

**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 14 JANUARY 2009**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Hyde (Chairman), Wells (Deputy Chairman), Barnett, Carden (Opposition Spokesperson), Davey, Hamilton, Kennedy, McCaffery, Mrs Norman, K Norman, Smart and Steedman

**Co-opted Members** Mr J Small (CAG Representative) and Mr R Pennington (Brighton & Hove Federation of Disabled People)

**PART ONE**

**156. PROCEDURAL BUSINESS**

**156a Declarations of Substitutes**

156.1 Councillor Mrs A Norman attended as a substitute Member for Councillor Mrs C Theobald.

**156b Declarations of Interest**

156.2 Councillor Kennedy declared a personal but not prejudicial interest in application BH2008/03297, 107 Southover Street as she lived on the same street. She confirmed that she had not predetermined the application and would therefore take part in the discussion and voting.

156.3 Councillor Steedman declared that he had received a copy of a letter from the applicant of application BH2008/03015, Maycroft and Parkside, London Road and 2-8 Carden Avenue which had been sent to an MEP. He confirmed that he had not responded to this letter and had not predetermined the application and would therefore take part in the discussion and voting.

156.4 Councillor Davey declared that he had received a copy of a letter from the applicant of application BH2008/03015, Maycroft and Parkside, London Road and 2-8 Carden Avenue which had been sent to an MEP. He confirmed that he had not responded to this letter and had not predetermined the application and would therefore take part in the discussion and voting.

- 156.5 Councillor Kennedy declared that she had received a copy of a letter from the applicant of application BH2008/03015, Maycroft and Parkside, London Road and 2-8 Carden Avenue which had been sent to an MEP. She confirmed that she had not responded to this letter and had not predetermined the application and would therefore take part in the discussion and voting.
- 156.6 Councillor K Norman declared that he was the Cabinet Member for Adult Social Care & Health but confirmed that he had not predetermined the application for BH2008/03015, Maycroft and Parkside, London Road and 2-8 Carden Avenue and would therefore take part in the debate and voting.
- 156.7 Councillor Mrs A Norman declared that she sat on the South Downs Joint Committee, which had recently examined the application for BH2008/02499, 27 Roedean Crescent She confirmed that she had not predetermined the application and would therefore take part in the debate and voting.

#### **156c Exclusion of the Press and Public**

- 156.8 The Committee considered whether the press and public should be excluded from the meeting during 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.
- 156.9 **RESOLVED** – that the press and public be not excluded from the meeting during consideration of any items on the agenda.

#### **157. MINUTES OF THE PREVIOUS MEETING**

- 157.1 Minute 150.11 – He considered that it was ill conceived and that the existing frontage *and some existing buildings* should be maintained.

Minute 150.13 – It is [delete not] considered that the development by virtue of its siting...of the West Hill Conservation Area.

Minute 150.30 – In his view [delete sedum roofs of] downland grass would be appropriate to the buildings surroundings.

**RESOLVED** – that the minutes of the previous meeting held on 3 December 2008 be approved and signed by the Chairman with the above amendments.

#### **158. MINUTES OF SPECIAL MEETING**

- 158.1 It was explained by the Senior Democratic Services Officer that the minutes for the Special Meeting held on 12 December 2008 were currently out for review and the

Committee could expect to receive them at the next ordinary meeting on 4 February 2009.

**159. CHAIRMAN'S COMMUNICATIONS**

**Web-casting of Planning Committee Meetings**

- 159.1 The Chairman explained that afternoon's meeting of the Planning Committee was to be web-cast as part of a pilot study which would run until June 2009. Members were reminded to speak directly into the microphones and to switch them off when they had finished speaking in order to ensure that they could be heard clearly both within the Council Chamber and the Public Gallery above.
- 159.2 The Senior Democratic Services Officer explained that correspondence sent to those wishing to make representations at meetings included information to ensure that they were aware that meetings were to be web-cast and guidance was given relative to use of equipment available in the meeting room including operating instructions for the microphones.

**160. PETITIONS**

- 160.1 The Senior Democratic Services Officer referred to a petition relative to Starbucks Coffee House in St James Street, Brighton, which had been received. Currently the premises was the subject of an appeal to the Planning Inspectorate and enforcement action was also being considered. This petition would be referred to the Planning Committee when this matter was resolved.

**161. PUBLIC QUESTIONS**

- 161.1 There were none.

**162. DEPUTATIONS**

- 162.1 There were none.

**163. WRITTEN QUESTIONS FROM COUNCILLORS**

- 163.1 There were none.

**164. LETTERS FROM COUNCILLORS**

- 164.1 There were none.

**165. NOTICES OF MOTION REFERRED FROM COUNCIL**

- 165.1 There were none.

**166. TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

166.1 **RESOLVED** – that the following site visits be undertaken by the Committee prior to determination:

\*BH2008/02732, Falmer Community Stadium  
Development Control Manager

\*BH2008/02303, Elmhurst, Warren Road  
Development Control Manager

\*BH2007/04452, BH2008/04446, 7 Brunswick Street, Hove  
Development Control Manager

BH2008/02761, 49 Hill Drive, Hove  
Councillor Mrs A Norman

BH2008/02499, 27 Roedean Crescent, Brighton  
Councillor Hyde (Chairman)

BH2008/02531, The Meadows, 18 Roedean Way, Brighton  
Councillor Hyde (Chairman)

BH2008/02641, Balfour Junior School, Balfour Road, Brighton  
Councillor McCaffrey

\*Anticipated as applications to be determined at the next scheduled meeting of the Committee.

**167. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST DATED 14 JANUARY 2009**

**(i) TREES**

167.1 There were none.

**(ii) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS OR APPLICATIONS DEPARTING FROM COUNCIL POLICY: 14 JANUARY 2009**

167.2 **Application BH2008/03248, 18 Wellington Road, Brighton** – Part demolition and conversion of the existing building and construction of a new 3-storey block to provide a total of 26 self-contained units with 24 hour support for people with learning/physical disabilities and the provision of a drop-in learning disability centre for people with learning/physical disabilities.

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

167.4 The Area Planning Manager (East) gave a detailed presentation setting out the details of the scheme including elements of the design and issues surrounding the contents of the Section 106 Agreement. It was highlighted that policy HO20 of the Brighton & Hove Local Plan was relevant in this instance, and if not included in the Section 106 Agreement, other relevant policies would then apply to the application

site, which would have implications for the Officer's recommendation. It was noted that the Legal Agreement needed to be completed before 29 January 2009 in order for the application to proceed. It was recommended that relevant proposed conditions were deleted or amended following the completion of a satisfactory Bats and Swifts survey.

- 167.5 Councillor Kennedy asked where the green wall planting referred to in proposed condition 29 was situated and the Area Planning Manager (East) stated that the wall would form part of the back boundary and was proposed for screening purposes.
- 167.6 Councillor K Norman asked whether the application was predominantly for people with learning, mental or physical disabilities and the Area Planning Manager (East) confirmed that the Planning Statement said that the application was for learning and/or physical disabilities and a mix was intended.
- 167.7 Mr Pennington, Brighton & Hove Federation of Disabled People, asked whether the lack of storage space referred to in the report by the Access Officer had been dealt with. The Area Planning Manager (East) stated that the department was still seeking to resolve this issue and some others that would form part of the amended plans that had been requested.
- 167.8 Councillor Smart asked for confirmation of staffing numbers and when they would be available. The Area Planning Manager (East) confirmed that there would be four to six Full Time Equivalent members of staff and 24 hour cover would be provided. A room was provided within the design for the use of at least one member of staff when working over the night-time period.
- 167.9 Mr Barling spoke on behalf of the applicant and stated that this was an excellent scheme worthy of merit. He noted that there had been full and complete discussions with the Council and the applicant had worked hard to incorporate all of the requirements the Authority had asked for. Mr Barling went on to highlight a potential problem with securing a mortgage for the scheme due to the restrictive nature of the Section 106 Agreement. He noted that these legal agreements could not be varied for a period of five years and as such a bank might find this an unacceptable risk when considering a loan.
- Mr Barling did not want the scheme to fail to secure funding merely because of legal terminology within the Section 106 Agreement. As such he requested that the Committee agree to alter a paragraph within the agreement to allow for greater flexibility in terms of negotiating a variation to the Section 106 Agreement.
- 167.10 Councillor Wells queried how the proposed paragraph should be altered. Mr Barling handed out copies of a draft Section 106 Agreement that he had drawn up to demonstrate the type of wording he would like to see included.
- 167.11 Councillor Kennedy asked Mr Barling if he was asking for the Legal Agreement to be redrafted to allow for a variation of use to be requested before the five year

moratorium, which legally bound such agreements, expired. Mr Barling confirmed this. Councillor Kennedy stated that if a variation of use was allowed on this site, at any time, it would then be subject to planning policies that applied to development in this area, which would make it likely that subsequent planning permission would fail.

- 167.12 The Solicitor to the Committee asked Mr Barling to confirm that he understood that if a variation of use was requested it would have to come back to the Planning Committee for consideration before consent could be granted or refused. Mr Barling agreed that he understood the process and stated that the applicant had no intention of changing the use of the site, but that rewording of the Section 106 Agreement would simply make it easier for the applicant to apply for a mortgage to build the scheme.
- 167.13 Councillor Mrs A Norman asked if the units provided could be used by both mentally and physically disabled people, and Mr Barling confirmed that the arrangement of units was in accordance with Housing Department requirements for this type of scheme.
- 167.14 Councillor Wells began the debate by stating that the design was well thought out and he welcomed the use that was proposed here.
- 167.15 Councillor Kennedy was pleased to see that the design was sympathetic to the original and also welcomed the proposed use. She felt that it was not necessary to alter the terms of the Section 106 Agreement however. Councillors McCaffrey and K Norman agreed with this statement and added that placing people back in the centre of the city made it easier for family and friends to visit them.
- 167.16 Councillor Hamilton praised the scheme and wanted to ensure it was viable. He felt that the Section 106 Agreement should be altered to make it easier for the applicant to complete the scheme and noted that ideas in how to treat people with learning and physical disabilities changed over time and he did not want the scheme tied into a particular use that then became redundant for this type of enterprise.
- 167.17 The Development Control Manager addressed the Committee and stated that a head of term for the Section 106 Agreement was recommended. She noted that the redraft of the agreement that had been put before Councillors today was unclear and Officers needed more time to consider its ramifications properly. She stated that she was happy to work with Mr Barling to achieve the best possible result for the Council and the applicant regarding this issue.
- 167.18 A vote was taken and Members voted unanimously that Minded to Grant planning permission was granted for the reasons set out below.
- 167.19 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation as set out in paragraph 10 of the report and is Minded to Grant the application subject to:

1. The redrafting of the Section 106 Agreement to allow for greater flexibility in requesting a variation of use whilst maintaining the Council's position in terms of policy HO20. This authority to be delegated to the Development Control Manager in consultation with the Council's Legal Advisor, Chairman, Deputy Chairman and Opposition Spokesperson.  
REASON: To ensure provision of housing for those with learning and physical disabilities is maintained.

And with amendments to the following conditions:

26. Scrub and tree clearance and demolition shall not be undertaken between 1 March and 31 July.  
REASON: To ensure conformity with the Wildlife and Countryside Act 1981 and to protect nesting birds in accordance with policy QD18 of the Brighton & Hove Local Plan.
27. Deleted condition.
28. Deleted condition.
29. No development shall commence until a nature conservation enhancement scheme is prepared as a part of the site landscaping scheme and had been submitted to and approved in writing by the Local Planning Authority. This shall include the number and locations of bird nest boxes to be erected (no less than 5 boxes woodcrete shall be used) and the details of the proposed green wall planting and artificial external lighting.  
REASON: To ensure the protection and enhancement of the ecological interest of the site and to comply with policies QD17 and QD18 of the Brighton & Hove Local Plan.

And with the following informatives:

1. The applicant's attention is drawn to the provisions of the Wildlife and Countryside Act 1981 and is advised that it is a criminal offence to knowingly remove or destroy the habitats of protected species which may be found on the site. The applicant is advised that the granting of this planning permission does not authorise the loss or destruction of a protected species habitat. Should such a habitat be discovered during the construction works the applicant is advised to contact Natural England.
2. If the legal agreement is not completed by 29 January 2009 the Development Control Manager has delegated authority to refuse planning permission.

- 167.20 **Application 2008/03140, Delphi House, English Close, Hove** – Erection of 2 new units for B1 (Light Industrial) and/or B2 (General Industrial) with ancillary B8 (Storage & Distribution) use.
- 167.21 The Area Planning Manager (East) gave a detailed presentation setting out the details of the scheme including elements of the mix of usage on site and details of the design and materials to be used. He went on to highlight issues surrounding the Supplementary Planning Document of Sustainable Building Design requirements and noted that on this scheme it would be technically difficult to achieve an excellent rating for some elements of the requirements
- 167.22 Councillor Steedman asked why the BREEAM standards were not achievable on this application and the Area Planning Manager (East) replied that they were technically very difficult given the size of the application. He noted that the applicants had achieved an ‘excellent’ rating in two areas but only ‘very good’ in others, but had been working closely with planning officers to resolve as many issues as they could, and had made gestures towards achieving in part some of the requirements. It was noted that achieving the sustainable energy requirements would be particularly difficult however.
- 167.23 Councillor K Norman asked if there was an issue regarding Fire Brigade access to the site, and the Area Planning Manager (East) acknowledged that there had been a problem in the past, but the applicant was providing a specified loading and unloading bay on site, and therefore East Sussex Fire and Rescue Service did not have any objections to the application.
- 167.24 A vote was taken and Members voted unanimously that minded to grant planning permission was granted in the terms as set out in the report for the following reasons.
- 167.25 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation as set out in paragraph 10 of the report and is Minded to Grant the application subject to the conditions and informatives recommended in the report and additional conditions as follows:
- 1) Unless otherwise agreed in writing by the Local Planning Authority, no non-residential development shall commence until
    - a) evidence that the development is registered with the Building Research Establishment (BRE) under BREEAM and a Design Stage Assessment Report showing that the development will achieve an BREEAM rating of ‘Very Good’ for all non-residential development have been submitted to the Local Planning Authority; and
    - b) a BRE issued Design Stage Certificate demonstrating that the development has achieved a BREEAM rating of ‘Very Good’ for all non-residential development has been submitted to, and approved



in writing by, the Local Planning Authority. A completed pre-assessment estimator will not be acceptable.

REASON: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

- 2) Unless otherwise agreed in writing by the Local Planning Authority, none of the non-residential development hereby approved shall be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a BREEAM rating of 'Very Good' has been submitted to, and approved in writing by, the Local Planning Authority.  
REASON: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.
  
- 3) Before development commences, a location plan identifying the location for the 2 x 200 litre water harvesting butts, as confirmed in the agents email dated 13<sup>th</sup> January 2009, shall be submitted to and approved by the Local Planning Authority in writing.  
REASON: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

- 167.26 **Application 2008/03015, Maycroft and Parkside, London Road and 2-8 Carden Avenue, Brighton** – Demolition of existing buildings and development of residential care home for the frail elderly (C2). Resubmission of planning application BH2008/00925.
- 167.27 It was noted that this application had formed the subject of a site on the previous occasion an application in respect of this site had been considered.
- 167.28 The Area Planning Manager (East) gave a detailed presentation setting out the main elements of the scheme, including the previous reasons for refusal and the details of the Section 106 Agreement that related to contributions to highways works. It was noted that the applicant had requested to complete these works themselves and so the contribution had been reduced. The Area Planning Manager (East) referred to additional conditions on the late list and requested that the Committee accept these as part of the recommendation.
- 167.29 Councillor K Norman asked what schemes could be considered for the money from the public works of art contribution. He stated that Withdean Park currently held a

National Lilac Collection that had deteriorated due to lack of funding. Their national status had been removed recently and it was expected that a donation of £50,000 would be needed to rejuvenate the collection. The public works of art contribution from this application would go some way to helping restore this collection.

- 167.30 The Development Control Manager explained that expenditure decisions for public works of art monies were taken by a panel of Councillors and interested parties. This was to ensure that a proper framework and tendering process was carried out. Ward Councillors were always invited to sit on the panel and other members could also request to sit on any particular panel. The Development Control Manager stated that there was not an exhaustive list for what could be considered public works of art, but she would make sure this proposal was added to the list when the Panel sat to consider the contribution grant.
- 167.31 Councillor Hamilton asked why there was no contribution towards improving recreation facilities in the area, given the lack of green space on the application site. The Area Planning Manager (East) stated that as this application was predominantly for the frail elderly it was not expected that they would be mobile enough to use a large amount of outdoor space, therefore extra money in this area was not requested.
- 167.32 Councillor Steedman was concerned by the lack of open space on site and felt that amenity space should be provided to current standards on every application, despite who might be using it. The Area Planning Manager (East) confirmed that in this instance, substantial outdoor space was simply not required.
- 167.33 Councillor Mrs A Norman asserted that this was an improved application on the last one. The access and egress had not changed however, and this was her main point of concern. She was surprised that only six accidents had been reported in this area since last year and felt that the entrance to the site was inappropriate and would adversely affect pedestrian and vehicular safety. She was also concerned for nearby residents as the new road would run extremely close to their boundary, and asked what was being done to reduce the impact of this.
- 167.34 The Area Planning Manager (East) confirmed that the access and the car park were in the same locations as the previous application. He acknowledged there would be some impact to neighbouring properties that could not be helped, but there were contributions towards highways works within the Section 106 Agreement that would mitigate any impact the development might have on the surrounding road network. It was also important to remember that the Highways Department had not objected to the application.
- 167.35 The Traffic Manager stated that only accidents that were recorded at the junction between the A23 and the roundabout were taken into consideration. He accepted that there may be many more incidental shunts that were not taken into account when assessing the safety of the access. He stated that the minimum distance that an access could be from a junction was 25 meters and the access for this application was 60 meters away.

167.36 Mr Radmall spoke on behalf of objectors to the application and stated that the proposals were over-development, there was a considerable lack of green space provided and the architecture was inappropriate. He noted that there had been 200 objections from local people and highlighted that family homes would have to be demolished to make way for this application.

Mr Radmall referred to a recent appeal decision in Chichester which supported the Local Authority's right to retain housing stock and suggested that social care companies should compete with other developers on the open market to secure land for their developments. There were 12 other suitable sites in the city that could be used which were far more appropriate. Mr Radmall felt that this application would result in increased congestion, pollution, noise and traffic movement. Its bulk, scale and massing would render neighbouring properties out of place and it would drastically change the overall character of the area.

167.37 Mr Webster, spoke on behalf of the applicant, stating that Sunrise Living provided a high quality alternative to care home provision. He stated that the applicants had won awards for their innovative and excellent designs and that they catered for physically and mentally disabled residents, as well as those with memory loss problems.

Mr Webster noted that although some housing provision would be lost to build the development, there would be a net gain due to the houses that were freed up by those moving into the scheme. A survey of residents revealed that around 90 per cent sold their family home on the open market once they had moved into Sunrise Living accommodation. The site had been carefully chosen to ensure excellent access both into and out of Brighton and Hove, and the scheme would create between 70 and 80 Full Time Equivalent jobs.

Mr Webster noted the predominance of this type of building already on London Road and highlighted that the applicants had worked hard to submit an altered application that took into consideration all of the reasons for refusal given at the last Committee. The building had been reduced to two storeys, the design had been changed and there were more environmentally sustainable elements to the application. It was noted that the BREEAM rating for this scheme was very good.

167.38 Councillor Barnett asked how many rooms were given over to those with Alzheimer's and similar conditions as there was a significant lack of provision across the country. Mr Webster confirmed that there were 25 rooms within the scheme provided for this.

167.39 Councillors Davey and Smart raised concerns over the provision of outdoor space and asked why the gardens were situated mainly on the perimeter of the site, which would be near the road and subject to greater pollution. Mr Webster replied that the applicant had won awards for their garden designs and they had found from experience of running 21 similar schemes that their residents did not require large amounts of outdoor space.

167.40 Mr Pennington, Brighton & Hove Federation of Disabled People, asked if two disabled bays were considered adequate given the high probability that a number of their residents would be disabled in some way and asked if spaces for disability scooters had been considered. Mr Webster replied that the average age of residents would be between 85 and 90 and very few would have their own cars. From experience, mobility scooters had not been used in previous schemes, but if there was a desire for such provision from residents at Parkside and Maycroft then the applicants would likely make the necessary arrangements. Mr Webster noted there was also a minibus provided by the company that would transport residents for social events.

167.41 Councillor Pidgeon spoke in his capacity as a Ward Councillor setting out his objections to the application. He felt that this scheme was largely the same as the previous scheme that had been rejected and that key reasons for refusal had still not been addressed adequately.

The bulk, footprint and design of the scheme related poorly to surrounding buildings and the scheme was overdeveloped and out of character for the area. Increased traffic movements would adversely affect residents in the neighbourhood due to the proximity to London Road. The only green space available within the scheme was facing the road and the loss of six residential houses was unacceptable.

Councillor Pidgeon noted that there was a history of flooding in Patcham that this scheme would make worse and the design would detrimentally affect aspects into and out of the Patcham Conservation Area.

167.42 Councillor Hamilton stated that the scheme was very similar to Elwyn Jones Court, which was situated opposite, and he accepted the argument that this scheme would free up other housing stock within the city once residents moved in. He felt that given that there were already other similar buildings along the length of London Road, this scheme would not look out of place and would provide an essential service to the community. Councillor Wells concurred with this view and stated that the applicants had worked to resolve the issues that the Committee had raised on the first submission.

167.43 Councillor Davey raised concerns over the overall design of the scheme, especially in terms of lack of green space, the loss of fourteen trees that were not being replaced with anything of significant height, that the only amenity space was next to a busy road and the loss of six residential units with no guarantees that the new units would be filled with residents from the Brighton and Hove area.

167.44 Councillor K Norman felt that there was sufficient provision of this type of care home within the city, with several new schemes coming on stream soon, although acknowledged that future need could not be known. He cautioned that there was a trend in social care provision to keep people in their own homes, as this was where most were happiest, and queried whether more of this type of accommodation was needed at present.

- 167.45 The Development Control Manager highlighted that the issue of need was dealt with in the report and that Adult Social Care had been consulted. Their view was that there was a shortage of provision for 24 hour nursing support which this application would provide for. She stated that the issue of need was clearly a material planning consideration for this application, but Members needed to consider the weight they gave this when deciding whether to grant or refuse the application.
- 167.46 A vote was taken and on a vote of six to four, with two abstentions, minded to grant planning permission was granted in the terms as set out in the report.
- 167.47 **RESOLVED** – that the Committee has taken into consideration and agrees with the reasons for the recommendation as set out in paragraph 9 and is Minded to Grant the application subject to a Section 106 Agreement to secure the conditions set out in the report and the following additional conditions:
1. Notwithstanding the Ecological Assessment Document submitted as part of the application and the letter from Aspect Ecology dated the 8<sup>th</sup> January 2009 immediately prior to the commencement of the demolition works a further check for bats within all the buildings to be demolished shall be carried out by an experienced ecologist, including a re-inspection of the loft voids. If bats are found then work may not commence and advice must be sought from Natural England.  
REASON: In the interest of maintaining the biodiversity and ecological interest of the site and to comply with policy QD27 of the Brighton and Hove Local Plan.
  2. The compost heaps located on the site are to be carefully dismantled by hand between the period of the 1<sup>st</sup> April and the 31<sup>st</sup> October. Any reptiles found are to be translocated to suitable off-site receptor sites which have been agreed in writing with the Local Planning Authority prior to translocation.  
REASON: In the interest of maintaining the biodiversity and ecological interest of the site and to comply with policy QD27 of the Brighton and Hove Local Plan.
  3. Notwithstanding information submitted as part of the application a detailed, quantified landscape plan, designed to maximise the biodiversity value of the site shall be submitted to be approved in writing by the Local Planning Authority. The plan shall incorporate suitable nest and roost boxes for bats, birds and hedgehogs, berry bearing shrubs and a pond designed to attract wildlife, with a species list of all plants used.  
REASON: In the interest of maintaining the biodiversity and ecological interest of the site and to comply with policy QD27 of the Brighton and Hove Local Plan.

4. Prior to the commencement of the development a timetable of works to relocate the bus stop with Carden Avenue adjacent to the site, carry out the widening of the road adjacent to the relocated bus stop, the provision of raised kerbs and the provision of relevant road markings, as shown in drawing no. 2076.10 received on the 13<sup>th</sup> January 2009, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be completed in accordance with the agreed timetable. REASON: To ensure that the proposed development addresses the travel demand arising from the intensification of use on the site in accordance with Brighton and Hove Local Plan policies SU15, TR1, TR19 and QD28.

Revised informative:

This decision is based on drawing nos. 5073-AL-0001revA, 5073-PL-011, 5073-PL-012, 222/53-01revE, unnumbered Colour Illustrations (Site Plans, Floor Plans and Door Canopy) Site Constraints Plan, Appendices of the Design and Access Statement, Planning Statement, Affordable Housing Policy Report, BRREAM Multi-Residential Report, Transport Statement, Interim Travel Plan, Energy Strategy Statement and Sustainability Checklist, Great Crested Newt Survey Report, Arboricultural Impact Assessment, Ecological Assessment Public Consultation Document and Pinders Needs Assessment Report submitted on the 16<sup>th</sup> September 2008, drawing nos. 5073-PL-032revH, 5073-PL033revG, 5073-PL-034revG, 5073-PL-035revG, 5073-PL-036revF, 5073-PL-037revE, 5073-L-038revE, 5073-PL-039revD, 5073-PL-040, pages 1 to 27 of the Design and Access Statement, Site Waste Management Plan Data Sheet and Biodiversity First Impression List submitted on the 30<sup>th</sup> September 2008, Drawing nos. 5073-PL-041revA, 5073-PL-042revA and 5073-PL-043revA submitted on the 23<sup>rd</sup> October 2008, drawing labelled appendix A7 and associated e-mail submitted on the 13<sup>th</sup> November 2008, an e-mail from Peter Dines received on the 11<sup>th</sup> December 2008, drawing no. 2076.10 submitted on the 15<sup>th</sup> December 2008, a Townscape Analysis submitted on the 17<sup>th</sup> December 2008 and a letter from Aspect Ecology dated the 8<sup>th</sup> January 2009.

[The Committee took a short break concluding discussion of this application from 16:30 to 16.40.]

**(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 14 JANUARY 2009**

- 167.48 **Application BH2008/03297, 107 Southover Street, Brighton** – Change of use from Retail (A1) with living accommodation above into a single dwelling unit incorporating alterations and renovation works.

- 167.49 The Planning Officer gave a detailed presentation setting out the main elements of the scheme, including details of policy implications for this application. It was noted that detailed market information to demonstrate that A1 use was not viable on this site was not available for the requisite 12-18 month period.
- 167.50 Councillor Davey asked when the premises was last used as an A1 unit and it was confirmed that it had been used as a coffee shop until April 2006. Councillor Kennedy stated that she lived very close to the shop and felt that it had last operated as a successful business in 2004.
- 167.51 Councillor Wells asked for policy SR8 to be explained and the Planning Officer stated that this policy is contained in the Local Plan and protects individual local shops. The policy states that market information is needed for a 12-18 month period demonstrating that the premises is not viable for A1 use before a change of use can be applied for.
- 167.52 Mrs Linturn, the applicant, addressed the Committee and stated that she had recently advertised the property for A1 use but it needed considerable modernisation and there had been no interest. Mrs Linturn had seen the potential for the premises to be converted into a family home and so had applied to the Council for a change of use. She noted that neither her agent nor Council Officers had mentioned the need for market information at that time.
- Mrs Linturn highlighted that several properties in the Hanover area had a history of similar conversions and noted that the most prominent conversion had been the old Post Office. She considered that an A1 use was not viable at this location and the previous tenants of the premises had sent a letter of support to Mrs Linturn supporting this view. Mrs Linturn felt that the design was sympathetic to the original and the change of use for this shop would not be detrimental to the area.
- 167.53 Councillor Kennedy stated that whilst it was important to protect local shops in the city, in this instance she felt certain that there was plenty of informal evidence to suggest that A1 use was not viable here. She noted that her house had previously been a cobbler's shop and accepted the argument that there were several similar conversions in the area. As such she felt this application was reasonable.
- 167.54 Councillor Wells also agreed that a shop was not viable in this location, but felt that the design needed to match the houses next door and requested that the shop window be altered to incorporate the original design.
- 167.55 Councillor Steedman felt that the policy was important to defend and the Council needed to maintain their position. He noted that local shops were needed in Brighton and Hove and felt that exceptions could not be made.
- 167.56 A recorded vote was taken, proposed by Councillor Kennedy and seconded by Councillor Barnet and on a vote of 9 to 2 with 1 abstention full planning permission was granted for the reasons as set out below.

- 167.57 **RESOLVED** - that the Committee has taken into consideration the reasons for the recommendation as set out in paragraph 8 but resolves to grant the application for the reasons that it is considered that the details submitted as part of the application demonstrate that the viability test set out in policy SR8 of the Brighton & Hove Local Plan has been met.
- [**Note 1:** A vote was taken and on a vote of 9 to 2 with 1 abstention full planning permission was granted for the reasons set out above.]
- [**Note 2:** Councillor Kennedy proposed that planning permission be granted be agreed. This was seconded by Councillor Barnett. A recorded vote was taken. Councillors Barnett, Carden, Davey, Hamilton, Kennedy, McCaffrey, Smart, Mrs A Norman and Wells voted that planning permission be granted. Councillors K Norman and Steedman voted against granting planning permission. Councillor Hyde (Chairman) abstained from voting. Therefore on a vote of 9 to 2 with 1 abstention, planning permission was granted.]
- 167.58 **Application BH2008/03057, 64 St James Street, Brighton** – Demolition of façade and infill between pub and beauticians forming a maisonette and A1 unit.
- 167.59 The Planning Officer gave a detailed presentation setting out the main elements of the scheme, including reasons for objection from local resident's letters. It was noted that there was an impact on neighbouring properties, but this was deemed acceptable given the built-up nature of the area.
- 167.60 Councillor Wells, Councillor K Norman and Councillor Smart asked for further details on the design of the application and how it related to neighbouring properties.
- 167.61 Mr Pennington noted that detailed drawings from the Conservation Officer were not available and the plans that were available for this application were not adequate to make an informed decision.
- 167.62 Mr Carter spoke on behalf of local objectors and stated that the impact of this application on the existing properties was unacceptable and would result in the new development being only six feet away from the kitchen window of their neighbour. He felt that the living conditions for future occupants of this property would not be adequate. There was no outside space provided, the outlook was onto a pub garden and there would be a significant loss of daylight for the existing properties and lack of light for the new property.
- 167.63 Mr Lower, the applicant, addressed the Committee and stated that he had been refurbishing property in the Brighton and Hove area for 20 years. He stated that he always developed properties to a very high standard using good materials and period architecture as a basis for design. The site had been derelict since 2001 and there was a notable lack of investment in the area. The scheme was small but bold, and Mr Lower hoped it would kick start the revitalisation of the area. He noted that any loss



of light would be minimal and that he had worked closely with Officers to ensure planning compliance.

- 167.64 Councillor McCaffrey asked how much light would be lost to neighbouring properties and Mr Lower replied that there was currently not a lot of light, so that any additional light loss would be minimal.
- 167.65 The Planning Officer stated that the existing structure had a southerly outlook with a building to the east. Therefore a building on the west side would not obstruct any light as the main windows were already in shade. She noted that the view would be obstructed, but there was no right to a view in planning legislation. There were also other main aspects at the front of the building that would not be affected.
- 167.66 Councillor K Norman stated that he knew the area well and felt that this was not merely a refurbishment but building something entirely new. He felt that the points made by the objectors were relevant and that this application was inappropriate for the area.
- 167.67 Councillor Steedman stated that he was the Ward Councillor for the area and so knew it well. He noted that the public house was iconic and would be a sad loss for the area.
- 167.68 Councillor McCaffrey stated that she felt the loss of light was a great concern for the application and that the plans were not detailed enough to get a true representation of the design.
- 167.69 A recorded vote was taken, proposed by Councillor McCaffrey and seconded by Councillor K Norman, and on a vote of 5 to 4 with 3 abstentions planning permission was refused for the reasons given below.
- 167.70 **RESOLVED** – that the Committee has taken into consideration the reasons for the recommendation set out in the report but refuses planning permission on the grounds that the proposed development would have an adverse impact on the amenity of the neighbouring property through loss of light and the proposed design, by virtue of insufficient detailing and quality, fails to demonstrate that the proposal would preserve or enhance the character and appearance of the East Cliff Conservation Area, and so would be contrary to QD27 and HE6 of the Brighton & Hove Local Plan.

[**Note 1:** A vote was taken and on a vote of 5 to 4 with 3 abstentions full planning permission was granted for the reasons set out above.]

[**Note 2:** Councillor McCaffrey proposed that planning permission be refused. This was seconded by Councillor K Norman. A recorded vote was taken. Councillors Barnett, Davey, McCaffrey, K Norman, and Mrs A Norman voted that planning permission be refused. Councillors Carden, Hamilton, Smart and Wells voted against refusing planning permission. Councillors Hyde (Chairman), Kennedy and Steedman

abstained from voting. Therefore on a vote of 5 to 4 with 3 abstentions, planning permission was refused.]

- 167.71 **Application BH2008/03688, Mill View Hospital, Nevill Avenue, Hove** – The proposed installation comprises a tri-sector antenna pole attached to the existing building giving an overall height of 13.19 meters, along with equipment cabinets on a flat roof section of the building approximately 15 meters to the North-West of the antenna pole.
- 167.72 The Area Planning Manager (West) gave a detailed presentation setting out the main elements of the scheme, including stating that the application had a valid ICNIRP certificate and would improve coverage for the hospital area.
- 167.73 Councillor Smart asked questions about the positioning and necessity of the mast and the Area Planning Manager (West) replied that the mast was positioned about 75 metres away from the local crèche and that the coverage would cover a gap in the local network.
- 167.74 The Solicitor to the Committee highlighted that due to the General Permitted Development Order 1995, Schedule 2, Part 24, arguments of necessity could not be taken into account for this application, and the only considerations that were valid were on the grounds of siting and appearance.
- 167.75 Mr Robertson spoke on behalf of the Sussex Partnership NHS Foundation Trust and stated that they had approached Vodaphone for 2G and 3G coverage as it was vital for the continued operation of the Trust. He noted that at present, employees could not use some equipment within the building due to lack of coverage, and this was becoming more and more of an issue as technology moved towards this type of network usage.
- 167.76 Councillor Janio spoke as Ward Councillor and asked the Committee to refuse the application. He stated that a previous application on this site had been refused on grounds on siting, which were valid, and that this current application had been resubmitted over the Christmas period, making it difficult for local people to make objections. Councillor Janio felt that health was a valid issue and 3G transmissions had a much shorter, more intensive range. The health risks for this were still unknown. He asked the Committee to be sure of the health risks before agreeing to site a mast only 30 metres away from resident's homes.
- 167.77 Councillor Mrs A Norman stated that she agreed with Councillor Janio's comments about the unknown health risks, and asked to see World Health Organisation guidelines regarding phone masts at some point in the future. The Development Control Manager agreed to prepare a briefing note for Councillors regarding this.

- 167.78 The Solicitor to the Committee stated that the Authority had 56 days to make a determination on the application, which ran out on 16 January 2009. If a decision had not been made by this date then the applicants would have deemed approval.
- 167.79 Councillor Smart, Councillor Wells and Councillor Barnett felt that the health risks were still unknown and the siting of the mast was too close to both young and elderly people. They noted that there were two nurseries, a play area, a school and a hospital in close proximity to the mast.
- 167.80 Councillor Hamilton noted that the hospital was the applicant in this instance and had no objections to the mast on health grounds. It would therefore seem illogical to turn down the application on these grounds.
- 167.81 A recorded vote was taken, proposed by Councillor Wells and seconded by Councillor Smart and on a vote of 5 to 2 with 4 abstentions, planning permission was refused on the grounds as set out below. 11 Members were present when the vote was taken.
- 167.82 **RESOLVED** – that the Committee has taken into consideration the reasons for the recommendation as set out in paragraph 8 of the report but resolves that prior approval is required and that approval is refused for the reason that the proposed mast design is unsightly and visually intrusive by virtue of height and scale and is contrary to policies QD23 and QD27 of the Brighton & Hove Local Plan.

[**Note 1:** A vote was taken and on a vote of 5 to 2 with 4 abstentions prior approval was refused for the reasons set out above.]

[**Note 2:** Councillor Wells proposed that prior approval be refused. This was seconded by Councillor Smart. A recorded vote was taken. Councillors Barnett, K Norman, Smart, Mrs A Norman and Wells voted that prior approval be refused. Councillors Hamilton and McCaffrey voted against refusing prior approval. Councillors Hyde (Chairman), Davey, Kennedy and Steedman abstained from voting. Therefore on a vote of 5 to 2 with 4 abstentions, planning permission was refused. 11 Members were present when the vote was taken.]

(iv) **OTHER APPLICATIONS**

- 167.83 **Application BH2008/03096, 102 Marine Parade, Brighton** – Conversion of existing four-storey house into five self-contained flats.
- 167.84 A vote was taken and Members voted unanimously that planning permission was refused for the reasons as set out below.
- 167.85 **RESOLVED** – that the Committee has taken into consideration and agrees with the recommendation set out in paragraph 8 of the report and resolves to refuse planning permission for the following reasons:

1. The proposed refuse and cycle storage enclosure, by reason of its siting, height, design and materials results in a bulky and incongruous addition, would be detrimental to the character and appearance of the open formal garden area, and East Cliff Conservation Area and to the setting of the listed building. As such the proposal is contrary to policies QD1, QD2, QD14, HE3 and HE6 of the Brighton & Hove Local Plan.
2. The proposed development fails to provide adequate provision for secure cycle parking at ground floor level in accordance with the Council's standard, and is therefore considered to be inconsistent with the aim to encourage alternative means of travel, contrary to policies TR1 and TR14 of the Brighton & Hove Local Plan.
3. The proposed development fails to demonstrate that it will meet the travel demands from the site or contribute to improving sustainable transport methods. As such the proposal is contrary to policies TR1, HO7 and SU15 of the Brighton & Hove Local Plan.
4. The applicant has failed to demonstrate that the proposal would incorporate adequate measures to reduce the use of raw materials, water and energy and as such would be likely to result in excessive use of these limited resources. This would be contrary to policy SU2 of the Brighton & Hove Local Plan.
5. The application fails to provide adequate provision for the storage of recyclables, contrary to policies QD27 and SU2 of the Brighton & Hove Local Plan and PAN05 Design Guidance for the Storage and Collection of Recyclable Materials and Waste.

Informative:

1. This decision is based on drawing nos 477/01, 477/02 Rev A, 477/04, Design and Access Statement, Heritage Statement and Waste Minimisation & Management Statement submitted on 18 September 2008 and unnumbered plan window detail and Biodiversity Checklist submitted on 5 November 2008.

167.86 **Application BH2008/03083, 102 Marine Parade, Brighton** – Internal and external alterations, to enable conversion of house into 5 flats. Construction of bin/cycle store on front amenity area.

167.87 A vote was taken and Members voted unanimously that listed building consent was refused for the reasons as listed below.

167.88 **RESOLVED** - that the Committee has taken into consideration and agrees with the recommendation set out in paragraph 8 of the report and resolves to refuse planning permission for the following reasons:

1. The proposed development would harm the historical and architectural form and character of the Listed Building by removing original internal features and altering the historic building form and layout contrary to policy HE1 of the Brighton & Hove Local Plan and Supplementary Planning Guidance Note 11 Listed Building Interiors and Supplementary Planning Guidance Note 13 Listed Building General Advice.
2. The proposed refuse and cycle storage enclosure, by reason of its siting, height, design and materials results in a bulky and incongruous addition, would be detrimental to the open appearance of the formal garden area and to the setting of the listed building, contrary to Brighton & Hove Local Plan policy HE3.

Informative:

1. This decision is based on drawing nos. 447/02 Rev A, 447/04, Design and Access Statement, Heritage Statement and Waste Minimisation & Management Statement submitted on 18 September 2008 and drawing nos. 477/01 rev A and 477/07, and unnumbered plan window detail, submitted on 5 November 2008, and Structural Report received 14 November 2008.

167.89 **Application BH2008/03605, 43 Chichester Drive, West Saltdean** – First floor extension over existing garage including moving of garage forward (resubmission of BH2008/00750).

167.90 A vote was taken and on a vote of 11 to 0 the Committee resolved to Grant planning permission for the reasons set out below.

167.91 **RESOLVED** – that the Committee has taken into consideration and agrees with the reasons for the recommendation as 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.

1. Informative to be amended

This decision is based on un-numbered block and site plan and drawings nos. Block Plan and drawing numbered 01A submitted on 26 November 2008 and drawing numbered 02B submitted on 7 January 2009.

[**Note1:** There were 11 Members present when voting took place.]

167.92 **Application BH2008/02499, 27 Roedean Crescent, Brighton** – Demolition of existing dwelling and replacement with 6 bedroom house.

167.93 Members considered that it would be appropriate to carry out a site visit prior to determining the application.

- 167.94 **RESOLVED** – That consideration of the above application be deferred pending a site visit.
- 167.95 **Application BH2008/02531, The Meadows, 18 Roedean Way, Brighton** – Demolition of existing house and erection of new dwelling.
- 167.96 Members considered that it would be appropriate to carry out a site visit prior to determining the application.
- 167.97 **RESOLVED** – That consideration of the above application be deferred pending a site visit.
- 167.98 **Application BH2007/03943, 30-33 Bath Street, Brighton** – Demolition of existing buildings, to be replaced with proposed development of 2 storey building to the rear with B1 office space on the ground floor and 2x1 bedroom apartments above and 3 storey building to the front with B1 office space on the ground floor and 5x2 bedroom apartments above, with refuse, cycle storage and amenity spaces.
- 167.99 A vote was taken and on a vote of 10 to 0 the Committee resolved to grant planning permission for the reasons set out below. 10 Members were present when the vote was taken.
- 167.100 **RESOLVED** – that the Committee has taken into consideration and agrees with the reasons for the recommendation as 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.
- [**Note1:** 10 Members were present when the vote took place.]
- 167.101 **Application BH2007/03942, 30-33 Bath Street, Brighton** – Demolition of existing buildings.
- 167.102 A vote was taken and on a vote of 10 to 0 the Committee resolved to grant demolition consent for the reasons set out below. 10 Members were present when the vote was taken
- 167.103 **RESOLVED** – that the Committee has taken into consideration and agrees with the reasons for the recommendation as 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.
- [**Note1:** 10 Members were present when the vote took place.]
- 167.104 **Application BH2008/02190, Queensbury House, 103-109 Queens Road, Brighton** – Single storey roof top extension and alterations to existing rear elevation.

- 167.105 A vote was taken and on a vote of 10 to 0 the Committee resolved to grant planning permission.
- 167.106 **RESOLVED** – that the Committee has taken into consideration and agrees with the reasons for the recommendation as 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:** 10 Members were present when the vote took place.]
- 167.107 **Application BH2008/02761, 49 Hill Drive, Hove** – Roof extension.
- 167.108 Members considered that it would be appropriate to carry out a site visit prior to determining the application.
- 167.109 **RESOLVED** – That consideration of the above application be deferred pending a site visit.
- 167.110 **Application BH2008/02641, Balfour Junior School, Balfour Road, Brighton** – Demolition of 3 existing single storey classrooms and replacement with a new 2 storey extension comprising 4 classrooms, ICT room, group room and administration areas. Extension to existing school hall and new single storey staff room/kitchen facilities. Adaptations to existing entrance footpaths. Conversion of existing lower ground floor store room into classroom and new windows and door. Formation of new disabled access ramp and external door from school to sports field on north elevation. New solar panels to existing school roof.
- 167.111 Members considered that it would be appropriate to carry out a site visit prior to determining the application.
- 167.112 **RESOLVED** – That consideration of the above application be deferred pending a site visit.
- 168. TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF ITEMS ON THE PLANS LIST**
- 168.1 There were none.
- 169. TO CONSIDER AND NOTE THE CONTENT OF THE REPORT DETAILING DECISIONS DETERMINED BY OFFICERS UNDER DELEGATED AUTHORITY**
- 169.1 The Committee noted those applications determined by the Officers during the period covered by the report.
- 170. APPEAL DECISIONS**

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

**171. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

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

**172. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

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

The meeting concluded at 6.50pm

Signed

Chair

Dated this

day of