





**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	1 October 2008
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall
Members:	<p>Councillors: Hyde (Chairman), Wells (Deputy Chairman), Barnett, Carden, Davey, Hamilton, Kennedy, McCaffery, K Norman, Smart, Steedman and C Theobald</p> <p>Co-opted Members: Mr J Small (CAG Representative) and Mr R Pennington (Brighton & Hove Federation of Disabled People)</p>
Contact:	<p>Penny Jennings Senior Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk</p>

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AGENDA

92. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

93. MINUTES OF THE PREVIOUS MEETING

1 - 16

Minutes of the meeting held on 10 September 2008 (copy attached).

94. CHAIRMAN'S COMMUNICATIONS

95. PETITIONS

No petitions had been received by the date of publication of the agenda.

96. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 24 September 2008).

No public questions received by date of publication.

97. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 24 September 2008).

No deputations received by date of publication.

PLANNING COMMITTEE

98. WRITTEN QUESTIONS FROM COUNCILLORS

No written questions have been received.

99. LETTERS FROM COUNCILLORS

No letters have been received.

100. NOTICES OF MOTION REFERRED FROM COUNCIL

No Notices of Motion have been referred.

101. TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

102. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST DATED 1 OCTOBER 2008

(copy circulated separately).

103. TO CONSIDER AND NOTE THE CONTENT OF THE REPORT DETAILING DECISIONS DETERMINED BY OFFICERS UNDER DELEGATED AUTHORITY

(Please note this document is included at the back of the Plans List).

104. TO CONSIDER APPLICATIONS TO BE THE SUBJECT OF SITE VISITS AND AGREED AS A RESULT OF CONSIDERATION OF APPLICATIONS ON THE PLANS LIST DATED 1 OCTOBER 2008

105. APPEAL DECISIONS

17 - 46

(copy attached).

106. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE .

47 - 48

(copy attached).

107. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

49 - 54

(copy attached).

Members are asked to note that officers will be available in the Council Chamber 30 minutes prior to the meeting if Members wish to consult the plans for any applications included in the Plans List.

PLANNING COMMITTEE

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email penny.jennings@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Tuesday, 23 September 2008

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm – 10 September 2008

**COUNCIL CHAMBER
HOVE TOWN HALL**

MINUTES

Present: Councillor Wells (Deputy Chairman acting as Chairman)); Councillors Barnett, Carden (OS), Davey, Hamilton, Kennedy, McCaffery, Mrs A Norman, Simson, Smart Steedman and Mrs Theobald

Co-opted Members: Mr J Small, Conservation Advisory Group (CAG); Mr R Pennington, Brighton and Hove Federation of Disabled People.

PART ONE

76A. PROCEDURAL BUSINESS

76.1	<u>Councillor</u> Mrs A Norman Simson	<u>For Councillor</u> K Norman Hyde
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76B. Declarations of Interest

76.2 Councillor Mrs Norman declared a personal but not prejudicial interest relative to Application BH2008/01744, University of Brighton, Falmer Campus by virtue of her membership of the South Downs Joint Health Trust.

76C. Exclusion of Press and Public

76.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any 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) or 100 1 of the Local Government Act 1972.

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

77. MINUTES OF THE MEETING HELD ON 20 AUGUST 2008

77.2 **RESOLVED** - That the minutes of the meeting held on 20 August 2008 be approved and signed by the Chairman.

78. CHAIRMAN'S COMMUNICATIONS

78.1 The acting Chairman explained that Councillor Hyde and himself had been involved in a head on collision at Brighton Station whilst about to commence their journey to the RIBA Town Planning Summer School . Both had been admitted to hospital but subsequently released. He wished to place on record his thanks to the Planning Department for their good wishes and for the bouquets of flowers which had been sent . That gesture had been much appreciated.

79. PETITIONS

79.1 There were none.

80. PUBLIC QUESTIONS

80.1 There were none.

81. DEPUTATIONS

81.1 There were none.

82. WRITTEN QUESTIONS FROM COUNCILLORS

82.1 There were none.

83. LETTERS FROM COUNCILLORS

83.1 There were none.

84. NOTICES OF MOTION REFERRED FROM COUNCIL

84.1 There were none.

85. TO CONSIDER THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

85.1 **RESOLVED** - That the following site visits be undertaken by the Committee prior to determination :

BH2007/00710, Land at New Barn Farm, Foredown Road - Visual and noise screening bund on grazing land adjacent to A27

86. PLANS LIST APPLICATIONS, 10 SEPTEMBER 2008**(I) TREES**

- 86.1 There were none. However Councillors McCaffery, Mrs Norman and Mrs Theobald sought clarification regarding the circumstances which had led to removal of trees at the following locations and confirmation that it had proved necessary to remove all of the trees cited. They were all firmly of the view that the removal of trees should be resisted save where they were doing irreparable damage to retaining walls or the foundations of a dwelling house for example; or where a tree was in such condition that its health could not be improved.

Application BH2008/02496, 77 Springfield Road ;
Application BH2008/02675, 61 Beaconsfield Villas ;
Application BH2008/02565, 27 Surrenden Road ;
Application BH 2008/02577, 31 Surrenden Road ; and
Application BH2008/02528, Flat 2, 91 Stanford Avenue

(ii) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS OR APPLICATIONS DEPARTING FROM COUNCIL POLICY

- 86.2 **Application BH2008/1744, University of Brighton Falmer Campus, Lewes Road, Brighton** – Erection of new teaching accommodation set over five floors with associated plant and machinery (Revised scheme of those previously permitted under Reserved Matters Approval BH2005/05962) - Part Retrospective.
- 86.3. It was noted that the application had formed the subject of a site visit prior to the meeting.
- 86.4 The Area Planning Manager, East gave a presentation setting out the constituent elements of the scheme and detailing the changes between the scheme as originally submitted and the amended scheme which was before Members that day. He explained that the application was now recommended for grant rather than minded to grant following receipt of a completed BREEAM pre assessment indicating that the scheme would achieve a “good” rating.
- 86.5 Councillor Steedman sought confirmation regarding overall sustainability of the scheme and relative to the “green” roofing materials proposed. It was explained that a full sustainability assessment had not been required relative to this revised reserved matters application. However, besides achieving a good overall BREEAM rating it should be noted that chalkland materials were to be provided to roofs and terraces within the scheme; this supported a greater degree of biodiversity than provided by a sedum roof.
- 86.6 Mr Small (CAG) stated that a greater degree of clarity was required regarding the fenestration now proposed. Originally a bespoke option had been indicated whereas standard frames were

now proposed He did not consider that sufficient detail had been given to determine whether this solution would be adequate or not . Bearing in mind that the original option had been preferred by officers. Fenestration details were critical in his view as it represented the “face” of a building.

- 86.7 The Area Planning Manager, East explained that as this matter had previously been dealt with as a reserved matter it was not considered appropriate or proportionate to recommend refusal, given that the solution now proposed was considered acceptable. However a condition could be added seeking final approval of the details. Members agreed that this should be done.
- 86.8 Councillor Mrs A Norman expressed her support for the design and sought confirmation regarding whether the levels of parking proposed were considered to be adequate. It was noted that that the Traffic Manager was satisfied with the parking arrangements proposed and that the applicant had indicated that additional standard and disabled parking would be provided integral to continuing works on site should an additional need to identified .
- 86.9 A vote was taken and Members voted unanimously to grant planning permission on the grounds set out below.
- 86.10 **RESOLVED** - (1)That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 10 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report and to the following additional conditions :

13. Within three months of the date of this permission or unless agreed in writing, detailed proposals for disabled car parking associated with the development hereby approved shall be submitted for approval in writing by the Local planning authority. The proposals shall be implemented in full prior to the first occupation of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority. **Reason** : To ensure adequate parking provision for all users of the building and to accord with policy TR18 of the Brighton & Hove Local Plan.

14. Within two months of the date of this permission or unless otherwise agreed by the Local Planning Authority, full details of the windows hereby approved to an appropriate metric scale shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved details . **Reason** : To ensure a satisfactory appearance to the development and to comply with policy QD1 of the Brighton & Hove Local Plan.

(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
10 SEPTEMBER 2008**

86.11 There were none.

(iv) OTHER APPLICATIONS

86.12 **Application BH2007/03748, 58 Palmeira Avenue, Hove** – Demolition of existing bungalow and replacement with 5 storey over basement block of 8 apartments with underground car parking area.

86.13 The Senior Planning Officer gave a detailed presentation relative to the proposals. Reference was made to photographs and plans showing the relationship between, and appearance of, the proposed scheme relative to blocks of flats which had been erected to the south in place of single dwelling houses and its immediate neighbours. It should be noted that the area contained a mixture of dwelling houses and blocks of flats.

86.14 Councillor Smart sought clarification regarding measures to be put in place to ensure safe storage of chlorinated water following its removal as part of the routine maintenance of the swimming pool. The Planning Officer explained that although this level of detail had not been provided standard conditions had been applied which were used when a swimming pool was included within any development. These requirements would need to be met by the applicant as would the requirements of the Environment Agency.

86.15 In answer to questions by Councillor Steedman it was explained that notwithstanding inclusion of a swimming pool, within the scheme it had been indicated that it would achieve a level 4 assessment. Councillor Steedman stated that he was unable to support the scheme as he considered that the proposed underground parking provision ran contrary to Guidance Note 13 which indicated that there was a presumption that additional on site parking was not required in developments which were well served by public transport. The application site has easy access to good public transport links and in his view to have the on - site provision proposed would encourage private vehicle use and would give rise to increased traffic congestion in the vicinity.

86.16 In answer to questions of Councillor Mrs Theobald it was explained that the dimensions of the swimming pool would be 13m by 4m and that the building would be of a brick and render finish with other detailing in order to break up its surface. The render would be off white / cream to provide a similar appearance to that used on the blocks to the south.

86.17 Councillor Mrs Theobald stated that whilst the provision of off - street parking was welcomed, overall she considered the development to be ugly too high and overbearing in the street scene. She considered that the loss of dwelling houses in Palmeira

avenue was regrettable and had spoilt the character of the area. She was unable to support the scheme. Councillor Barnett concurred in that view. Councillor McCaffery considered the scheme was ugly and was in agreement with Councillor Steedman that it was inappropriate to provide off - street parking at this location .

86.18 Councillor Smart considered that the proposal was not significantly different to others which had already and been built and he did not therefore consider it appropriate to refuse this application.

86.19 A vote was taken and on a vote of 6 to 5 with 1 abstention planning permission was granted on the grounds set out below .

86.20 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for recommendations set out in Paragraph 8 of the report and resolves that it is minded to grant planning permission subject to the receipt of satisfactory amendments to the side elevation; no objection from the Traffic Manager and, a Section 106 Obligation to secure :

A contribution of £4,000 towards the Sustainable Transport Strategy and subject to the conditions and informatives set out in the report.

[**Note 1:** Councillors Barnett, Davey, McCaffery, Steedman and Mrs Theobald voted that the application be refused].

[**Note 2** : Councillor Kennedy abstained from voting in respect of the above application].

86.21 **Application BH2007/03872, Willows Surgery, Heath Hill Avenue, Brighton** – Demolition of existing doctor’s surgery and residential accommodation. Erection of a new doctor’s surgery with five self-contained flats above (resubmission of BH2006/03331).

86..22 The Area Planning Manager, East gave a detailed presentation relative to the planning history of this and previous applications including the previous application which had been dismissed at appeal. It was considered that the current application which was now of two storeys in height throughout would comply with local plan policy and that there would be an acceptable relationship between the development site and its neighbours .

86.23 Mr Bareham spoke on behalf of the applicant in support of its application stating that although there was a demand for the surgery as one which was local to residents of Moulsecoomb and Bevendean it could not be sustained by the PCT financially without the proposed enabling development. Councillor Meadows spoke in her capacity as a Local Ward Councillor setting out her concerns regarding the proposals. Whilst local residents wished to retain a doctor’s surgery on the site they had concerns that the level of enabling housing proposed would represent overdevelopment of the site . They were also concerned that the existing willow tree on

site be retained and regarding the proposed access / egress arrangements proposed bearing in mind its close proximity to a very busy highway. It was also considered that the sustainable transport elements needed reappraisal and that the Section 106 Obligation required to be renegotiated.

- 86.24 Councillor Steedman sought confirmation regarding whether or not the scheme would comply with SPD 18 . The Development Control Manager explained that the SPD had not yet been adopted for development control purposes..
- 86.25 Councillor Davey sought clarification regarding on site parking arrangements. Councillors Barnet, Carden, and McCaffery stated that they considered more parking spaces should be made available for those using the surgery . Councillors Barnett and Mrs Theobald suggested that one of the spaces currently allocated for staff parking should be designated for disabled use . Councillor Barnet considered it unrealistic to provide such limited parking , if people were visiting a surgery because they were unwell there was a likelihood they would be travelling there by car. In answer to questions by Councillor Simson the Traffic Manager explained that the applicant could not be compelled to provide additional parking on site and as the area was not included as part of a Controlled Parking Zone on street parking was available.
- 86.26 Councillor Hamilton sought clarification as to whether or not the existing surgery was to be expanded given that the current practice appeared to be to merge existing surgeries into purpose built polyclinics , as had been the case with his own surgery. It had been done in that instance and elsewhere in the city without the need for it to be funded by enabling development . In this instance it did not appear that the new surgery would have result in any significant increase in capacity.
- 86.27 Councillor Mrs Theobald considered that all possible attempts should be made to ensure that the existing willow tree on site would be retained and sought clarification regarding its present condition . The Council's arboriculturist explained that the independent consultant employed by the applicant was well respected in such matters and that her own view was that although regrettable that the tree required to be removed it was in decline and would eventually die . In answer to further questions she explained that the remaining lifespan of the tree could not be determined and that it could ultimately linger for up to 10 years, it would require replacement within that time . Only limited protection works were available bearing in mind that its root system probably extended well under the existing roadway and that it could continue for some because of the moisture and nutrients stored in its roots. Construction works were likely to hasten that pre existing decline.
- 86.28 Councillors Barnett, Hamilton and Mrs Theobald considered that the tree should be retained and protected for the remainder of its

natural life . But following debate it was confirmed that if the tree were to be removed now it would be replaced by two suitable healthy specimens with a far longer lifespan. Once the development works had been completed however, the applicant could not be compelled to replace the existing tree at an indeterminate future date.

86.29 Councillors Kennedy, Mrs Norman and Simson considered that although loss of the tree was regrettable replacement with two younger healthier specimens was appropriate. Councillor Mrs Theobald put a request that a vote be taken. A vote was proposed by Councillor Mrs Theobald and seconded by Councillor Hamilton that Condition 9 be removed and that requirements be put into place to protect the exiting tree. A vote was taken and that proposal was lost on a vote of 9 to 3. Members were in agreement however , that a specific condition be added relative to the hours during which construction works could be carried out in order to protect neighbouring amenity . The details of this are set out in the resolution below.

86.30 A vote was taken and Members on a vote of 9 with 3 abstentions planning permission be granted on the grounds set out below.

86.31 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 and resolves that it is minded to grant planning permission subject to the completion of a Section 106 Obligation to secure :

(a) A financial contribution of £5,000 towards the sustainable Transport Strategy (to be used towards accessibility bus stops, pedestrian facilities and cycling infrastructure within the area); and

(b) An off site temporary replacement Doctors Surgery for the period between demolition and the opening of the proposed facilities . (to ensure a continuity of healthcare facilities in the Bevendean area) and subject to the conditions and informatives set out in the report and subject to the following additional conditions :

15. Notwithstanding the approved drawings, revised proposals for the on site disabled car parking associated with the development shall be submitted for approval in writing by the Local Planning Authority. The proposals shall be implemented in full prior to the first occupation of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority. **Reason** : To ensure adequate parking provision for all users of the building and to accord with policy TR 18 of the Brighton & Hove Local Plan.

16. Construction work in connection with the development hereby approved shall only take place between the hours of 0.800 – 18.00 Mondays to Fridays and 0.800 - 13.00 Saturdays . No construction work shall take place on Sundays or Bank Holidays ; **Reason** : To

Protect the residential amenity of neighbouring properties and to comply with policy QD27 of the Brighton & Hove Local Plan.

- 86.32 **Application BH2008/02204, 3 East Drive, Brighton** – Addition of solar thermal panels to side elevation of front gable .
- 86.33 The Senior Planning Officer gave a presentation explaining that refusal was recommended given that the proposed panels would be located on the front roof slope within the conservation area and would be clearly visible from Queen's Park which was listed as being a park of special historical interest.
- 86.34 Mr Hewitt spoke on behalf of the applicant in support of their application. He referred to other properties on the other side (west) of the park which were similar or identical to the application property in East Drive. Photographs of these properties were displayed. Mr Hewitt also referred to the Open Houses weekend, sponsored by the Carbon Trust which had taken place earlier in the year and to the property located at 6 Southdown Avenue in Brighton which was located in a conservation area and had received awards for its sympathetic inclusion of sustainable and energy savings measures within an older property. Councillor Fryer spoke in her capacity as a Local Ward Councillor setting out her support for the proposed scheme. Stating that in her view the proposal was acceptable and no different from other treatments to houses in East Drive. The application site was located at the extreme eastern corner of the park and she was of the view that the panel would not be highly visible either from the park itself or from the adjoining highway. In her view the rooflights which had been fitted to a number of properties were far more prominent.
- 86.35 Councillor Steedman concurred with the views expressed by Councillor Fryer stating that he did not consider that the proposal would be prominent within the street scene or any different from in its appearance from panels on properties located in West Drive or the property cited at Southdown Avenue .
- 86.36 The Senior Planning Officer responded that she was not aware of the other properties referred to the terms of any permissions given , or of any planning permissions granted in respect of them. The Development Control Manager confirmed that was the case. Councillor Smart stated that in his view the position was not clear cut as was indicated by the applicants representative . It appeared to him that on the other properties referred to panels had been fitted towards the side rear of the property rather than at the front . Councillor Simson concurred in that view. Whilst fully supporting sustainability initiatives she was unable to support this proposal given its location in a conservation area .Councillor Mrs Norman enquired whether it would be possible to erect panels to the rear and it was explained that the proposed location had been chosen in order to maximise on energy gain . Councillor Mrs Norman felt

unable to support the erection of panels at that location.

- 86.37 Mr Small (CAG) stated that irrespective of treatments elsewhere which may or may not have received planning permission this application should be considered on its merits. If it was the Council's policy to preserve and enhance the character and appearance of conservation areas and to refuse provision of solar panels on prominent frontages, this was a material planning consideration.
- 86.38 Councillor Davey considered that it was vital to encourage sustainability. As energy costs were soaring and it was recognised that the carbon footprint used needed to reduce dramatically he was of the view that these matters needed to move forward. Councillor McCaffery stated that whilst there was a need to protect the City's architectural heritage, there was a need to improve sustainability. She was in agreement the proposals would be no more obtrusive within the street scene than existing rooflights.
- 86.39 Councillor Hamilton stated that in his view the apparent contradiction between the Council's support for sustainability and the issue of whether or not solar panels could be provided needed to be addressed. Given that there was a recognised need to reduce the carbon footprint of all individuals and properties it was important to address the issues raised. A balance had to be sought and it was not always possible to be a purist in respecting all architectural heritage at the expense of other overarching needs such as energy generation and conservation. Older dwellings had been altered over time, none of them would originally have had television aerials for example. Debate needed to take place and policy decisions made in respect of the issues raised by this application.
- 86.40 A vote was taken and on a vote of 6 to 3 with 3 abstentions planning permission was refused on the grounds set out below.
- 86.41 **RESOLVED-** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 of the report and resolves to refuse planning permission for the reasons set out below:

1. The proposed panels, by virtue of their size and positioning within the front roof slope would appear as an incongruous feature unrelated to the overall design of the roof and front elevation and would detract from the wider appearance of the Queen's Park Conservation Area and would harm the setting of the historic Queen's Park. As such the proposal is contrary to policies QD1, QD14, HE6 and HE11 of the Brighton & Hove Local Plan and to Supplementary Planning Guidance Note SPGH1 : Roof Alterations and Extensions.

Informatives:

1. This decision is based on drawing no.23.6.08Rev3 received on 25

June 2008 and drawing no. 7.7.08 Rev1 and the site location plan received on 8 July 2008, and the supporting information received on 20 June 2008 .

[**Note 1** : Councillors Davey, Kennedy and Steedman voted that that planning permission be granted].

[**Note 2**: Councillors Carden, Hamilton and McCaffery abstained from voting].

- 86.42 **Application BH2008/01604, 4 Lenham Road, Saltdean – Roof alterations and enlargement to form two rooms in roof (retrospective)**
- 86.43 The Senior Planning Officer gave a presentation detailing the proposals. Details were also given relative to the two previously refused applications. The visual impact of the scheme, its effects relative to neighbouring amenity and the other grounds for the previous refusals were considered to have been addressed and the scheme was therefore recommended for approval.
- 86.44 Councillor Mrs Theobald stated that she considered the scheme to be totally unacceptable and was concerned that works had been commenced and virtually completed in advance of receiving any planning approval. She also expressed concern that the application had not been processed within the 8 week target period. Councillor Barnett concurred in that view.
- 86.45 The Development Control Manager responded stating that whilst there were target dates for processing incoming applications, the department had had to deal with many applications. The numbers currently being submitted had not reduced as a result of the current economic climate. Whilst every endeavour was made to facilitate the early consideration of applications this was not always possible within the target date which was that rather than a legal requirement. It was not a criminal offence for work to commence in advance of planning permission being granted . An applicant might choose to do so for a number of reasons. Members' unhappiness that works had been carried out without the relevant planning permissions being in place was not a material planning consideration.
- 86.46 Councillor Kennedy agreed that whilst regrettable and very frustrating for Members when works were undertaken in the absence of planning permission(s) and in the face of agreed procedures, she did recognise that this did not of itself constitute grounds for refusal.
- 86.47 Councillors McCaffery and Smart sought clarification regarding any sanctions which were available to the Council. The Development Control Manager explained that there were none except in instances where permission was refused and subsequent

enforcement action was taken. Councillor McCaffery sought information (if available) relative to the no of applications where were had commenced prior to all necessary permissions being in place and as to the number granted or refused . The development Control Manager explained that information on the number of retrospective applications submitted was not available.

86.48 A vote was taken and on a vote of 5 to 3 with 4 abstentions planning permission was granted on the grounds set out below .

86.49 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report .

[**Note 1:** Councillors Barnett, Mrs Norman and Mrs Theobald voted that the application be refused].

[**Note 2** : Councillors Davey, Kennedy, McCaffery and Steedman abstained from voting in respect of the above application].

86.50 **Application BH2008/01850, Plots 2 and 3 Land at Royles Close, Rottingdean** – erection of two new 3 bedroom houses.

86.51 The Senior Planning Officer gave a composite presentation detailing the proposals those relative to the two subsequent applications relating to land adjacent to 21 and land adjacent to 6 Royles Close and setting out the reasons for the recommendation. It was noted that extant approvals granted in 1968 in respect of all three plots could be built in the absence of any other permissions being granted. The applicant had sought to update those original permissions in bringing forward the three the applications before the Committee that day . The Planning Officer highlighted the points of difference between the earlier schemes and those that had now been brought forward. It was also explained that measures would be put into place in order to protect the existing trees and screening on site and to replace the one protected tree which would need to be removed.

86.52 Mr Thomas spoke on behalf of neighbouring residents setting out their objections and those of Rottingdean Parish Council and the Rottingdean Preservation Society to the scheme. In their view the proposed development would be of a design and massing that constituted an overdevelopment of the site. In their view the submitted floorplans were bigger than those previously approved and they queried the accuracy of the distances indicated between the development and the boundaries of existing neighbouring properties. Mrs Thomas spoke on behalf of the applicants in support of their application. It was explained that the applicant had sought to update the original applications and had sought advice both at the pre and post application stages to address the concerns of objectors and to liaise fully with officers of the planning

department in order to draw up an acceptable scheme.

- 86.53 The Planning Officer responded to queries raised by the applicant relative to distances between and relative to configuration of the plots indicating the distances involved . In answer to questions by Councillor Smart it was explained that although the widths of the garages had been reduced they would still be of an adequate single garage width .
- 86.54 Councillor Hamilton sought clarification regarding the height and configuration of the proposed development within the context of the street compared with the properties facing it from the opposite side of the road. He stated that it appeared to him, from the photographs shown that although of the same height, the properties which were opposite would appear higher within the streets scene as they were built on higher ground..
- 86.55 In answer to questions by Councillor Mrs Theobald it was explained that the additional dormer windows at first floor level would be obscurely glazed and inward opening as they related either to bathrooms or en- suites or secondary bedroom windows . The applicant had agreed to conditions to that effect in order to mitigate against any potential overlooking .
- 86.56 A vote was taken and Members voted unanimously that planning permission be granted on the grounds set out below.
- 86.57 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant planning permission subject to the Conditions and Informatives set out in the report.
- 86.58 **Application BH2008/01126, Land Adjacent to 21 Royles Close, Rottingdean** - Erection of 1 detached chalet bungalow at land adjacent to number 21.
- 86.59 A vote was taken and Members voted unanimously that planning permission be granted on the grounds set out below.
- 86.41 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report.
- 86.42 **Application BH2008/01114, Land Adjacent to 6 Royles Close, Rottingdean** – Erection of 1 detached chalet bungalow at land adjacent to 6 Royles Close.
- 86.43 A vote was taken and Members voted unanimously that planning permission be granted on the grounds set out below .

- 86.44 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Paragraph 8 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report .

(v) DECISIONS ON APPLICATIONS DELEGATED TO THE DIRECTOR OF ENVIRONMENT

- 86.45 **RESOLVED** – Those 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 the legislative requirements].

[**Note 2 :** A list of representations, received by the Council after the Plans List reports had been submitted for printing had been circulated to Members on the Friday preceding the meeting. (For copy see minute book). Where representations were received after that time they would be reported to the Chairman and Deputy Chairman and it would be at their discretion whether these should (in exceptional cases), be reported to the Committee. This in accordance with resolution 147.2 of the then, Sub Committee held on 23 February 2005].

87. DETERMINED APPLICATIONS

- 87.1 The Committee noted those applications determined by Officers during the period covered by the report.

88. SITE VISITS

- 88.1 **RESOLVED** - That the following site visits be undertaken by the Committee prior to determination :

Bh2007/00710, New Barn Farm , Foredown Road - Visual and noise screening bund on grazing land adjacent to A27

89. APPEAL DECISIONS

- 89.1 The Committee noted letters received from the Planning Inspectorate advising on the results of planning appeals which had been lodged as set out on the agenda.

90. APPEALS LODGED

- 90.1 The Committee noted the list of Planning Appeals, which had been lodged as set out in the agenda.

91. INFORMATION ON INFORMAL HEARINGS / PUBLIC INQUIRIES

- 91.1 The Committee noted the information set out in the agenda relating to information on Informal Hearings and Public Inquiries.

The meeting concluded at 5.45 pm

Signed Chairman

Dated this day of 2008

APPEAL DECISIONS

Page

A. WOODINGDEAN WARD

Application BH2007/03215, 27 Selhurst Road, Woodingdean. Appeal against refusal to grant planning permission for rear extension to replace conservatory and raise roof to bungalow including dormer to side. **APPEAL DISMISSED** (Delegated) (copy of the letter from the Planning Inspectorate attached).

B. WOODINGDEAN WARD

Application BH2007/00652, Land at and to the rear of 3 The Ridgway, Woodingdean. Appeal against refusal to grant planning permission for construction of 8 houses comprising a mix of 3 and 4 bedroom units with ground, first and roof space accommodation and parking spaces and new access to the Ridgway and Balsdean Road. **APPEAL DISMISSED** (Delegated) (copy of the letter from the Planning Inspectorate attached).

C. REGENCY WARD

Applications BH2007/0301900033, and BH2007/0322, Car Park Site, Clifton Hill, Brighton. Appeal against refusal to grant conservation area consent for demolition of boundary wall fronting Powis Grove and construction of 5 new dwellings including below ground car parking. **APPEALS ALLOWED** (copy of the letter from the Planning Inspectorate attached).

D. HANGLETON & KNOLL WARD

Application BH2007/02876, Carlyle, Hallyburton Road, Hove. Appeal against refusal to grant planning permission for erection of a 2 storey extension to form a new one bedroom maisonette, alterations to the existing ground and first floor flats to include new windows, a new conservatory and kitchen refurbishment, and a new crossover and hard standing for 2 cars to the front of the property. **APPEAL DISMISSED** (copy of the letter from the Planning Inspectorate attached).

E. SOUTH PORTSLADE WARD

Application BH2007/02529, 23 Tennis Road, Hove. Appeal against refusal to grant planning permission for balcony to the first floor rear bedroom, doors to replace existing window and access stair. **APPEAL DISMISSED** (Delegated) (copy of the letter from the Planning Inspectorate attached).

F. SOUTH PORTSLADE WARD

Application BH2007/0434, 44 Windlesham Close, Portslade. Appeal against refusal to grant planning permission for construction of an additional dwelling house. **APPEAL DISMISSED** (copy of the letter from the Planning Inspectorate attached).

G. ST PETERS & NORTH LAINE WARD

Application BH2007/03198, Appeal against refusal to grant planning permission for replacement UPVC windows and rear door. **APPEAL DISMISSED** (copy of the letter from the Planning Inspectorate attached).



Appeal Decision

Site visit made on 19 August 2008

by **David Green** MRICS DipTP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
4 September 2008

Appeal Ref: APP/Q1445/A/08/2073040 **27 Selhurst Road, Woodingdean, BN2 6WE**

- 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 Mr D Herriott against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03213, dated 20 August 2007, was refused by notice dated 22 October 2007.
- The development proposed is rear extension to replace conservatory and raise roof to bungalow including dormer to side.

Decision

1. I dismiss the appeal.

Main issue

2. I consider the main issue arising in this case to be the effect of the proposed development on the character and appearance of the area.

Reasons

3. I noted during my site visit that this part of the steeply rising Selhurst Road is characterised by mainly detached bungalows of generally similar proportions. Although it is evident that some roof alterations have taken place here and there, such alterations have been confined largely to the rear of dwellings. However, side and front roof additions, such as those at Nos 23, 24 and 26, are more noticeable. Nevertheless, the bungalows on the western side of this section of the road exhibit a pleasing rhythm of similar hipped roof profiles as they step up the hill from south to north.
4. In my judgement, the proposed rear extension to replace an existing conservatory would have no adverse impact on the character or appearance of the area. Its design would respect that of the bungalow and it would occupy a relatively screened position at the rear of the dwelling. Although I regard it as acceptable, it has been designed as a component of the overall development, such that it could not be erected in the form shown in isolation.
5. However, the proposed increase in height of the bungalow's roof and the formation of a dormer addition in its southern slope would, in my opinion, disrupt the characteristic rhythm of roof lines along the western side of the road. The raised ridge would sit uncomfortably with its neighbours on either

- side and the dormer extension would constitute an unduly obtrusive feature in the street scene.
6. I have taken into account the appellant's submission that the increase in ridge height would be 0.85m rather than the figure of 1.8m referred to by the Council at the planning application stage. This submission has not been disputed by the Council. Nevertheless, I am of the view that the proposed height increase, which is clearly shown on the appellant's drawings, would be inappropriate in this setting.
 7. I have given careful consideration to the appellant's argument that the proposed dormer window would not be located on a prominent elevation. However, it was clear to me at my site visit that the raised position of No 27 in relation to its southern neighbour renders its flank elevation prominent in the street scene. I am in no doubt that the proposed dormer addition would be both clearly visible and visually harmful.
 8. The appellant has drawn my attention to the existence of other roof additions and alterations that have taken place in this area and I have taken due note of them. Indeed, I took time during my site visit to view those apparent from the public realm in Selhurst Road and neighbouring streets. However, little evidence has been provided as to the planning status of those additions and alterations and, in any event, I consider that their existence does not justify allowing an unacceptable form of development at the appeal site.
 9. I have therefore concluded that the proposed development would be harmful to the character and appearance of the area and I find it contrary to policies QD1, QD2 and QD14 of the *Brighton & Hove Local Plan 2005*. Those policies combine to seek a high standard of design for new development and they are supported by Supplementary Planning Guidance (SPG) entitled *Roof Alterations and Extensions*. That SPG has been the subject of public consultation prior to its adoption by the Council, although the appellant has challenged the extent of that consultation. Nevertheless, it constitutes a material planning consideration and I have afforded it appropriate weight. In my judgement, the scale and design of the proposed roof alterations and their prominence in the street scene, would not accord with the relevant SPG advice.
 10. I have had regard to all other matters arising in this case, including representations received from the occupier of No 28 Selhurst Road. Whilst that resident has stated no objection to the principle of the appeal development, he has commented that the extension of dwellings in this area has given rise to increased kerb-side parking. Although the appeal development would result in an increase in the number of bedrooms from two to three, I do not consider that this would necessarily lead to increased parking demand.

David Green

Inspector



Appeal Decision

Site visit made on 7 August 2008

by **Alison Lea MA(Cantab) Solicitor**

an Inspector appointed by the Secretary of State
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Decision date:
26 August 2008

Appeal Ref: APP/Q1445/A/08/2067582

Land at and to the rear of 3 The Ridgway, Woodingdean, Nr 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 Mr D Sheridan against the decision of Brighton & Hove City Council.
- The application Ref BH2007/00652, dated 10 February 2007, was refused by notice dated 4 December 2007.
- The development proposed is the construction of 8 houses comprising a mix of 3 and 4 bedroom units, with ground, first and roof space accommodation and parking spaces and new accesses to The Ridgway and Balsdean Road.

Procedural Matter

1. Following the determination of the planning application, the appellant submitted three alternative plans showing revised siting of 3 of the proposed houses and changes to the fenestration in one elevation of each of those houses. Although I accept that the orientation of the houses would not be changed I consider that the appearance of the proposed houses would be materially altered. The plans have not been formally submitted to the Council for consideration and have not been subject to public consultation and accordingly I have made my decision on the basis of the original plans.

Decision

2. I dismiss the appeal.

Main issues

3. The main issues in this case are the effect of the proposal on
 - (a) the character and appearance of the area; and
 - (b) the living conditions of future occupiers of the development and of occupiers of neighbouring properties, with particular regard to overlooking, sunlight and daylight.

Reasons

4. The appeal site comprises an irregular shaped parcel of vacant land with a gated access from The Ridgway and a long fenced frontage to Balsdean Road. The land rises steeply from The Ridgway to the site, and then continues to slope upwards across the site from the boundary with the rear gardens of dwellings on The Ridgway. It is located within a predominantly residential area

close to the centre of Woodingdean in an area characterised by detached and semi-detached properties of a variety of designs. The Council accepts that the site constitutes previously developed land and that its development for housing is in principle acceptable and I agree. The proposal would introduce a development of 8 houses, 2 of which would face The Ridgway and 6 of which would form a close accessed from Balsdean Road.

Character and Appearance

5. The houses would be 2.5 storeys with traditional pitched roofs with dormer windows. Although many of the properties in the area are bungalows, there are nevertheless a number of 2 storey houses in the vicinity of the site. Given the mixed character of the area, I consider that in general terms dwellings of the height proposed would not look out of keeping with the street scene. The Council considers that individually the dwellings would be acceptable in terms of design, and although some of the modern materials proposed are not found on neighbouring dwellings I agree with the Council that the materials would be complementary to the form of the buildings and would not harm the character or appearance of the area.
6. The 2 houses facing The Ridgway would maintain the building line and, although higher than the adjacent dormer bungalows, I agree with the Council that their height and bulk would follow the broad pattern of the street which is of mixed styles and heights. However, Balsdean Road is characterised by frontage development and the proposal, with only one unit with a road frontage, and another with its side elevation addressing Balsdean Road, would not reflect the established pattern of properties on that road. I accept that the appellant has intended the creation of a "home zone" area, with properties in the close facing that area to provide surveillance and a sense of enclosure. I also accept that in order to fully develop the site it would not be possible for all properties to have a road frontage. Nevertheless, in my opinion, the layout and orientation of houses proposed would appear out of keeping with development on Balsdean Road, and my view is reinforced by the contextual elevations drawing submitted. I conclude therefore that the proposal would cause significant harm to the character and appearance of the surrounding area. It would be contrary to Policy QD2 of the Brighton & Hove Local Plan (LP) which provides that all new developments should be designed to emphasise and enhance the positive qualities of the local neighbourhood by taking into account the local characteristics including the layout of streets and spaces.
7. The Council has expressed concern about the density of the development, which would be 43 dwellings per hectare, in an area of considerably less than 30 dwellings per hectare. LP Policy QD3 of the Brighton & Hove Local Plan 2005 (LP) provides that new development will be required to make efficient and effective use of a site and that higher development densities will be particularly appropriate where the site has good public transport accessibility, pedestrian and cycle networks and is close to a range of services and facilities. In addition LP Policy HO4 provides that residential development will be permitted at higher densities than those typically found in the locality where it can be adequately demonstrated that the proposal exhibits high standards of design and architecture; includes a mix of dwelling types and sizes which reflect local needs; is well served by public transport, walking and cycling

routes, local services and community facilities; and respects the capacity of the local area to accommodate additional dwellings.

8. These policies broadly reflect advice in Planning Policy Statement 3; Housing which promotes the efficient use of land and states that 30 dwellings per hectare net should be used as a national indicative minimum and that more intensive development, when well designed and built in the right location, can enhance the character and quality of an area. It also states that the density of existing development should not dictate that of new housing by stifling change and if done well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment.
9. I acknowledge that the site has good transport accessibility and is close to a range of services and facilities. I also accept that the site could accommodate a higher density than those typically found in the locality. However, in this case, for the reasons given, I consider that the proposal would compromise the quality of the local environment and that the need to make more efficient use of land is outweighed by the harm which would be caused to the character and appearance of the area. Accordingly I conclude that the proposal would be contrary to LP Policies QD2, QD3 and HO4.

Living Conditions

10. The proposed layout of the scheme would result in a number of primary windows in Unit 7 facing primary windows in Unit 6 at a distance of about 8m and primary windows in Units 1 and 2 facing primary windows in Unit 8 at a distance of about 14.6m. In addition there would be a distance of about 15.1m between the windows in the side elevation of Unit 3, which would serve the kitchen/dining room, living room and bedrooms, and primary windows in the rear elevations of Nos 5 and 5a The Ridgway. The raised position of Unit 3 in relation to Nos 5 and 5a as a result of the topography of the site would increase the scope for significant overlooking from the windows in Unit 3.
11. The local plan does not contain any policy which specifies minimum distances, but the Council has referred to The Building Research Establishment Report "Site layout planning for daylight and sunlight: A guide to good practice" which recommends a minimum distance of 18m between facing windows. The Council accepts that smaller distances could be acceptable in some circumstances and I acknowledge that national planning guidance cautions against the application of rigid standards, and makes it clear that careful design can secure privacy better than physical separation alone.
12. However, in this case the layout of the scheme with windows directly facing each other would not secure privacy, and the distances between directly facing windows in habitable rooms are, particularly in some cases, considerably below the minimum distance referred to by the Council. In my opinion, due to the proposed layout of the properties and the distances between some of them, the proposal would lead to an unacceptable degree of overlooking. I note that tree screens are proposed between the relevant units and on the boundary with Nos 5 and 5a The Ridgway. However given the distances involved and the topography of the site, I consider that such planting would be insufficient to address my concerns, and, particularly in relation to the impact on Nos 5 and

5a, planting of a sufficient height to provide a significant screen would be likely to have an unacceptable effect on sunlight and daylight.

13. The Council has also expressed concern that levels of sunlight and daylight between some of the proposed units would not be acceptable and also that Unit 3 and the proposed garage block would lead to a loss of light to the occupiers of Nos 5 and 5a. Since determination of the application the appellant has submitted a daylight and sunlight report which concludes that the proposal raises no harmful issues as far as daylight and sunlight are concerned. Although this report has been submitted to the Council I note that the Council has not considered its contents. Nevertheless, I have no reason to doubt its conclusion, although note that the effect of the introduction of tree screens and any consideration of the height such screens would need to be to prevent significant overlooking, does not appear to have been considered.
14. I conclude therefore that the proposal would lead to significant overlooking and thereby cause significant harm to the living conditions of occupiers of neighbouring dwellings and to future occupiers of the development.

Other Matters

15. A number of concerns have been raised by the occupiers of neighbouring properties, in particular with regard to the proposed access from Balsdean Road and parking problems. However, in accordance with the Council's parking standards, the proposal would provide one parking space per dwelling plus one visitors/disabled parking space. Moreover, the proposal would not result in a loss of off-street parking for the adjacent doctors' surgery, although I acknowledge that a section of on-street parking would be lost where the access would be formed. The Council considers that the proposal would not create an unsafe access or unsafe parking conflict and, although I note the concerns of the occupiers of a number of neighbouring premises with regard to parking, my own observations lead me to agree with the Council.
16. Concern has been expressed about the removal of 3 trees which are the subject of preservation orders. I note the comments of the Council's arboriculturist that 2 of the trees are in poor health and as I have no reason to dispute this view their loss does not weigh heavily against the proposal despite their protected status. The loss of the third tree would be regrettable and weighs against the proposal. However, I agree with the Council that, subject to appropriate replacement landscaping, its loss would be insufficient to lead me to dismiss this appeal.

Conclusion

17. I conclude that the benefits of developing the site do not outweigh the harm which would be caused to the character and appearance of the area and the living conditions of the occupiers of neighbouring properties and future occupiers of the development. Accordingly I dismiss this appeal.

Alison Lea

INSPECTOR



Appeal Decisions

Site visit made on 4 August 2008

by **John Papworth DipArch(Glos) RIBA**

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Decision date:
5 September 2008

Appeal A: APP/Q1445/E/08/2072967

Car Park Site, Clifton Hill, Brighton

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeal is made by 3rd Avenue Developments Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH/2007/03019, dated 3 August 2007, was refused by notice dated 2 April 2008.
- The demolition proposed is of boundary wall fronting Powis Grove, Brighton.

Appeal B: APP/Q1445/A/08/2072966

Car Park Site, Clifton Hill, 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 3rd Avenue Developments Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03022, dated 3 August 2007, was refused by notice dated 2 April 2008.
- The development proposed is construction of 5No new dwellings including below ground car parking.

Decisions

1. I allow Appeal A, and grant conservation area consent for demolition of boundary wall fronting Powis Grove, Brighton in accordance with the terms of the application Ref BH/2007/03019, dated 3 August 2007 and the plans submitted subject to Conditions numbered 1) to 5) set out in the attached Annex 1.
2. I allow Appeal B, and grant planning permission for construction of 5No new dwellings including below ground car parking at Car Park Site, Clifton Hill, Brighton in accordance with the terms of the application, Ref BH2007/03022, dated 3 August 2007, and the plans submitted with it, subject to Conditions numbered 1) to 26) set out in the attached Annex 2.

Main Issues

3. I consider the main issue in Appeal A to be;
 - The effect of the demolition on the character and appearance of the Montpelier and Clifton Hill Conservation Area.

and in Appeal B;

- The effect of the development on the character and appearance of the Montpelier and Clifton Hill Conservation Area and the setting of listed buildings and including the effect on trees.
- The effect of the development on the living conditions of neighbouring residential occupiers with particular regard to daylight, outlook, noise and disturbance.

Reasons

4. I have received representation, and have read of previous comments to the Council, on the history of the site. It appears that a windmill stood here or close-by when much of the surrounding land was open, and this was removed when the area was developed. The site itself then remained open land as either the garden to an adjoining villa or more recently as a car park for the hospital. I acknowledge therefore that the land has stood open for a significant time. I shall consider the contribution that this open land and trees make to the character and appearance of the area and the merits or otherwise of redevelopment in later sections, but state now that in principle I consider the site well located within the urban area for new housing, within walking distance of transport, shops and employment, in line with policies at national, regional and local levels. In addition I acknowledge the likelihood of re-development of the hospital but the lack of permitted proposals at present.

Demolition

5. The boundary wall fronting Powis Grove is a pebble-dashed retaining wall supporting the higher level of the car park and its appearance contrasts poorly with the quality of walls to each side. Whilst not contributing to the character and appearance of the conservation area in itself, it does however provide the base for two trees which would be lost as part of the removal and subsequent redevelopment. One tree, sycamore T2, is protected by TPO whilst both are within the conservation area. I have studied the appellant's Arboricultural Implications Assessment and the Council arboriculturist's advice on the condition of the protected tree in particular as well as the views expressed on the merit of replacement with nursery stock trees, an aim that accords with Local Plan Policy QD16 on trees and hedgerows.
6. There is clear evidence that tree T2 is causing harm to the wall that could lead to collapse. There is contrary evidence from a consultant instructed by the Montpelier and Clifton Hill Association over the future of this tree and reference to the holm oak which is not covered by the TPO but is a tree in the conservation area. There are benefits resulting from the removal of the wall in my view, but also disbenefits in the loss of trees. I consider this a less clear cut case as referred to in paragraph 4.27 of Planning Policy Guidance Note 15 "*Planning and the Historic Environment*" and I shall now consider whether there are acceptable plans for redevelopment of the site, including the Powis Grove frontage.
7. I have read of concern over impact damage to historic structures off-site through demolition, as well as through the redevelopment. The Party Wall etc

Act 1996 provides, separate from the Planning system, for a proper process to protect adjoining property, whether of historic interest or not.

Character and Appearance of the Development Proposals

8. As stated, the site is open and has been so for a long time. However, I do not consider this openness as presently utilised as a car park to contribute to the character and appearance of the conservation area. It is poorly surfaced and unattractive, and not well-related to either road or the adjoining listed buildings and detracts to a considerable extent from the street scene. Whilst the trees provide vegetation and form to the space, I find the presence of the car parking and the poorly defined and enclosed space to detract from the urban grain of the area, not comparable with the attractive enclosed spaces of churchyards to the south. The open space does not, in my view, perform any vital role in the townscape, unlike more formal open areas in front of terraces and the like, and gives the impression of a forgotten space left over from a previous use.
9. I acknowledge statements about the trees and wildlife and that development of the site would occasion change, but in the terms of the character and appearance of the conservation area I find the presentation of the open site of limited value. Similarly I do not consider the site to be a part of the curtilage or even a significant part of the setting of listed buildings, those on Powis Villas relate more to that road, and the Coach House has its attractive gable facing the site but separated from it by land that is off the site and would, it appears, remain open. I do not consider this proposal to be one for infill between the Coach House and the original main house, due to intervening uses. The historical use as a site for a mill is long gone, and the possibility of interest below ground can be addressed through a robust archaeological condition.
10. Dealing first with the loss of trees, I have referred to the sycamore, T2, but there is also an elm, T1, that the Council arboriculturist considers should be kept, and would be, and elms T3 and T4 that have defects that demand work that the officer considers would remove their amenity value. The report commissioned by the amenity association queries the species of three trees and differs over the condition attributed to the trees and the measures proposed for retention during works. I consider that there are uncertainties over the precise amount of root spread and that the presence of the appellant's consultant at particular previously agreed times would provide ready access to advice. A landscaping scheme has been submitted and I concur with the views of the officer that this and the proposed trees off site represent a valid compensation in line with Policy QD16. In coming to this view I have assumed that the off-site trees would be in the conservation area and hence would contribute to its character and appearance.
11. Looking at the boundaries of the site, the flint wall to the Clifton Hill frontage would be stabilised and its missing end reinstated, and the undefined boundary to the rear of listed properties on Powis Grove would be contained by new planting, the side of the Clifton Hill block and the walls attached to the car park ventilation slot, to the benefit of their setting. As stated, the wall to Powis Grove would be removed, but the replacement with steps, echoing those opposite, and a new brick and flint wall to match those neighbouring the site would be an enhancement. There would be the opening to access the

underground parking, but gates are shown and these would, in my judgement add interest and containment to the foot of the ramp. That ramp would result in a limited difference in level due to the building-up of the entrance floor and existing rise in level at this boundary. Lastly, the wall to number 5 Powis Grove would be retained and strengthened, and the open space at the Clifton Road end, where there is a right of way, would remain, as a setting for the Coach House. Overall I find the four boundaries to be maintained in one case and enhanced in three cases, to the benefit of the setting of listed buildings and the character and appearance of the conservation area.

12. Turning to consider the built form, in themselves I find the buildings attractive, well-detailed and well-proportioned. They are contemporary in style and their height is visually constrained by the use of semi-basements, flat roofs and the setting back of the top floor. Most importantly, I consider their response to the context wholly appropriate; the use of the accommodation below entrance level, steps to the front of the pair on Powis Grove, their siting relative to views of the listed buildings, the window arrangements in predominantly vertical format within rendered panels and the definite termination as a cornice at the top of the wall all hark back to features of buildings in the area without mimicking them which would erode their special interest and confuse the streetscene. Building heights are appropriate in my opinion and whilst the two nearest existing buildings have pitched roofs, the use of the flat roof and set-back serves to differentiate the new work whilst remaining within the same overall scale.
13. I am of the view that the proposals as a whole, including landscaping, boundary treatment and built form would enhance the character and appearance of the conservation area and the settings of listed buildings, in line with advice on gap sites in PPG15 at paragraph 4.17. That statement makes clear the possibility of imaginative, high quality design which need not imitate earlier styles but should be designed with respect for their context. I consider this proposal to follow that guidance and to accord with Local Plan policies on the quality of design at QD1, QD3 and QD4, housing policies HO3 and HO4, and of particular relevance to this site, the heritage policies at HE3 and HE6 on the settings of listed buildings and on conservation areas.

Living Conditions

14. I have acknowledged that development of the presently open site would occasion change and that change would be experienced by those living close to the site. However, I consider the layout, siting of buildings, their profile with the set back upper floor and the preservation of the eastern boundary wall to limit the degree to which the change would affect neighbours. I attach significant weight to the 'right to light' study carried out by the appellants at application stage and consider that the siting, orientation and finish of the blocks would not unduly affect daylight or the outlook from existing windows. There would be vehicle access at the south-east corner from Powis Grove, but there is a high wall here and the access would serve only five parking spaces, substantially less than the number of cars that could park on the site at present. In addition, much of the manoeuvring and starting would be contained within the underground garage, further reducing the possibility of harm through noise and disturbance. The highway authority have not objected

to the location or type of access and air quality would be improved through the reduction in car numbers.

15. There would be activity and people living in an area that is at present car park, but within this urban area I do not consider this likely to affect the living conditions of neighbours unacceptably in planning terms. The car park would have caused noise through comings and goings. I conclude that the proposals have been designed so as to accord with the aims of Local Plan Policy QD27 and hence would not cause material nuisance and loss of amenity to the proposed, existing or adjacent users, residents, or occupiers and would not be liable to be detrimental to human health.

Conditions and Undertaking

16. The demolition of the wall should only proceed provided the replacement development and landscaping is assured. A condition linking demolition to the signing of contracts for the redevelopment work is therefore essential. As this demolition is likely to occur first, I consider that archaeological conditions should be attached to the consent as well as the planning permission. I note the root protection area for T1 shown on the Arboricultural Implications Assessment but having mind to the fall in the land at the boundary and the possible need for battered slopes after demolition, I consider that a condition to protect this tree at this stage would be reasonable.
17. Turning to the planning application for the redevelopment, it is essential to ensure that the landscaping that I have relied on in my reasoning, together with the new trees secured off-site by Section 106 undertaking, are provided. I attach significant weight therefore to the undertaking. Further conditions controlling the visual quality of the development, materials, details, cables and pipes, traffic management, parking and cycle storage, and floor levels would be required also. I have read of the possibility of contamination from fuels through the long-term use as car parking and consider a phased approach to this through a condition is necessary. Whilst the location and details of the former windmill are sketchy, I consider that an archaeological condition would be prudent to ensure that anything of interest is recorded. In this instance, and having regard to the proximity of dwellings and listed buildings I find there is justification for removing permitted development rights for enlargement and windows, and control of access to flat roofs, obscure glazing in particular areas and screens would be required.
18. I am not however persuaded of the need for the demolition condition put forward in the Council's suggested list (their number 25) with regard to the planning application. It appears to me that there is little other than the Powis Grove boundary wall to be demolished, and that would be covered by the conservation area consent conditions. Reference in that draft planning condition to the need for a planning permission would be superfluous in any event.
19. Finally I address a series of conditions on Lifetime Homes, waste, solar panels, grey water and energy. There are alternative floor plans submitted for Lifetime Homes and this needs to be agreed by condition and scheme. On the matter of waste arising from the works, the minimisation statement accompanying the application makes promises, but I consider it reasonable to require further

detail as to how these measures will be effectively implemented. Solar panels are shown on drawing P28a in plan but not on the section or elevation drawings and details would be required of the panels and any supporting structure, pipework and like. Grey water recycling is offered and again I consider it reasonable to require further detail as to how this will be incorporated. A requirement for Level 3 or higher in the Code for Sustainable Homes is reasonable and there is now no need to refer to EcoHomes in addition.

Conclusions

20. Development would provide housing in a sustainable location close to transport, jobs and services. Demolition and other works to the boundaries would provide benefits and the removal of open car parking would also be an improvement. The redevelopment would not copy existing styles but would be appropriate modern insertions to the historic fabric of the area and with conditions, the interests of neighbouring and prospective occupiers would be safeguarded. The disbenefits of the scheme, in the loss of trees, would be more than compensated for by the on-site and off-site planting and the improvements to the environment generally. I conclude that the proposals preserve the character and appearance of the Montpelier and Clifton Hill Conservation Area, and enhance with regard to the removal of the unattractive car park and the new wall to the Powis Grove frontage, in line with Development Plan policies and the test in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as protecting the setting of listed buildings in accordance with Section 66(1) of the same Act. In view of there being an acceptable scheme for the redevelopment of the site, I conclude that conservation area consent should be given. For the reasons given above I conclude that both appeals should be allowed.

S J Papworth

INSPECTOR

ANNEX 1

CONDITIONS APPEAL A Ref; APP/Q1445/E/08/2072967

Conditions attached to conservation area consent for demolition of boundary wall fronting Powis Grove, Brighton;

- 1) The works of demolition hereby permitted shall begin not later than three years from the date of this decision.
- 2) The works of demolition hereby permitted shall not be begun until documentary evidence is produced to the Local Planning Authority to show that contracts have been entered into by the developer to ensure that building work is commenced in accordance with a scheme for which Planning Permission has been granted within a period of 6 months following commencement of demolition.
- 3) The works of demolition hereby permitted shall not be begun until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.
- 4) The works of demolition hereby permitted shall not be begun until the applicant has secured the maintenance of an on-site watching brief by a suitably qualified and experienced archaeologist during demolition work in accordance with written details which have been submitted to and approved in writing by the Local Planning Authority. In the event of important archaeological features or remains being discovered which are beyond the scope of the watching brief to excavate and record and which require a fuller rescue excavation, then demolition work shall cease until the applicant has secured the implementation of a further programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.
- 5) The demolition hereby permitted shall be carried out in accordance with the Arboricultural Implications Assessment (AIA) prepared for the site, and shall include the on-site involvement of the consultant as set out on Page 20 'Monitoring' of the AIA in accordance with a regime of attendance that shall be submitted to and approved by the Local Planning Authority prior to work commencing.

ANNEX 2

CONDITIONS APPEAL B Ref; APP/Q1445/A/08/2072966

Conditions attached to planning permission for construction of 5 No new dwellings including below ground car parking at Car Park Site, Clifton Hill, Brighton;

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no extension, enlargement or other alteration of the buildings shall be carried out without Planning Permission obtained from the Local Planning Authority.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no window, dormer window or rooflight other than those expressly authorised by this permission shall be constructed without Planning Permission obtained from the Local Planning Authority.
- 4) All windows on the side elevations shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.
- 5) No cables, wires, aerials, pipework (except rainwater downpipes as shown on approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.
- 6) The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
- 7) Prior to commencement of development full details of land levels of the proposed development relative to surrounding properties shall be submitted to and agreed in writing by the Local Planning Authority. The details shall also include finished floor and roof levels and the development shall be constructed in accordance with the agreed details.
- 8) Access to the flat roof to the sides and rear at second floor level hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
- 9) No development shall take place until details of the window louvres shown on the approved plan 0661_P07b and/or _P11b have been submitted to and approved in writing by the Local Planning Authority. The screens shall be implemented fully in accordance with the agreed details prior to occupation of the units and thereafter retained.
- 10) Notwithstanding the approved floor plans, no development shall take place until alternative floor plans which demonstrate how the proposal complies with Lifetime Home standards have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be

- implemented fully in accordance with the agreed details and thereafter retained.
- 11) No development shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority which details measures to ensure that the development hereby approved will achieve the Code for Sustainable Homes rating of "Level 3" or higher or an equivalent level of performance if an alternative independently assessed means of sustainability assessment is used. The agreed scheme shall be implemented in strict accordance with the approved details prior to the occupation of the development.
 - 12) Notwithstanding the submitted Waste Minimisation Statement, no development shall take place until a written statement, consisting of an updated Waste Minimisation Statement, confirming how demolition and construction waste will be recovered and reused on site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details.
 - 13) No development shall take place until a scheme demonstrating how the solar panels will be incorporated into the scheme has been submitted to and approved in writing by the Local Planning Authority. The information will include technical details and profiles of the panels on the roof. The approved scheme shall be implemented prior to occupation of the dwellings and shall be retained as such thereafter.
 - 14) No development shall take place until a scheme demonstrating how grey water recycling facilities will be incorporated into the scheme has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to occupation of the dwellings and shall be retained for use as such thereafter.
 - 15) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use at all times.
 - 16) No development shall take place until full details of the parking arrangements, including the traffic light system has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented fully in accordance with the agreed details and retained thereafter.
 - 17) No works pursuant to this permission shall commence, unless otherwise agreed in writing by the Local Planning Authority, until there have been submitted to and approved in writing by the Local Planning Authority:
 - (a) A desk top study documenting all the previous and existing land uses of the site and adjacent land;
 - (b) A site investigation report assessing the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study; and
 - (c) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the

site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

- 18) The development hereby permitted shall not be occupied or brought into use until verification has been submitted to the Local Planning Authority by the agreed competent person that any remediation scheme has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:
- (a) As built drawings of the implemented scheme;
 - (b) Photographs of the remediation works in progress; and
 - (c) Certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the approved remediation scheme.

- 19) No development shall take place until samples of the materials (including colour of render, paintwork or colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 20) No development shall take place until 1:20 sections and profiles and samples have been submitted to and agreed in writing by the Local Planning Authority in respect of windows, doors, balconies, canopies, parapets, eaves, gates, boundary walls, steps and railings. The scheme shall be implemented fully in accordance with the agreed details and retained thereafter.
- 21) No development shall take place until full details of the proposed boundary wall to the Powis Grove frontage have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented fully in accordance with the agreed details and retained thereafter.
- 22) No development shall take place until full details of the proposed extension to the Clifton Hill flint wall as shown on approved plan 0661_P14b and stabilisation work as shown on QED Structures Drawing 100/P1 have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented fully in accordance with the agreed details and retained thereafter.
- 23) No development shall take place within the application site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.
- 24) No development shall take place within the application site until the applicant has secured the maintenance of an on-site watching brief by a

suitably qualified and experienced archaeologist during construction work in accordance with written details which have been submitted to and approved in writing by the Local Planning Authority. In the event of important archaeological features or remains being discovered which are beyond the scope of the watching brief to excavate and record and which require a fuller rescue excavation, then construction work shall cease until the applicant has secured the implementation of a further programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

- 25) The development shall be carried out in accordance with the Arboricultural Implications Assessment (AIA) and the Tree Planting Method Statement accompanying the application, and shall include the on-site involvement of the consultant as set out on Page 20 'Monitoring' of the AIA in accordance with a regime of attendance that shall be submitted to and approved by the Local Planning Authority prior to work commencing.
- 26) No development shall commence until full details of a landscaping scheme, which includes hard surfacing, means of enclosure, landscaping and planting and three heavy nursery stock trees, have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development is occupied.



Appeal Decision

Site visit made on 6 August 2008

by **Alison Lea MA(Cantab) Solicitor**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
26 August 2008

Appeal Ref: APP/Q1445/A/08/2067691

Carlyle, Hallyburton Road, Hove, East Sussex BN3 7GP

- 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 Mr T Voice against the decision of Brighton & Hove City Council.
- The application Ref BH2007/02876, dated 27 July 2007, was refused by notice dated 5 October 2007.
- The development proposed is the erection of a 2 storey extension to form a new one bedroom maisonette, alterations to the existing ground and first floor flats to include new windows, a new conservatory and kitchen refurb, and a new crossover and hardstanding for 2 cars to the front of the property.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues in this case are the effect of the proposal on
 - (a) the character and appearance of the property and the surrounding area; and
 - (b) the living conditions of the occupiers of neighbouring properties and of future occupiers of the appeal property.

Reasons

3. The appeal property is a detached 2 storey building which has been converted into 2 self-contained flats. It is situated in a residential road consisting of a mixture of detached and semi-detached properties within plots of a variety of sizes. The proposal would introduce a 2 storey extension to the south and west of the existing building which would form a new one bedroom dwelling. Alterations would also be carried out to the existing ground and first floor flats.

Character and Appearance

4. The 2 storey extension would be to the side and rear of the building, set back a considerable distance from its front elevation, behind the existing car port and extending about 5m beyond the main rear elevation of the building. I agree with the Council that, as a result of its size and position it would be poorly integrated with the design of the existing building and would appear as an incongruous addition. In my opinion it would be contrary to Policy QD14 of the Brighton & Hove Local Plan (LP) which provides that extensions to existing

buildings will only be granted if they are well designed, sited and detailed in relation to the property to be extended. Furthermore it would extend beyond the general rear building line of properties on Hallyburton Road and in my view as result of its projection and siting would appear intrusive and out of keeping with the area when viewed from the rear gardens of neighbouring properties. It would also be visible from Hallyburton Road, from where, due to its siting and size, it would appear as an incongruous addition. Accordingly I conclude that the proposal would cause significant harm to the character and appearance of the appeal property and the surrounding area contrary to LP Policy QD14.

Living Conditions

5. The extension would be about 1.2 metres from the boundary with No 70, which property has a number of windows in its side elevation. Although I note that the windows are set back from the boundary, and that the occupiers of No 70 have not objected to the proposal, nevertheless in my view the extension, due to its height and proximity, would appear overbearing when viewed from those windows. Accordingly the proposal would be contrary to LP Policies QD14 and QD27 which provide amongst other matters that permission will not be granted for development which would cause a loss of amenity to adjacent occupiers.
6. The proposal would necessitate alterations to some of the windows in the ground and first floor flats. At ground floor a large rear window would be removed and replaced by a small window in the side elevation. This would look out towards the existing car port and an area proposed as storage space for cycles and refuse. At first floor a bedroom window would be significantly reduced in size resulting in a very small opening adjoining the deep flank wall of the extension and a rooflight would be introduced. The appellant has suggested that the revised arrangement would make a suitable and safer bedroom for a child, and states that all the changes would comply with building regulations. Nevertheless, I agree with the Council that the proposed alterations would result in rooms with an inadequate outlook, particularly in relation to the first floor flat, and I conclude therefore that the proposal would have a significant adverse effect on the living conditions of occupiers of the existing flats, contrary to LP Policy QD27.

Other Matters

7. Concern has been expressed about the proximity of the proposal to the South Coast railway line and the noise and disturbance which could arise. However, although the proposal would be closer to the railway line than the existing property, I note that due to the angle of the railway line in relation to Hallyburton Road there are a number of properties closer to the line than the proposed extension. No evidence has been provided with regard to noise levels, but given the distance between the property and the railway line and the existence of a substantial number of properties located at a similar distance or closer, I consider that noise from the railway line is insufficient reason to dismiss this proposal.
8. The Council has also stated that it has not been demonstrated that the development would achieve a high standard of efficiency in the use of energy, water and materials, contrary to LP Policy SU2. However, I am satisfied that

this could have been dealt with by means of an appropriately worded condition and accordingly have not considered this matter further.

Conclusion

9. I conclude however that the proposal would cause significant harm to the character and appearance of the appeal property and the surrounding area and to the living conditions of the occupiers of No 70 Hallyburton Road and the existing flats at Carlyle, contrary to LP Policies QD14 and QD27. Although I note the appellant's suggestion that the proposal would make more efficient use of land, such use should not be at the expense of the environment, and in this case I consider that the benefits of making efficient use of land are outweighed by the harm which would be caused.

Alison Lea

INSPECTOR



Appeal Decision

Site visit made on 6 August 2008

by **Alison Lea MA(Cantab) Solicitor**

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Decision date:
22 August 2008

Appeal Ref: APP/Q1445/A/08/2069270
23 Tennis Road, Hove, East Sussex BN3 4LR

- 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 Mr and Mrs Kenward against the decision of Brighton & Hove City Council.
- The application Ref BH2007/02529, dated 3 July 2007, was refused by notice dated 24 August 2007.
- The development proposed is a balcony to the first floor rear bedroom, doors to replace existing window and access stair.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue in this case is the effect of the proposal on the living conditions of the occupiers of neighbouring properties, with particular reference to overlooking, noise and disturbance and outlook.

Reasons

3. The appeal property is a first floor flat within a mid-terrace property. The appeal proposal would introduce a balcony at first floor level with a spiral staircase to provide access to the rear garden area. A window would be converted into glazed doors to provide access to the balcony.
4. The balcony would be about 1.2m in depth. Although I note the appellants' view that the balcony would not be an extensive seating area, nevertheless it would be large enough to sit out on and given its proximity to the rear garden of No 21, its use would provide opportunities for extensive overlooking of that garden, which in my opinion would be considerably in excess of those currently afforded by the existing first floor windows and dormer windows which overlook the garden. Furthermore, I agree with the Council that use of the balcony could lead to unacceptable levels of noise and disturbance in close proximity to a bedroom window in No 21.
5. I note that the current occupiers of No 21 have stated that they have no objection to the proposal. However, that may not be the position with regard to any future occupiers of the property and is insufficient reason to permit otherwise unacceptable development. Furthermore, the appellants have referred to a balcony on a neighbouring property which they state overlooks

their garden. However, due to the distance between the properties the situation is not comparable. Similarly although reference has been made to other balconies within the vicinity of the appeal property, I do not have any details of them or the basis upon which they may have been permitted and in any event have considered this appeal on its own merits.

6. The access stair would lead into the rear garden of No 23 and would be in close proximity to a window in the downstairs flat. Although I agree with the appellants that due to its siting and the materials proposed it would not have a significant impact on light to or the outlook from that window, nevertheless its use by the occupants of the first floor flat could lead to significant levels of noise and disturbance to and overlooking of occupiers of the ground floor flat. Although I accept that overlooking could occur through any use of the rear garden by occupiers of the first floor flat it appears that at present access can only be gained through the ground floor flat and with the permission of the occupier of that flat.
7. I acknowledge that the ground floor flat is currently occupied by a close relative of the appellants and that the proposal is required in order to avoid accessing the garden through the ground floor flat. I accept that the current arrangement is unsatisfactory. However, the ground floor flat may not always be occupied by a relative and if the 2 flats were independently occupied I consider that the impact on the occupiers of the ground floor flat would be unacceptable.
8. I note that the appellants are concerned about the manner in which the Council dealt with the planning application. However, this is not a matter for me to comment on as part of this appeal.
9. I conclude therefore that the proposal would cause significant harm to the living conditions of the occupiers of No 21 Tennis Road and of the ground floor flat at No 23 and would be contrary to Policies QD14 and QD 27 both of which seek to protect the living conditions of the occupiers of neighbouring properties. I have taken into account the benefits of the proposal to the appellants including that it could be used as an alternative access in case of fire, but these are insufficient to outweigh the harm which would be caused.

Alison Lea

INSPECTOR



Appeal Decision

Site visit made on 18 August 2008

by **David Green MRICS DipTP MRTPI**

an Inspector appointed by the Secretary of State
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Decision date:
10 September 2008

Appeal Ref: APP/Q1445/A/08/2072630

44 Windlesham Close, Portslade, Sussex, BN41 2LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by G Earl Esq against the decision of Brighton & Hove City Council.
- The application Ref BH2007/04343, dated 22 November 2007, was refused by notice dated 4 March 2008.
- The development proposed is construction of an additional dwelling house.

Decision

1. I dismiss the appeal.

Main issues

2. I consider the main issues in this case to be:
 - 1) the effect of the proposed development on the character and appearance of the area;
 - 2) whether the proposed development would result in the creation of satisfactory living conditions for occupiers of the proposed house in terms of private usable amenity space;
 - 3) whether the proposed development would provide accommodation capable of adaptation without major structural alterations to meet the needs of people with disabilities; and
 - 4) whether the proposed development would be efficient in the use of energy, water and materials and would make provision for refuse and recycling facilities.

Reasons

3. The original outline planning application was submitted on the basis of all matters being reserved for subsequent approval. However, the appellant has indicated that the proposed house would comprise an extension to the existing terrace comprising Nos 38-44 Windlesham Close and would be of similar size and appearance to its neighbours.
4. I noted during my site visit that this part of Windlesham Close is characterised by semi-detached houses with reasonably proportioned gardens for the locality. The appeal site is approximately triangular in shape and is located on the inside of a bend in the road. It comprises the larger part of the garden available to No 44.

5. On the first issue that I have identified, it is clear that, due to the position and shape of the site, the erection of an additional house would result in a building extremely close to both the public highway and an adjoining area of allotments. In my judgement, the proposed development would appear excessively cramped on its plot and would appear as an unduly dominant feature in the street scene.
6. Furthermore, by severing the appeal site from the curtilage of No 44, that house would lose the vast majority of its garden area. Although the appellant has drawn my attention to the very small curtilage at No 23a, I do not find that to be characteristic of this part of Windlesham Close.
7. I have therefore concluded that the erection of an additional house on the appeal site would constitute an intrusive overdevelopment that would be harmful to the character and appearance of the area. Accordingly, I find the proposed development contrary to the aims of policy QD1, QD2 and QD3 of the *Brighton & Hove Local Plan 2005* (LP).
8. On the second issue, given the nature of the site and the form of development advanced by the appellant, the amount of amenity space that could be provided would be severely limited. It would be restricted to small triangularly-shaped areas to the front, side and rear of the new house. In my judgement, those disjointed areas would be of little benefit to occupiers of the new house in terms of usability or privacy, due to their size, shape and position.
9. I note that LP policy HO5 does not quantify the amount of amenity space that should be provided in new development. However, for the reasons given above, I am of the opinion that the scheme before me would be seriously deficient in private usable area. I have therefore concluded that the proposed development would result in the creation of unsatisfactory living conditions for occupiers of the proposed house.
10. On the third and fourth issues, I note that LP policy HO13 reflects the requirements of the Disability Discrimination Act 2005 and that policy SU2 is consistent with advice contained in both *Planning Policy Statement 1: Delivering Sustainable Development* and *Planning Policy Statement 22: Renewable Energy*. I regard these issues as important, but they are matters that could reasonably be dealt with at the reserved matters stage. Accordingly, had I decided to allow this appeal and grant outline planning permission for the proposed development, I would have imposed appropriate conditions to address these matters.
11. I have had regard to all other considerations arising in this case, including the appellant's references to the sustainable location of the site and the requirement of LP policy QD3 to make efficient and effective use of land. I have also taken account of his submission that no harm would result to the living conditions of neighbouring residents in the context of LP policy QD27. However, I have found nothing of sufficient weight to change my conclusions.

David Green

Inspector



Appeal Decision

Site visit made on 14 August 2008

by **Simon Hill MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
10 September 2008

Appeal Ref: APP/Q1445/A/08/2072187 12 Upper Lewes Road, Brighton BN2 3FJ

- 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 Ms Cattnach against the decision of Brighton and Hove City Council.
- The application (Ref BH2007/03198), dated 30 July 2007 was refused by notice dated 15 November 2007.
- The development proposed is replacement UPVC windows and rear door.

Decision

1. I dismiss the appeal insofar as it relates to the windows at the front. I allow the appeal insofar as it relates to the door and windows at the back and I grant planning permission for replacement UPVC windows and rear door at 12 Upper Lewes Road, Brighton, BN2 3FJ in accordance with the terms of the application, Ref BH2007/03198 dated 30 July 2007, and the diagrams and annotated photographs submitted with it in so far as they are relevant to that part of the development hereby permitted, subject to the condition that the development hereby permitted shall begin before the expiration of 3 years from the date of this decision.

Main issue

2. The main issue is the effect on the character and appearance of the building and the area.

Reasons

3. The appeal building comprises the first floor unit of a 3-storey residential terrace.
4. The Council does not object to the proposed window and door replacements at the back. I saw that they would be seen only from the back garden of the property and the immediately neighbouring gardens and that windows in the rear of the terrace comprise a mix of original-looking wooden sash windows and UPVC replacements. In that context I have no reason to depart from the view of the Council.
5. Most windows at the front of the long terrace, which runs for several properties each side of the appeal property, have had UPVC replacement frames installed. Surviving original wooden sash windows with mullions, such as that in the top floor window of the adjoining property, are very much the exception. The proportion of UPVC replacements in the 2-storey terraced housing on the

opposite side of the road is similar. In such surroundings the installation of UPVC frames would not be out of place.

6. All 3 floors of the part of the terrace in which the appeal property is located had the shape and frames of their windows significantly altered as part of a conversion to flats in 1971, well before the adoption of present national and local policies relating to the design of development. The top of the main bay window to the lounge is lower and the cill higher than those of windows in properties either side and generally within the terrace. In addition the frames differ significantly in their design, incorporating shallow top lights above casements, with the dividing bar well above the mid point. This differs from the norm in the terrace, where replacement windows have the central horizontal bar similar to original sash windows. The frame of the smaller (kitchen) window to the side reflects the design of the bay window, as do the windows above and below the appeal property. The overall effect is one of discord with the terrace as a whole, in which, although the many UPVC window replacements of varying detailing have lost the elegance of the originals (as represented by that in the top floor of the adjacent property) they have generally retained their basic proportions.
7. The proposed replacements would perpetuate the proportions of the existing window openings and design of the frames, which are uncharacteristic of the terrace of which the appeal property forms part. In addition, the omission of a central vertical element to the bay would accentuate the impression of a landscape shape in contrast to the prevailing portrait shape of frames in properties either side. The design of the proposal thus fails to take the opportunity of rectifying the poor appearance of the existing windows and would harm the character and appearance of the building and, being visible from the road, that of the street scene.
8. The part of the proposal relating to the front of the building therefore conflicts with policy QD14 of the Brighton and Hove Local Plan, which requires alterations to existing buildings to be well designed and detailed in relation to the property, adjoining properties and the surrounding area. It also conflicts with Planning Policy Statement 1: *Delivering Sustainable Development* which states that design which is inappropriate in its context or which fails to take opportunities available for improving the character and quality of an area should not be accepted.

Conclusion

9. For the reasons given above and having regard to all other matters raised, I conclude that, in relation to the proposed window replacements at the front of the property, the appeal should be dismissed and that, in relation to the proposed door and window replacements at the back, it should be allowed and permission granted subject to a time-limit condition.

Simon Hill

INSPECTOR

NEW APPEALS RECEIVED

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

REGENCY

BH2007/04453

Royal Alexandra Hospital 57 Dyke Road
Brighton

Demolition of existing buildings and erection of
156 residential units and 751 square metres of
commercial floor space (doctor's surgery and
pharmacy). Associated access, parking and
amenity space (including a public green).
(Resubmission of BH2007/02926.)

APPEAL LODGED

21/08/2008

Environmental Services Planning (Applications)
Committee

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

EAST BRIGHTON

BH2008/01304

23 Rugby Place Brighton

Conversion of existing dwelling into one x one
bedroom flat and one x three bedroom
maisonette.

APPEAL LODGED

02/09/2008

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

ST. PETER'S & NORTH LAINE

BH2007/03905

67 Roundhill Crescent Brighton

Installation of solar hot water system with 2
solar panels to front roof slope.

APPEAL LODGED

04/09/2008

Delegated

**Brighton & Hove
City Council****INFORMATION ON INFORMAL HEARINGS / PUBLIC INQUIRIES****1 October 2008**

This is a note of the current position regarding Planning Inquiries and Hearings

57 Shirley Drive, Hove

Planning application no: BH2007/02609
Details of application: Construction of two semi-detached houses.
Decision: Delegated
Type of appeal: Informal Hearing
Date: 8 October 2008, 10am
Location: Committee Room 2, Hove Town Hall

Albany Towers, St Catherines Terrace, Kingsway Hove

Planning application no: BH2007/03305
Details of application: Roof extension to provide 2 penthouse flats with 2 car parking spaces and new secure cycle store.
Decision: Delegated
Type of appeal: Informal Hearing
Date: 21 October 2008
Location: Hove Town Hall

Land to the rear of 48 & 50 Old Shoreham Road

Planning application no: BH2007/04047
Details of application: Construction of two three storey, four bedroom houses.
Decision: Delegated
Type of appeal: Informal Hearing
Date: 19 November 2008
Location: Hove Town Hall

9 Station Road, Portslade

Planning application no: BH2007/04148
Details of application: Proposed roof extensions and alterations, including provision of mansard roof to provide additional floors creating two additional flats and bike/bin storage at entrance.
Decision: Delegated
Type of appeal: Informal Hearing
Date: 25 November 2008
Location: Hove Town Hall

32 Redhill Drive, Brighton

Planning application no: BH2007/02980
Details of application: Demolition of existing house and construction of a pair of semi-detached houses - resubmission of refused application BH2007/00041.

Decision: Delegated
Type of appeal: Informal Hearing
Date: 26 November 2008
Location: Hove Town Hall

46-48 Kings Road, Brighton

Planning application no: BH2007/03924
Details of application: Display of externally illuminated advertisement banner.
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

Bali Brasserie, Kingsway Court, First Avenue, Hove

Planning application no: BH2007/04314
Details of application: UPVC canopy to rear of building to provide smoking shelter (retrospective)
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

Bali Brasserie, Kingsway Court, Queens Gardens Hove

Planning application no: Enforcement case 2007/0547
Details of application: Construction of smoking shelter.
Decision: N/A
Type of appeal: Informal Hearing
Date:
Location:

128 Church Road Hove

Planning application no: BH2007/02378
Details of application: Change of use of first floor with second floor extension, with additional accommodation in the roof space to form five flats.
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

124 Church Road Hove

Planning application no: BH2007/02379
Details of application: Alterations and extensions to form part 2, part 3 storey building with roof accommodation to form four flats above existing retail.
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

Norfolk Court, Norfolk Square

Planning application no: BH2007/02515
Details of application: Gambrel roof extension to form 1 bedroom flat and external alterations to existing building.
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

87 Cowley Drive, Woodingdean, Brighton

Planning application no: BH2008/00443
Description: Outline application for a detached dwelling.
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

5 The Sett Portslade

Planning application no: BH2008/00585
Description: Proposed 2 storey side extension.
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

7 Welesmere Road Rottingdean Brighton

Planning application no: BH2008/00892
Description: Change of use of an existing 'granny annex' to a detached dwelling.
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

Site Address: 2 Northgate Close Rottingdean

Planning application no: BH2008/00177
Description: First floor and side extensions. Retrospective.
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

Site Address: 106 Longhill Road

Planning application no: BH2007/03875
Description: Demolition of existing house and garage. Construction of a five-bedroom detached house with integral annexe and a detached double garage.
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

69-70 Queens Head, Queens Road, Brighton

Planning application no: BH2007/03632
Description: Partial change of use of 1st and 2nd floors from solely A4 (incorporating staff accommodation) to mixed use A3, A4 and sui generis. Also proposed new 3rd floor mansard roof with A4 use.
Decision: Delegated
Type of appeal: Informal Hearing
Date:
Location:

Land east of 55 Highcroft Villas

Planning application no: BH2007/03843

Description: Erection of an apartment building containing 24 flats with parking and access.

Decision: Committee

Type of appeal: Public Inquiry

Date:

Location:

128 Longhill Road Ovingdean Brighton

Planning application no: BH2007/01679

Details of application: Erection of four detached houses.

Decision: Against non-determination

Type of appeal: Public Inquiry

Date:

Location:

128 Longhill Road Ovingdean Brighton

Planning application no: BH2008/01353

Details of application: Construction of four houses. Existing dwelling to be demolished.

Decision: Delegated

Type of appeal: Public Inquiry

Date:

Location:

