increasing the height of this wall with brick will be more practical than the timber fence recommended, and will have a similar screening effect. Environmental Health consider this to be acceptable, and Condition no. 8 is therefore to be amended to read:

8. The development hereby permitted shall not be brought into use until the existing wall along the western boundary of the site has been increased in height to a minimum of 2.4 metres to the satisfaction of the Local Planning Authority. Reason: As condition 8 in the report.

Condition no. 16 is to be deleted and replaced with the following condition, which is considered more comprehensive, and will achieve the same aim of facilitating linked trips to the main Portslade District Shopping Centre:

16. The main retail store hereby permitted shall not be brought into use until a car park management scheme for the car park associated with the main retail store has been submitted to and approved in writing by the Local Planning Authority. The car park management scheme shall ensure that the first three hours of parking will be free of charge for visitors to the Portslade shopping centre, and shall include details of signage to clearly indicate the terms of parking for visitors. The approved car park management scheme shall be implemented to the satisfaction of the Local Planning Authority upon first use of the main retail store. Reason: Same as condition 16 in the report

and to the inclusion of a condition setting the number of permitted deliveries as one per day.

**BH2004/00395/FP, 51 Tongdean Avenue, Hove**

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

6.33 Mr Malekshahi spoke as an objector to the scheme, referring to the proliferation of building work which had taken place and was continuing at the site, much of it without the benefit of planning permission and to the detrimental effect this had on the amenity of neighbouring properties. Councillor Mrs Brown spoke as a local Ward Councillor echoing the concerns of neighbours and referring to what appeared to be a flagrant disregard both for the planning process and for the amenity of neighbours.

6.34 The Planning Officer explained in answer to questions that planning permission was not required for the excavation works to dig out and construct the swimming pool. The request for part retrospective permission related to the works to cover the pool and to provide a covered walkway to the pool in the rear garden.

6.35 Members expressed dissatisfaction that the applicant who appeared to be clearly aware of the need for planning permission to be obtained had apparently ignored this and continued works at the property without the necessary permissions having first been sought and obtained. Several noted that this also appeared to be the case in respect of other ongoing works which had recently been refused under the Director's delegated powers.

6.36 Councillors Hyde, Older, Mrs Theobald and Watkins considered that these unpermitted works represented one of the worst examples of disregard of planning regulations were unneighbourly and constituted over-development of the site. Councillor Mrs Theobald referred to the removal of the fence between the adjoining property which should in her view be replaced. Several Members referred to the trees which bounded the neighbouring properties which could have provided a measure of cover and privacy but which were now unlikely to do so as the works which had taken place were hard up against these boundaries may have caused such degree of damage to their root systems that they could die. Reference was also made to the flat roof of the pool house and to the significant levels of overlooking of neighbouring properties that could occur if this area was used for sitting out.

6.37 The Solicitor referred to the need to judge the application before the Sub-Committee on its merits irrespective of the fact that it was in part retrospective and to consider it as if it had been submitted before building works had commenced.

6.38 **RESOLVED** – That Planning Permission be refused by the Council for the following reasons:

The proposed covered swimming pool and walkway would not only fail to preserve and enhance the character and appearance of the Tongdean Area Conservation Area by reason of its excessive size, bulk and siting in relation to neighbouring properties, but would also represent an unneighbourly form of development, detrimental to the amenity of adjoining occupiers due to its close proximity to the site boundaries and the potential to use the flat roof of the swimming pool for recreational purposes resulting in noise, disturbance, overlooking and loss of privacy. The proposals are therefore contrary to policies BE1 and BE8 of the Hove Borough Local Plan and QD1, QD2, QD14, QD27 and HE6 of the Brighton and Hove Local Plan Second Deposit Draft.

[**Note 1:** Councillor Older proposed that the application should be refused on the grounds set out above. This was seconded by Councillor Tonks].

[**Note 2:** On a vote Councillors Hyde, K Norman, Older, Paskins, Mrs Theobald, Tonks, Watkins, and Wells voted that the application should be refused. Councillors Forester, Hamilton, and Pennington (in the Chair) abstained. Therefore with 8 votes that the application be refused and 3 abstentions the application was refused].

[**Note 3:** Having declared an interest in this application Councillor Carden vacated the Chair during consideration of this item, left the meeting and was not present during any of the discussion or voting thereon. Councillor Pennington was in the Chair].

#### **Application BH2004/00748/FP, 7 Baywood Gardens, Woodingdean**

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

6.40 A number of Members referred to the unsympathetic conversion which had taken place at number 5 and were in agreement with the view of the Development Control Manager that this should not set a precedent for other design solutions which were considered inappropriate. Having visited the site and noted the size and position of the proposed rear windows, the Planning Officer suggested that it would be appropriate to add a further condition to any refusal relating to the overlooking and loss of privacy that would result from the proposed development.

6.41 Councillors Tonks and Wells expressed support for the application. Councillor Wells referred to the fact that no letters of objection had been received from neighbours including those who would be most effected by the development and that one letter of support had been received.

Councillor Tonks was of the view that the development would cause no demonstrable harm as the property was not situated in a Conservation Area and there were a variety of housing designs in the vicinity.

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

1. The first floor extension is considered to be dominant to the dwelling, poorly designed and detrimental to the visual amenity of the area contrary to policy QD14 of the Brighton and Hove Local Plan Second Deposit Draft and Supplementary Planning Guidance Note Number 1 (SPGH1 - Roof Alterations and Extensions).

2. The proposal will result in overlooking and severe loss of privacy to residents in Rosebery Avenue contrary to policy ENV.6 in the Brighton borough Local Plan and QD14 in the Brighton & Hove Local Plan second Deposit Draft.

Informatives :

1. This decision is based on drawing no. T-01 submitted on 9/3/2004.

**(ii) DECISIONS ON MINOR APPLICATIONS LIST DATED 19 MAY 2004**

6.43 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 19 MAY 2004**

6.44 There were none.

**(iv) OTHER APPLICATIONS**

**Application BH2004/00974/FP, 8 Church Close , Patcham**

6.45 The Planning Officer explained that following an earlier refusal a certificate of lawfulness had been obtained for that part of the proposed conservatory closest to the shared boundary with no.7. Permission was now sought for the remainder of the conservatory, plus a large dormer window to the rear.

6.46 Mrs Sullivan spoke as an objector to the scheme considering that the proposed scale of development to the rear would be intrusive and would result in overlooking. Mr Fowler spoke in support of his application, stating that the window referred to would be to a shower room and that attempts had been made to ensure that no overlooking occurred.

6.47 **RESOLVED** - That Planning Permission be granted by the council subject to the conditions and informatives set out in the report.

**Application BH2004/00558/FP, 9 Hampton Place**

6.48 Councillors Older and Wells expressed concern regarding proposed Sunday opening of the café referring to the concerns of neighbouring residents regarding noise disturbance and the need for a respite from this at least on Sundays. The Planning Officer referred to condition 3 which related to soundproofing stating that compliance with this condition would ensure less noise disturbance to neighbours at all times.

6.49 **RESOLVED** - That Planning Permission be granted by the Council subject to the conditions and informatives set out in the report.

**Application BH2004/00689/FP, The Fringe Bar, 10 Kensington Gardens**

6.50 Councillor Paskins referred to the comments of the Environmental Health Officer relating to the provision of cladding to the refrigeration unit, relocation of the chiller unit and to the need for this and the circular extraction unit to receive acoustic treatment to reduce overall noise emissions. It was agreed this would be appropriate and that these requirements would be incorporated within condition 2.

6.51 **RESOLVED** - That Planning Permission be granted by the Council subject to the conditions and informatives set out in the report. Condition 2 to be amended to incorporate the need for cladding of the refrigeration unit and relocation of the chiller unit. The relocated chiller unit must have suitable acoustic treatment to reduce the likelihood of noise disturbance to local residents. The circular extraction unit located on the north side of the roof between the rooflight and fridge should also receive suitable acoustic treatment.

**Application BH2004/00849/FP, 17 Kensington Gardens**

6.52 Councillor Paskins stated that she had reservations regarding the change of use to enable part restaurant use, an intensification of the current food take away element of the business. She had concerns because premises in Kensington Gardens were becoming food orientated in an area where mixed retail uses would be preferable.

6.53 The Planning Officer explained that the retail use would not be completely lost by this change of use, whilst acknowledging that although there were mixed uses in the street, the solely retail element was currently below the 25% that the Council would wish to see.

6.54 **RESOLVED** - That Planning Permission be granted by the Council subject to the conditions and informatives set out in the report.

**Application BH2004/00880/FP, Land R/o 8-10 Bankside**

6.55 Members were of the view that it would be beneficial for consideration of the application to be deferred pending a site visit.

6.56 **RESOLVED** - That consideration of the above application be deferred pending a site visit.

**Application BH2004/00943/FP, 37 Tivoli Road**

6.57 Councillor Paskins stated that the Condition 3 should be amended to include a condition that obscure glazing should also be applied to the secondary living room window as referred to elsewhere in the text of the report. It was agreed that this would be appropriate. The Planning Officer agreed and confirmed in answer to questions that the proposed extension would not extend beyond the rear building line of the adjacent dwelling at 39 Tivoli Crescent, avoiding any adverse impact on the outlook from the rear of the adjacent property. Daylight to a side living room window at no 39 would be affected, however, this was a secondary window to double doors at the rear, and daylight was already partially affected by the existing dwelling at no 37. The proposed extension would not have any adverse impact on the amenities enjoyed by neighbouring properties.

6.58 **RESOLVED** - That Planning Permission be granted by the Council subject to the conditions and informatives set out in the report. Condition 3 to be amended to read "The new windows to the kitchen/dining room to the north elevation and dining room and bathroom to the south elevations shall not be glazed otherwise than with obscured glass and to hung and thereafter permanently retained as such."

**Application BH2004/00914/FP, 5 Wayland Avenue**

6.59 Members were of the view that it would be beneficial for consideration of the application to be deferred pending a site visit.

6.60 **RESOLVED** - That consideration of the above application be deferred pending a site visit.

**Application BH2003/03943/FP, 1 Church Road, Hove**

6.61 In answer to questions of Councillor Mrs Theobald the Planning Officer provided details of the configuration of the proposed basement flats. The premises were considered to better lend themselves to residential conversion than modern office use and therefore in this instance the loss of the office

space was considered acceptable and, the application was recommended for approval.

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

**Application BH2004/00428/FP, 52 Fallowfield Crescent**

6.63 The Planning Officer explained that notwithstanding objections received from the neighbouring property and although the extension would not comply with 45degree code, as the boundary fence was at its highest immediately adjoining the two properties it was not considered that there would be a significant reduction in light levels or creation of overshadowing resulting from the proposed extension.

6.64 Mrs Aldersley spoke as an objector to the application. Mr Morrice spoke on behalf of the applicants. Reference was made by Mrs Aldersley to the potential effects of the proposal on trees located in her garden and Members were in agreement that measures should be undertaken to ensure that these were not damaged

6.65 **RESOLVED** - That Planning Permission be granted by the Council subject to the conditions set out in the report and to measures being undertaken to ensure that trees located in the neighbouring garden are not adversely effected during the course of the building works.

**Application BH2004/00526/FP, 43-45 Norway Street, Portslade**

6.66 The Planning Officer referred to a letter received from the Vale Park Residents Association proposing that a condition be added requiring modern robust soundproofing appropriate to deal with the ongoing noise nuisance to neighbours as a result of refrigeration units and other machinery operating 24 hours per day. The letter went on to explain that the condition was to prevent successive businesses operating at the site and to request that a site visit take place given the safety and disturbance issues highlighted. There were continued violations of existing conditions on site.

6.67 Councillor Pennington referred to the deferral that had taken place at the last meeting and to the concerns that had been raised regarding the noise nuisance and other abuses that were continuing to take place at the site. He referred in particular to the concerns raised by Councillor Hamilton who was familiar with the site, regarding the loading and unloading activities which were taking place in the street and the potential hazards that resulted. He had expected a revised report setting out how these issues might best be addressed and possible amendments to the existing conditions.

6.68 Councillor Hamilton reiterated his concerns raised at the previous meeting, the noise levels of operations taking place at the site clearly

contravened the conditions applied to the existing permission as did the other abuses currently taking place, these required thorough investigation and for enforcement action to be taken.

6.69 The Planning Officer explained that the request before the Sub-Committee related to the removal of the existing 'personal' condition as set out only, that all other extant conditions would carry forward and should be complied with and that this could not be meaningfully linked to any imposition of amended conditions, given that this was unlikely to be sufficiently robust in the event of an appeal being lodged.

6.70 The Solicitor to the Sub Committee referred to her advice set out in the report and in answer to questions explained that similar conditions controlling the number of deliveries could not be applied as was the case in respect of application BH2004/00571/FP, Chandlers Garage site, Carlton Terrace, Portslade, as the controls that could be applied to a limited Company were different to those in respect of 'personal' permissions. It was also problematic to control deliveries taking place from the highway. Any controls of numbers of vehicle movements/deliveries would need to link into the original conditions.

6.71 Councillor Mrs Theobald referred to the request that a site visit take place enquiring whether this could be beneficial.

6.72 Councillor Pennington proposed that a further deferral should take place in order to examine the existing conditions in detail and to determine how enforcement action could best be taken and that this should be incorporated into a further report for consideration by the Sub-Committee. This proposal was seconded by Councillor Hamilton and agreed by the Sub-Committee.

6.73 **RESOLVED** - That consideration of the application be deferred in order for the issues set out above to be explored further.

#### **Application BH2004/00210/FP, The Timbers, Vale Road, Portslade**

6.74 Councillor Hamilton referred to the three parking spaces currently available on site stating that in this location it was important that, in this instance they be retained in order to avoid potential congestion off-site. The Planning Officer stated that in accordance with Planning Policy conditions were not usually applied to seek to ensure existing parking.

6.75 It was however proposed by Councillor Hamilton that a condition should be applied seeking to retain 3 on site parking spaces. This was seconded by Councillor Pennington and the Officers' recommendations were agreed by Members including the proposed amendment.



6.76 **RESOLVED** - That the council is minded to grant Planning Permission subject to a Section 106 Obligation to secure the dwellings for affordable accommodation as defined in the Brighton & Hove Local Plan Second Deposit Draft and to the conditions and informatives set out in the report including the addition of a condition seeking to retain the 3 existing on site parking spaces.

**Application BH2004/00908/FP, 15 Hogarth Road, Hove**

6.77 Councillor Older was pleased to note that conditions were being applied relating to soundproofing considering that the inclusion of such conditions were suitable in all instances where a number of flats/houses in houses in multiple occupation abutted on another.

6.78 **RESOLVED** - That Planning Permission be granted by the Council subject to the conditions and informatives set out in the report.

**Application BH2004/ 00958/LB, Flat 2, 9 Chichester Terrace**

6.79 The Planning Officer stated that the applicant intended to render the boundary wall which was currently brick to match the existing white rendered boundary wall and also intended to remove the trellis. This would mitigate the adverse impacts that the current wall had on the listed building and conservation area and to allow works to comply with policies HE1 and HE6 in the Brighton & Hove Local Plan Second Deposit Draft.

6.80 **RESOLVED** - That the application be deferred Minded to Grant Listed Building Consent , subject to referral to GOSE and to the conditions and informatives set out in the report.

**Application BH2004/00957/FP, Flat 2, 9 Chichester Terrace**

6.81 The Planning Officer explained that although the applicant intended to render the wall currently brick, to match the existing rendered wall and remove the trellis which would mitigate the adverse impacts of the current wall had on the listed building and conservation area; this would however, have a detrimental impact on the amenities currently enjoyed by the adjoining properties, especially those in the lower flats of Chichester Terrace. The wall had a dominant and overbearing effect on these properties due to its increased height and also hindered access to daylight. it was considered that the negative impact of the wall on adjoining properties outweighed the improvement in its appearance that would occur from the additional works proposed. The proposal was therefore contrary to the policies of the development plan and as such was recommended for refusal.

6.82 **RESOLVED** - That Planning Permission be refused by the council for the following reasons:

1. The boundary wall would be harmful to the amenities of neighbouring occupiers, given the size and location of the wall, resulting in loss of light and a dominant effect. The proposal is therefore contrary to policies ENV.3 and ENV.5 of the Brighton Borough Local Plan and policies QD14 and QD27 of the Brighton and Hove Local Plan Second Deposit Draft.

Informative:

1. this decision is based on drawing nos. 8134/874 and photos submitted on 24 March 2004.

**Application BH2004/00885/FP, "The Barley Mow" Public House, 92 St George's Road, Brighton**

6.83 Members were of the view that the application would benefit from a site visit and that its consideration should be deferred until such time as a site visit had taken place.

6.84 **RESOLVED** - That consideration of the above application should be deferred pending a site visit.

**Application BH200/00774/FP, 4 Upper Bevendean Avenue**

6.85 Mr Bird spoke as an objector to the application citing the considerable difficulties that had been experienced over a period of time as a result of the current operation.

6.86 Councillor Tonks stated that he had received few complaints regarding operation of the premises over recent months and considered that problems within the area were not solely due to the activities of the pizza takeaway, citing that much of its business related to delivery services rather than takeaway food. He also referred to Councillor Meadows' letter in support of the application. Councillor Pennington suggested that it might be appropriate to grant for a trial basis, Councillors Hyde, Mrs Theobald and Wells were of the view that given the concerns of both local residents and the police that the application should be refused.

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

1. The proposal would result in noise disturbance late at night inappropriate in a quiet residential area. This would be contrary to policies ENV.44 and ENV.45 of the Brighton Borough Local Plan which seek to minimise and eliminate noise inappropriate to the local environment, and policy B1 in the Brighton and Hove Local Plan Second Deposit Draft which requires that development should not result in noise disturbance to occupiers of nearby properties.

Informatives:

1. This decision is based on an unnumbered site plan submitted on 23 February 2004.

**Application BH2004 01015/FP, 80b St. James's Street**

6.88 The Planning Officer explained that the application had been withdrawn at the applicants request.

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

**Application BH2004/01059/FP, 34 Upper St James's Street**

6.90 The Planning Officer stated that the shutters for which retrospective permission was sought were considered by virtue of their bulk and solid appearance to have a harmful impact and appearance within the conservation area. And that this outweighed their improvement to the security of the shop. Refusal was therefore recommended.

6.91 Mr O'Connor spoke in support of his application referring to the fact that he had been informed by the firm fitting the shutters that planning permission was not required. He cited his concerns regarding safety of his staff and for the furniture and other goods stored at his premises.

6.92 Members, whilst sympathetic to Mr O'Connor's needs, considered that the current shutters were totally out of keeping with the Conservation Area and needed to be replaced but that a period of a year should be allowed for compliance.

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

1. The proposed security shutters and shutter boxes would have a detrimental effect on the character and appearance of the east Cliff Conservation Area, and would be contrary to policies ENV.9 and ENV.22 of the Brighton Borough Local Plan and policy QD8 and HE6 of the Brighton Borough Local Plan Second Deposit Draft.

Informative

1. This decision is based on unnumbered drawings and photos submitted on 1 April 2004.

[**Note:** Members were in agreement that a one year period should be allowed for compliance.

**Application BH2004.00220/OA, R/o 42/44 Warren Way, Woodingdean**

6.94 Members were of the view that a detailed arboricultural survey of the site and impact assessment in respect of the trees needed to be carried and that a requirement to this effect should be added to Condition 1 of the Outline consent.

6.95 **RESOLVED** - That Outline Planning Permission be granted by the Council subject to the conditions and informatives set out in the report and to the addition of the following words to Condition 0.1.03(d) :

"...arboricultural survey and impact assessment" between "landscaping" and "in".

## **(v) TREES**

### **DECISIONS**

6.96 **RESOLVED** - That permission to fell the tree which is the subject of the following application be refused for the reasons set out in the report :

BH2004/00763/TPO/F - Wick Hall, Furze Hill, Hove

### **DELEGATED**

6.97 **RESOLVED** - That details of the applications determined by the Director of Environment under 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 of 16 January 2002.]

## **7. SITE VISITS**

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

<b><u>APPLICATION</u></b>	<b><u>SITE</u></b>	<b><u>SUGGESTED BY</u></b>
BH2004/00914/FP	5 Wayland Heights	Councillor K Norman
BH2004/00880/FP	r/o 8-10 Bankside	Councillor Mrs
Theobald		
BH2004/00885/FP	The Barley Mow, 92 St George's Road	Councillor Hyde
BH2004/01235/FP	Rugby Club, Waterhall	Development Control

BH2004/03698/FP	(floodlighting) Student Housing, Falmer	Manager Development Control Manager BCT	Conversion, Manager
*Implemented Scheme			
Development Control	Richmond Terrace		

\* PRIOR TO A FUTURE MEETING - DATE TO BE SET

## 8. PROGRESS ON CURRENT APPEALS

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

## 9. APPEAL DECISIONS

9.1 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.

## 10. APPEALS LODGED

10.1 The Sub-Committee noted the list of Planning appeals, which had been lodged as set out in the agenda.

The meeting concluded at 7.09pm.

Signed

Chair

Dated this

day of

2004