



**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	12 August 2009
Time:	2.00pm
Venue	Great Hall, Hove Town Hall
Members:	<p>Councillors:Hyde (Chairman), Wells (Deputy Chairman), Carden (Opposition Spokesperson), Caulfield, Cobb, Davey, Hamilton, Kennedy, McCaffery, Smart, Steedman and C Theobald</p> <p>Co-opted Members: Mr. J Small (CAG Representative)</p>
Contact:	<p>Penny Jennings Senior Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk</p>

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AGENDA

65. 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.

66. MINUTES OF THE PREVIOUS MEETING

1 - 20

Minutes of the meeting held on 22 July 2009 (copy attached).

67. CHAIRMAN'S COMMUNICATIONS

68. PETITIONS

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

69. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 12 August 2009)

No public questions received by date of publication.

70. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 5 August 2009)

No deputations received by date of publication.

PLANNING COMMITTEE

71. WRITTEN QUESTIONS FROM COUNCILLORS

No written questions have been received.

72. LETTERS FROM COUNCILLORS

No letters have been received.

73. NOTICES OF MOTION REFERRED FROM COUNCIL

No Notices of Motion have been referred.

74. BRIGHTON MARINA PUBLIC INQUIRY: ADDITIONAL MATTERS

- Report of the Director of Environment (copy to follow)

Contact Officer: Sue Dubberley Tel: 29 – 2322
Ward Affected: Rottingdean Coastal

75. APPEAL DECISIONS

21 - 44

(copy attached).

76. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

45 - 48

(copy attached).

77. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

49 - 50

(copy attached).

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

79. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST :12 AUGUST 2009

(copy circulated separately).

80. 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

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

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.

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If you have any queries regarding this, please contact the Head of Democratic Services or the designated Democratic Services Officer listed on the agenda.

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, 4 August 2009

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 22 JULY 2009

GREAT HALL, HOVE TOWN HALL

MINUTES

Present: Councillors Hyde (Chairman), Wells (Deputy Chairman), Carden (Opposition Spokesperson), Davey, Hamilton, Kennedy, Older, Smart, Simson, Steedman and C Theobald

Co-opted Members Mr. J Small (CAG Representative)

Officers in attendance: Jeanette Walsh (Development Control Manager), Hamish Walke (Area Planning Manager(East)), Kathryn Boggiano (Senior Planning Officer), Nicola Hurley (Senior Planning Officer), Kate Brocklebank (Senior Planning Officer), Pete Tolson (Principal Transport Planning Manager), Hilary Woodward (Senior Lawyer) and Penny Jennings (Senior Democratic Services Officer)

PART ONE

49. PROCEDURAL BUSINESS

49A Declaration of Substitutes

49.1 Councillors Simson and Older were in attendance for Councillors Caulfield and Cobb respectively.

49B Declarations of Interest

49.2 Councillor Hyde, the Chairman declared a personal and prejudicial interest in Application BH2009/00847, Land to r/o 67–81 Princes Road. The applicant had carried out building work for a Member of her family. She would leave the meeting during consideration of the application and would take no part in the discussion or voting thereon. The Deputy Chairman, Councillor Wells would take the Chair during her absence.

49.3 Councillor Davey referred to Application BH2009/00761, Sackville Trading Estate. Although he had neither a personal nor prejudicial interest in the application, he had however, expressed a view regarding the scheme and would therefore leave the

meeting during consideration of the application and take no part in the discussion or voting thereon.

- 49.4 Councillor Wells stated that he had visited the owner of one of the neighbouring properties to Application BH2009/00797, Land adjacent to Woodside, Falmer Road. The purpose of his visit had been to assist her in researching the landfill site adjacent to the properties which was now Happy Valley Park. He had not expressed any opinion in respect of the application and remained of a neutral mind. It was therefore his intention to remain present during consideration of the item and to take part in the discussion and voting thereon.
- 49.5 Councillor C Theobald declared a personal interest in Application BH2009/00737, Longhill Secondary School, Falmer Road stating that she had recently attended a prize giving event at the school, but had not discussed the application and remained of a neutral mind. She would therefore remain present during consideration of the item and would take part in the discussion and voting thereon.
- 49.6 Councillors Simson and Wells declared personal but not prejudicial interests in Application BH2009/00737, Longhill Secondary School, Falmer Road, stating that they had both attended a presentation at the school regarding the proposed scheme. Neither had expressed an opinion in respect of the application and both remained of a neutral mind. It was their intention therefore to remain present during discussion of the item and to take no part in the discussion and voting thereon.

49C Exclusion of Press and Public

- 49.7 In accordance with Section 100A of the Local Government Act 1972 ("The Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely, in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of (The Act).
- 49.8 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any item on the agenda.

50. MINUTES OF THE PREVIOUS MEETING

- 50.1 Councillor Kennedy referred to paragraphs 7 and 8 of Item B stating that in respect of paragraph 7, she had referred to the lack of amenity space and had stated that more family size dwellings would have been welcomed. Overall, she did not consider the proposed development to be acceptable.
- 50.2 In respect of paragraph 8 she had referred to the density of the development being too great rather than to its height.
- 50.3 **RESOLVED** – That subject to the amendments referred to above the Chairman be authorised to sign the minutes of the meeting held on 1 July as a correct record.

51. CHAIRMAN'S COMMUNICATIONS

Web casting

- 51.1 The Chairman explained that afternoon's meeting of the Planning Committee was being web cast. 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.

South Downs National Park

- 51.2 The Local Development Team Manager briefed Members on the current position in respect of the establishment of the South Downs National Park (SDNP) and detailed the implications for the local planning authority, future planning arrangements, the intended boundary, and key changes to the intended boundaries (for copy of briefing note see minute book).
- 51.3 The Local Development Team Manager also explained that the intended boundary, running from east to west, followed the City boundary with Adur to the A27 and then generally followed a route north of the A27 (apart from being north of the water works at Mile Oak). It dipped south to the built up area boundary at a number of places:
- Foredown Ridge
 - Hollingbury Hill
 - Coldean Wood
 - Land between Woodingdean and the coast
 - Woodingdean, Ovingdean and Rottingdean would not be in the SDNP.
- 51.4 The Local Development Team Manager explained that the following key boundary changes were proposed:

Inside the National Park

- Patcham Recreation Ground – had been included in the SDNP as part of the Coney Hill area, as sought by the Council. The boundary would now run in a more logical manner alongside the A23.
- Land at Roedean – Land rear of Roedean Crescent.
- Embankments – Alongside Mill Road and the A27 between the Dyke Road intersection and the A23/27 junction.

Outside the National Park

- Toads' Hole Valley - had now been excluded from the SDNP.
- Green Ridge – The land west of the access to the windmill originally proposed for inclusion in the SDNP had been excluded. No clear planning reason had been given for this and the City Council had formally objected to the exclusion of this part of Green Ridge.

51.4 **RESOLVED** – That the position be noted.

52. PETITIONS

52.1 There were none.

53. PUBLIC QUESTIONS

53.1 There were none.

54. DEPUTATIONS

54.1 There were none.

55. WRITTEN QUESTIONS FROM COUNCILLORS

55.1 There were none.

56. LETTERS FROM COUNCILLORS

56.1 There were none.

57. NOTICES OF MOTION REFERRED FROM COUNCIL

57.1 There were none.

58. APPEAL DECISIONS

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

59. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

59.1 The Committee noted the list of planning appeals which had been lodged as set out in the agenda.

60. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

60.1 The Committee noted the list of planning appeals set out in the agenda relating to Informal Hearings and Public Inquiries.

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

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

Application	Site visit requested by:
BH2009/00834, Saunders Glass, Sussex Place	Development Control Manager
*Royal Alexandra Children’s Hospital, Dyke Road *Opportunity for Members to view buildings internally at invitation of applicants (no application lodged currently).	The site owner and proposed by Councillor Hyde, Chairman

Note: Councillor Kennedy requested a site visit in respect of Application BH2009/00847, Land r/o 67–81 Princes Road but this was defeated by a vote of 5 to 4 with 1 abstention. Having declared a personal and prejudicial interest Councillor Hyde, (the Chairman) took no part in the voting regarding the proposed site visit.

62. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST : 22 JULY 2009

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

A. Application BH2009/00761, Sackville Road Trading Estate, Sackville Road, Hove – Demolition of existing buildings with construction of new comprehensive development providing a mix of uses focusing around a new public square, including: an A1 food store, A1 non-food retailing, associated A2-A5 retailing, residential apartments, offices, underground car parking, associated infrastructure works including improved access, servicing and public realm improvements.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Senior Planning Officer, Mrs Hurley gave a detailed presentation setting out the constituent elements of the proposed scheme. Mrs Hurley also referred to an error in the Committee report. Section 5 incorrectly stated that the revised scheme proposed 180 residential apartments, in fact the scheme proposed the provision of 92 residential apartments. Since preparation of the report comments had been received from the Council’s ecologist and from Environmental Health stating that they had no objections. Additional conditions and an informative were also proposed and these were set out in the “Additional Representations List”.

- (3) Elevational drawings were shown setting out the constituent elements of the scheme including access/egress arrangements and views into and across the site. The key differences between the previously refused scheme and that before the Committee that day were highlighted. It was considered that the previous reasons for refusal had been overcome and that the scale and design of the development was acceptable and suitable in the context of the surrounding development.
- (4) Mr Holmes spoke on behalf of the applicant in support of their application stating that they had worked hard to submit a balanced scheme and had sought to address the reasons for refusal of the earlier scheme.
- (5) Councillor Bennett spoke in her capacity as a Local Ward Councillor setting out her objections to the scheme. Notwithstanding the improvements effected, she remained of the view that the scheme represented overdevelopment with too much crammed onto the site. The single access arrangement proposed could result in huge tail backs to the junction with Old Shoreham Road which was already well over capacity. The level of parking proposed was inadequate and this would impact on neighbouring streets.

Questions/Matters on Which Clarification was Sought

- (6) Councillor Smart expressed concerns regarding the proposed access /egress arrangements, and sought further details in respect of the remedial measures proposed and how these were intended to work in practice. He also sought details regarding the proposed highway re-alignments and details of how cyclists could be accommodated within the available highway.
- (7) The Senior Planning Officer explained in answer to further questions that whilst it was acknowledged that the size of the proposed development, together with its close proximity to a busy junction presented some difficulties in terms of transport and traffic, through negotiation, the applicant had agreed to carry out or fund appropriate remedial measures. The Sustainable Transport Team had advised that subject to securing delivery of the commitments described in the report, they had no objections to the scheme on transport grounds. The Principal Transport Planning Officer, Mr Tolson answered further questions in respect of the traffic management proposals.

Debate and Decision Making Process

- (8) Councillor Smart whilst supportive of the scheme and recognising the improvements effected, had some reservations. These were in respect of the potential impact on the 3 supermarkets which were equidistant from the site and on the existing public house. He considered that it remained to be seen whether the traffic arrangements proposed would be effective.
- (9) Councillor Hamilton stated that he was also concerned regarding the knock-on effect the retail element of the scheme could have on the viability of Blatchington Road and George Street. He was sceptical about the adequacy of the proposed highway improvements.

- (10) Councillor Wells welcomed the scheme, considering that the previous reasons for refusal had been overcome. Whilst he had some concern regarding short term loss of existing jobs on the site, he felt there would be longer term benefits as a result of this scheme.
- (11) Councillor C Theobald welcomed the scheme, particularly the provision of underground car parking, but had some unease about loss of the current employment uses on the site e.g., "Vokins". She wondered whether any of the existing businesses would have the opportunity to relocate into the new development once completed. It was explained that this was unlikely given that the applicant was seeking the opportunity to redevelop the site, in part, because the leases of the existing premises were due to expire in the near future. The retail element within the new development would be configured differently.
- (12) Councillor Kennedy observed that the current scheme represented a significant improvement but considered, however, that the applicant should be required to demonstrate a greater commitment to biodiversity. She enquired whether if, the scheme were to be approved, a condition could be added to seek to ensure this, and it was confirmed that it could.
- (13) A vote was taken and on a vote of 8 with 2 abstentions planning permission was granted. Having declared an interest Councillor Davey was not present during discussion or when the vote was taken.

62.1 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 11 of the report and resolves that it is minded to grant planning permission subject to completion of a Section 106 Obligation in the terms set out in the report and to the additional conditions and informative set out in the "Additional Representations List" and to the following further additional condition:

No development shall commence until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the occupation of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy QD17 of the Brighton & Hove Local Plan.

Note1: Having declared an interest in the above application Councillor Davey left the meeting and took no part in the discussion or voting thereon.

Note2: Councillors Carden and Hamilton abstained from voting in respect of the above application.

B. Application BH2009/00737, Longhill Secondary School, Falmer Road, Brighton – Various amendments to existing school site including erection of 5 storey link extension, infilling existing courtyard to provide new teaching accommodation, replacement of existing office accommodation with new external canopy, new windows

and door to lower ground floor front elevation, amendment to parking layout to provide 24 additional parking spaces and provision of solar panels on roof.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Area Planning Manager (East), Mr Walke gave a presentation detailing the proposed changes to the existing school site. He explained that following further consultation with the sustainable transport and legal teams it had been agreed that it would be appropriate to remove the requirement for the applicant to enter into a legal agreement and for this to be replaced by conditions as appropriate. In consequence two additional conditions were therefore recommended as set out in the "Additional Representations List". The application was now recommended for "grant" rather than "minded to grant."

Questions/Matters on Which Clarification was Sought

- (3) Councillor C Theobald requested to see photomontages indicating the appearance of the new front extension. In answer to questions it was explained that the windows would have aluminium frames in common with those to the existing buildings. Details were also requested regarding the location of the additional on-site parking.
- (4) Councillor Older sought clarification that the four letters of objection received came from properties located to the rear of the existing school buildings and it was confirmed that they did.
- (5) Councillor Simson sought confirmation that it was proposed to widen, the footpath to the north, noting that the footpath to the south had already been widened. It was confirmed that this would be the case.

Debate and Decision Making Process

- (6) Councillor Steedman stated that although he supported the proposals he was disappointed that the opportunity had not been taken to upgrade the existing school buildings.
- (7) Councillors Carden and Smart welcomed the scheme and were pleased to be able to support it.
- (8) Councillor Simson noted that it had been possible to increase on-site parking without impacting on existing traffic flows. She supported the scheme.
- (9) Councillor Wells considered that the ability to increase the intake of pupils resulting from these works would relieve the current pressure for secondary school places locally and would also effect improvements to facilities provided at the school.
- (10) A vote was taken and Members voted unanimously that planning permission be granted.

- 62.2 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 9 of the report and resolves to grant planning permission in the terms set out in the report and subject to the additional conditions set out in the “Additional Representations List”.
- C. Application BH2009/00230, Russell House, Building A, Arts Road, University of Sussex, Brighton** - The retention of the existing 2 storey temporary academic building for a period of 10 months (retrospective).
- (1) A vote was taken and Members voted unanimously that planning permission be granted.
- 62.3 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 9 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report.
- D. Application BH2009/00916, University of Sussex, Falmer, Brighton** - Erection of a 2 storey temporary teaching building for a period of 3 years.
- (1) A vote was taken and Members voted unanimously that planning permission be granted.
- 62.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 9 of the report and resolves to grant planning permission subject to the conditions and informatives set out in the report.
- (ii) MINOR APPLICATIONS**
- E. Application BH2009/00847, Land to rear of 67–81 Princes Road, Brighton** – Construction of 4 two storey, two bedroom terraced houses with pitched roofs, solar panels and rooflights. Provision of private and communal gardens, waste and refuse facilities, and erection of a street level lift gate-house with cycle store.
- (1) Councillor Kennedy had requested a site visit in respect of this application (paragraph 61 above refers) but this had been lost on a vote of 5 to 4 with 1 abstention. Having declared a personal and prejudicial interest the Chairman had taken no part in that vote and having left the meeting room took no part in the debate and decision making process.
- (2) Councillor Wells (Deputy Chairman) was in the Chair during consideration of this item.
- (3) The Senior Planning Officer, Ms Brocklebank gave a detailed presentation detailing the constituent elements of the scheme by reference to photographs and plans and sought to indicate the location of the proposed dwellings which had been designed to take account of the changing ground levels across the site and its steep configuration.
- (4) The Senior Planning Officer explained that additional letters of objection had been received, the contents of which were set out in the “Additional Representations List”.

Appendix A to the report had also been updated and re-circulated. A total of 216 letters of objection had been received and 6 letters of support. Since the closure of the "Additional Representations List" 3 further letters of objection had been received.

- (5) It was explained that an Open Spaces study had been prepared and would be considered at the Environment Cabinet Member Meeting scheduled to take place on 30 July 2009. However, the policy advice as set out in the report before the Committee that day was that given the very particular circumstances and planning history of this site, the adoption of the study would not be a significant new material consideration with respect to this application.
- (6) Overall, the proposal which would provide four family sized dwellings each with private amenity space which also included ecological and landscape enhancements was considered to be of an acceptable design which would preserve the character of the conservation area.
- (7) Mrs Nuttall spoke on behalf of neighbouring objectors to the scheme. In their view the site was not suitable for housing development, given the steep gradient across it. The location of the dwellings sited overlooking the railway cutting and in close proximity to the Hollingdean Waste Transfer Station would have a very poor aspect. Since the Waste Transfer Station had commenced operation some two months previously, residents of existing dwellings which were located at a considerably greater distance from it than the new houses would be, had suffered as a result of unacceptable noise nuisance and odour emanating from the facility. The back gardens of these houses were unusable during the daytime and to date no remedial measures were in place. Conditions for anyone living in properties on this site would be intolerable. There were also concerns for the survival of the protected horse chestnut tree adjacent to the existing gatehouse and in relation to the impact of additional vehicles parking on-street in the absence of any parking on site. Parking within immediate vicinity of the site was already at saturation point.
- (8) Mr Coomber spoke on behalf of the applicant in support of their scheme. He explained that the site had already been established as "brownfield" and that this had been borne out by subsequent decisions of the Planning Inspectorate. The site was in private ownership and was not usable as amenity space by virtue of the steep incline required to access it. The proposals would provide much needed housing without detriment to neighbouring residential amenity.
- (9) Councillor Taylor spoke in his capacity as a Local Ward Councillor setting out his objections to the proposed scheme. In his view the site was completely unsuitable for residential accommodation of any kind and should be preserved as a "green lung" which would provide a buffer between the existing housing, the railway line and the waste transfer station. The waste transfer station was now fully operational and it was unthinkable to place housing on the site when noise disturbance and odour penetration were being suffered by existing residents living further away and this had yet to be addressed. Such residents would be second class citizens and would be living in an appalling location. The number of local objections received was overwhelming.

Questions/Matters on Which Clarification was Sought

- (10) Councillor Davey sought clarification whether any research had been carried out regarding noise levels, bearing in mind the site location with railway tracks below the development and the close proximity of the waste transfer facility. The Development Control Manager referred to the comments received from Environmental Health. However, in view of the comments made regarding operation of the waste facility during the day and at weekends, he considered that in this instance noise levels could be very high during the day in addition to noise caused by passing trains both during the day and at night.

Debate and Decision Making Process

- (11) Councillor Older stated that the scale of development proposed on the site had been scaled down considerably, the dwellings proposed were modest. Market forces would hold sway, if the completed development was not a desirable place to live the houses would remain vacant.
- (12) Councillor Smart stated that he considered the scheme to be acceptable.
- (13) Councillor C Theobald stated that she considered the scale of development proposed was acceptable, noting that the Environmental Health Officer had raised no objections.
- (14) Councillor Kennedy stated that she was unable to support the provision of housing on the site. She could not agree to the loss of the existing open space irrespective of whether it was public open space, this piece of land had an intrinsic value in its own right. She cited PPG17 and considered that the Open Space Study would be a significant material consideration after its adoption on 30 July. She also had grave concerns that the horse chestnut tree would not survive the impact of the proposed building works. In view of what had been heard regarding the nuisance caused by the waste transfer facility she considered it was unacceptable to expect anyone to live on the site.
- (15) Councillor Davey stated that the scheme was unacceptable to him on the grounds of noise nuisance alone.
- (16) Councillor Steedman stated that it seemed unlikely the development would reach the sustainability levels required and that he did not support the application.
- (17) The Development Control Manager confirmed that The Open Spaces Study would be reported to the Environment CMM on 30 July 2009 but clarified that given the particular circumstances and planning history of the site, adoption of the study would not represent a significant material consideration in relation to this application.
- (18) A vote was taken and on a vote of 7 to 3 planning permission was granted.
- 62.5 **RESOLVED** – That the Committee has taken into consideration and agrees with 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.

Note1: Having declared a personal and prejudicial interest in respect of the above application Councillor Hyde, (the Chairman) left the meeting and took no part in the discussion or voting thereon.

Note2: Councillors Davey, Kennedy and Steedman voted that the application be refused.

F. Application BH2008/03566, The Willows Surgery, 50 Heath Hill Avenue, Brighton
– Demolition of existing surgery and provision of residential accommodation. Erection of new surgery with 7 self contained flats.

- (1) The Senior Planning Officer, Ms Boggiano gave a presentation detailing (at Councillor Steedman's request) the differences between the application before the Committee that day and that for which approval had previously been granted. Although the Section 106 Obligation had yet to be completed, the principle of development had been established by that earlier decision. 6 dormers were proposed which would enable the two additional flats to be located in the roof space. They were considered to be acceptable in terms of design and in relation to the character of the surrounding area. The highway impact was considered to be acceptable as the impact on the amenity of surrounding residents. Minded to grant approval was therefore recommended.
- (2) Mr Bareham spoke on behalf of the applicant in support of their application. He explained that in order for the doctor's surgery to be provided at no cost to the Primary Care Trust and therefore to be viable, the aggregate number of units would need to increase. This scheme had sought to achieve this without significantly increasing its impact with the neighbouring street scene.
- (3) Councillor Meadows spoke in her capacity as a Local Ward Councillor setting out her objections to the scheme. She referred to the planning history of the site and the concerns of neighbouring residents that the scheme would represent overdevelopment of the site. Insufficient parking was proposed which would increase the level of on-street parking in the neighbouring residential streets. The current proposals were far worse than those presented by the previous scheme which she had also considered to be inappropriate.

Questions/Matters on Which Clarification was Sought

- (4) Councillor C Theobald enquired whether any additional parking was proposed in conjunction with the additional units and whether it would be possible for the willow tree to be saved. The Senior Planning Officer explained that no parking was proposed in conjunction with the residential element of the scheme. Detailed discussions had taken place when the previous application had been considered. Notwithstanding its outward appearance the tree had a very limited remaining lifespan. The applicant had agreed to replace the existing tree with two trees of species more suited to being located in close proximity to buildings.
- (5) The Chairman sought clarification and it was agreed that an informative could be added, should Members so wish requesting that one of the replacement trees was a willow to be planted either at the site or, if appropriate, at a suitable alternative location nearby.

- (6) Councillor Smart enquired whether if the application were to be refused; the existing surgery would remain in situ in its stead. It was explained that the current surgery building was considered to be inappropriate to current patient needs, that it was likely that it would move from its present location in any event and that there were no other suitable sites available nearby.
- (7) Councillor Smart also sought confirmation regarding provision of obscure glazing to windows to the eastern elevation of the building. The Senior Planning Officer explained that the windows would be obscurely glazed to half height but fitted with clear glass above.
- (8) Mr. Small (CAG) enquired regarding configuration of the dormer windows. The Senior Planning Officer explained that the dormers would be recessed within the roofscape.
- (9) Ms Boggiano also responded to the points raised by Councillor Meadows relating to the planning history of the site. She explained that the application which had been refused in 2006 had been for a bulkier form of development than that proposed by the current application. In dismissing the appeal in 2006, the Inspector had concerns regarding the traffic impact; however officers now considered that these had been satisfactorily addressed by the current scheme.

Debate and Decision Making Process

- (10) Councillor Smart stated that he was mindful that if the application was refused, a doctor's surgery at this location could be lost; he considered the proposal was acceptable.
- (11) Councillor Kennedy supported the application but sought clarification as to whether it would be appropriate to seek provision of an on-street disabled parking bay in close proximity to the surgery. The Principal Transport Planning Officer, Mr Tolson confirmed that this could be sought.
- (12) A vote was taken and on a vote of 7 to 2 with 2 abstentions planning permission was granted.

62.6 **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 it is minded to grant planning permission subject to the completion of a Section 106 Obligation in the terms set out in the report and to Item (c) of the Heads of Terms being amended to include for the provision of a disabled parking bay in the vicinity of the site.

Note: Councillors Hamilton and C Theobald voted that planning permission be refused. Councillors Carden and Kennedy abstained.

- G. Application BH2008/02235, Ground Floor Flat, 153 & 151 Eastern Road, Brighton**
– Change of use of ground floor flat to class D1 for use as children's all day care nursery and increase in number of children from 43 to 58 and erection of a new retaining wall within rear garden area of 151.

- (1) A vote was taken and Members and on a vote of 9 with 1 abstention Members voted that planning permission be granted. Councillor C Theobald was not present when the vote was taken.
- 62.7 **RESOLVED** - That the Committee has taken into consideration and agrees with 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.
- H. Application BH2008/03890, Brighton College Prep School, 2 Walpole Road, Brighton** – Installation of external flood lighting to north playground of the pre-school.
- (1) A vote was taken and Members voted unanimously that planning permission be granted.
- 62.8 **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.
- I. Application BH2009/01182, Land Adjacent to 20 Old London Road, Brighton** – Erection of a two storey four bedroom detached house with external works and landscaping to create one vehicular access road.
- (1) The Senior Planning Officer, Ms Boggiano gave a presentation detailing the scheme explaining that the principle of the development had been considered as had its impact on the wider area, amenity issues, impact on trees and wildlife, traffic impacts, flooding and sustainability.
- (2) It was considered that the proposed development would cause no significant loss of light or privacy to adjacent occupiers and was an acceptable development in terms of its bulk, scale, height, massing and design. The impact on trees and wildlife was considered acceptable subject to mitigation measures which were required by condition.
- (3) Mr Morgan spoke on behalf of neighbouring objectors. He stated that the scheme would have a detrimental impact on its immediate neighbours and would result in loss of amenity and privacy. The new dwelling would face directly towards his principal habitable rooms. The configuration of the driveway was such that it would result in intrusion and light spillage from vehicles using it at night. There would be an additional risk of flooding.
- (4) Mr Southern the applicant spoke in support of his application. He explained that the dwelling had been designed in order to respect neighbouring amenity and to address the concerns raised by objectors. Existing screening would also be retained. Water permeable surfaces would be provided to help mitigate against any risk of flooding and soakaways would also be provided if required.
- (5) Councillor Pidgeon spoke in his capacity as a Local Ward Councillor setting out his objections to the proposed scheme and reiterated the concerns of local residents. The property would be located on higher ground than its neighbours and would overlook

them. Loss of trees would affect neighbouring amenity and the character of the wider area and would increase the risk of flooding to which this area was already prone.

Questions/Matters on Which Clarification was Sought

- (6) Councillor C Theobald enquired regarding the width of the access road to the site and was informed it was 3.2m.
- (7) Councillor Smart sought clarification as to whether the potential spread of the beam from vehicle headlights at night had been assessed.
- (8) Councillor Steedman asked regarding the distance from the proposed development to the nearest dwelling and was informed that this was the side extension of 17 Audrey Close which was located 10m away.
- (9) Councillor Older sought confirmation that whether the proposed development would lie on land which formed part of the existing back garden and was informed that it would. In answer to further questions it was confirmed that the application site was not located within a conservation area.

Debate and Decision Making Process

- (10) Councillor C Theobald stated that she considered the proposed development to be unacceptable and contrary to a number of the Council's policies. Located as it would be on higher ground than its neighbours it would have a detrimental impact on them and would result in loss of privacy. There would be a loss of existing wildlife habitat, loss of some of the existing trees and increased likelihood of flooding; it constituted overdevelopment.
- (11) A vote was taken and on the Chairman's casting vote planning permission was refused on the grounds set out below.

62.9 **RESOLVED** - That planning permission be refused the following reasons:

- (1) The proposed development is overdevelopment. Its elevated position would have a detrimental impact on neighbouring properties by reason of its height and loss of privacy;
- (2) The proposed development is unacceptable by virtue of surface water run off from the site and the impact this could have on susceptibility of the area to flooding, contrary to Policy SU15 of the Brighton & Hove Local Plan;
- (3) The proposed development would result in loss of wildlife and natural habitat provided by the existing garden and trees, some of which would be removed; and
- (4) Proposed access to the site is considered to be too steep and at an inappropriate angle and of too narrow width.

Note1: Councillor C Theobald proposed that planning permission be refused on the grounds set out above, this was seconded by Councillor Smart.

Note2: Councillors Carden, Davey, Hamilton, Kennedy and Steedman voted that planning permission be granted. Councillors Hyde (Chairman), Older, Smart, C Theobald and Wells voted that planning permission be refused. Councillor Simson abstained. Therefore planning permission was refused on the Chairman's casting vote.

J. Application BH2009/00948, 1 Meadow Close, Rottingdean – Demolition of existing bungalow and construction of 2 semi-detached three bedroom chalet bungalows with rooflights, bin and cycle stores.

(1) The Area Planning Manager (East) gave a presentation detailing the configuration of the proposed new buildings in the context of the neighbouring street scene, also setting out the rationale for the recommendation that planning permission be refused.

Questions/Matters on Which Clarification was Sought

(2) Councillor Wells sought further clarification regarding the footprint of the new buildings and the Area Planning Manager confirmed that they would be forward of the existing building line. In answer to further questions he explained that the level of amenity space indicated on the submitted plans was considered to be inadequate.

(3) Councillor Smart enquired regarding the level of sustainability that the development might be likely to achieve. Mr Walke explained that insufficient details had been provided to indicate that the scheme would comply with Lifetime Homes standards.

Debate and Decision Making Process

(4) Councillor Older stated that she was familiar with the area in which the application site lay and was in agreement that the proposal would be incongruous and would represent an overdevelopment of the site.

(5) Councillor Wells expressed support for the scheme stating that in his view it represented good use of the site and did not constitute overdevelopment.

(6) A vote was taken and planning permission was refused on a vote of 6 to 1 with 3 abstentions. Councillor C Theobald was not present when the vote was taken.

62.10 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to refuse planning permission by virtue of the reasons and informatives set out in the report.

Note: Councillor Wells voted that planning permission be granted in respect of the above application. Councillors Simson, Smart and Steedman abstained.

K. Application BH2009/01163, Rear of 100 North Road, Brighton – Change of use of former vehicle depot (sui generis) to retail A1.

- (1) The Senior Planning Officer, Ms Boggiano gave clarification on elements of the scheme as requested by members. She made reference to floor plans delineating how the space would be used. The proposed sales area would take up most of the ground floor; a mezzanine floor was proposed which would be used for staff accommodation and storage.

Questions/Matters on Which Clarification was Sought

- (2) In answer to questions by Councillor Older, Ms Boggiano explained that the entrance to the premises would be located in Vine Street. In answer to queries regarding apparent anomalies between the hours of operation of the premises and the hours during which deliveries could take place, Ms Boggiano explained that the applicant was seeking hours of opening/use of 08.00 to 20.00 Mondays to Saturdays and 10.00 to 16.00 on Sundays and Bank and Public Holidays, and not 08.00 to 18.00 Mondays to Saturdays as had been set out in the report in error.

Debate and Decision Making Process

- (3) Councillor Davey stated that as these premises would represent a new use within a wholly residential area of the North Laines, his preference would be for the hours of opening/use to cease at 18.00 Monday to Saturday, as this would seek to address the amenity concerns of neighbouring residents. Other Members of the Committee concurred in that view.
- (4) A vote was taken and Members voted unanimously that planning permission be granted subject to hours of operation being 08.00 to 18.00 Monday to Saturday and 10.00 to 16.00 on Sundays and Bank and Public Holidays.

62.11 **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 and to the hours during which the premises could operate set out in (4) above and in the published report.

L. Application BH2009/00797, Land Adjacent to Woodside, Falmer Road, Woodingdean – Construction of new two storey, five bedroom house with pitched roof, incorporating 3 No. front and 3 No. rear dormers and 1 No. rear rooflight. To include provision of waste/recycling facilities and ancillary bicycle and wood store.

- (1) The Area Planning Manager (East, Mr Walke gave a presentation detailing the proposed development. He referred to the agreed boundaries of SDNP (the site fell within these) and the policies which were germane to consideration of this application, namely NC6, NC7 and NC8.
- (2) The Area Planning Manager explained that the house would represent unjustified countryside development beyond the urban fringe which would have an adverse visual impact upon the character and openness of the area of the proposed national park. As

such the scheme was contrary to local development plan policies and national policy, refusal was therefore recommended.

- (3) Councillor Wells had requested (under item 61 above) that a site visit be held prior to the application being determined, he agreed however, to defer that request pending the Officer's presentation. Having heard that presentation Councillor Wells formally requested a site visit in order to enable Members to appreciate that notwithstanding close proximity of the site to the SDNP, it did nonetheless form part of the existing back garden. The Development Control Manager clarified that the site was brownfield and a part of the applicant's garden. The application was recommended for refusal because it was considered to be development which was not justified within the intended national park. A vote was taken and the request for a site visit was lost on a vote of 2 to 8.
- (4) Ms Cattell spoke on behalf of the applicant in support of their application. She explained that the development would be well screened by trees and would not encroach on the ecology of the area or the setting of the national park. Similar principles could be applied to this development to those applied when permission had been granted to erect dwelling houses in Braypool Lane at Patcham which also fell outside the urban fringe. The location of the site was unique and permission could therefore be granted without creating a precedent.

Questions/Matters on Which Clarification was Sought

- (5) Councillor Smart requested to see photographs showing the application site in relation to the neighbouring recreation site and the SDNP.

Debate and Decision Making Process

- (6) The Area Planning Manager explained in responding to the points made by the public speaker that the location of the application site was significantly different to those referred to in Braypool Lane, which did not fall within the boundaries of either the AONB or the national park.
- (7) Councillor Smart stated that, whilst acknowledging the rationale for refusal being recommended, as the application site abutted a recreation ground and would be screened from view he did not consider that it was likely to be detrimental.
- (8) Councillor Simson stated that she was familiar with the application site which was located in her ward. Whilst fully supporting the concept of the SDNP, she was also aware that the application site was a narrow strip of land and any development would therefore be constrained. The site was unique and it was unlikely that there were other sites across the city which could give rise to similar applications.
- (9) Councillor Wells expressed support for the scheme which he considered acceptable. He did not agree that there would be any adverse impact on the surrounding area or the national park.
- (10) Councillor Steedman stated that he was amazed by the statements made in support of the application. Any decision to approve the application would run completely counter to the core strategy being established and could only serve to undermine it.

- (11) Councillor Older concurred stating that it would be ineffectual if having supported the establishment of the SDNP the Council immediately made exceptions to the policies underpinning it.
- (12) Prior to the vote being taken the Development Control Manager clarified that there was a strong policy basis for the recommendation to refuse. An approval of this scheme would, in her view set a precedent which would be referred to by applicants seeking approval for development elsewhere in the intended national park boundaries.
- (13) A vote was taken and on a vote of 7 to 1 with 2 abstentions planning permission was refused.

62.12 **RESOLVED** - That the Committee has taken into consideration and agrees with reasons for the recommendation set out in paragraph 7 of the report and resolves to refuse planning permission for the reasons and subject to the informative set out in the report.

Note: Councillor Wells voted that planning permission be granted in respect of the above application. Councillors Simson and Smart abstained.

63. 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

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

Application	Site visit requested by:
BH2009/00847, Saunders Glass, Sussex Place	Development Control Manager
*Royal Alexandra Children’s Hospital, Dyke Road *Opportunity for Members to view the building internally.	The site owner and proposed by Councillor Hyde, Chairman

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

Decisions on Applications Delegated to the Director of Environment

64.1 **RESOLVED** - That those details of applications determined by the Director of Environment under delegated powers be noted.

Note 1: All decisions recorded in this list are subject to certain conditions and reasons recorded in the planning register maintained by the Director of Environment. The register complies with legislative requirements.

Note 2: A list of representations received by the Council after the Plans List reports had been submitted for printing, was circulated to Members on the Friday preceding the meeting (for copy see minute book). Where representations were received after that time they should 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 is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2005.

The meeting concluded at 6.45pm

Signed

Chairman

Dated this

day of

APPEAL DECISIONS

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Application BH2008/01110, 9 Benfield Close, Portslade. Appeal against refusal to grant planning permission for rear south facing single storey extension to bungalow with chimney at end. (Delegated Decision) APPEAL DISMISSED (copy of the letter from the Planning Inspectorate attached).	23
B. GOLDSMID WARD	
Application BH2008/03678, Flat 9, 8 Eaton Gardens, Hove. Appeal against refusal to grant planning permission for a new balcony and double doors to the bay of a first floor flat. (Committee Decision) APPEAL ALLOWED (copy of the letter from the Planning Inspectorate attached).	27
C. HANOVER & ELM GROVE WARD	
Application BH2008/02977, 128-129 Lewes Road, Brighton. Appeal against refusal to grant planning permission for change of use from basement from retail storage to 2 new studio flats. New pavement lights for studio flats below. Erection of bike store to rear and installation of railings to rear. (Delegated Decision). APPEAL DISMISSED (copy of the letter from the Planning Inspectorate attached).	29
D. WITHDEAN WARD	
Application (A) BH2008/02929 and (B) BH2008/02926, 21 North Road, Preston Village, Brighton. Appeals against refusal to grant planning permission for single storey rear extension to property. (Delegated Decisions) APPEALS DISMISSED (copy of the letter from the Planning Inspectorate attached).	33
E. WITHDEAN WARD	
Application BH2008/02194, 16 Hazeldene Meads, Brighton. Appeal against refusal to grant planning permission for erection of a detached dwelling. (Delegated Decision) APPEAL DISMISSED (copy of the letter from the Planning Inspectorate attached).	15

F. PATCHAM WARD

Application BH2008/02925, 49 Old Mill Close, Patcham. Appeal against refusal to grant planning permission for erection of detached bungalow (Committee Decision) **APPEAL DISMISSED** (copy of the letter from the Planning Inspectorate attached). **37**

G. ROTTINGDEAN COASTAL WARD

Application BH2009/00063, 8 Wivelsfield Road, Saltdean. Appeal against refusal to grant planning permission for a rear extension and roof conversion. (Committee Decision). **APPEAL DISMISSED** (copy of the letter from the Planning Inspectorate attached). **41**



Appeal Decision

Hearing held on 7 July 2009.
Site visit made on 7 July 2009.

by **B C Scott BA(Hons) Urban & Regional Planning MRTPI**

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

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Decision date:
13 July 2009

Appeal Ref: APP/Q1445/A/09/2096808

9 Benfield Close, Portslade, East Sussex, BN41 2DD.

- 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 Peter Fagan against the decision of Brighton & Hove City Council.
- The application Ref: BH2008/01110 dated 27 March 2008, was refused by notice dated 1 August 2008.
- The development proposed is rear south facing single storey extension to bungalow with chimney at end.

Procedural Matters/Application for Costs

1. The proposed development (the extension and chimney) has been carried out. The Appellant adopts the Council's description of the proposed development *single storey rear extension (retrospective)*.
2. The Appellant raises concerns about the Council's handling of the proposed development (which I understand started life as intended permitted development). At the Hearing and after due consideration, the Appellant decided not to make a claim for costs relating to the appeal process itself, but will be seeking a remedy concerning prior events through the Council's grievance procedure. Whereas I fully understand the Appellant's concerns, my decision is based upon the planning merits of the proposed development before me.

Decision

3. I dismiss the appeal.

Main issues

4. I consider the two main issues in this case to be the effect of the proposed development on; firstly, the character and appearance of the area; and secondly, on the living conditions of the adjoining occupiers, with particular reference to light and outlook.

Reasons

Character and appearance

5. The appeal property is a semi-detached bungalow with some roof accommodation. It is originally of generic estate design amongst others that have been modified over the years. The proposed development adds a cuboid form at the rear with a free standing chimney above it. Policy QD14 of the

Brighton & Hove Local Plan 2005 (LP) requires extensions to be, amongst other things, well designed in relation to the host property and to take account of the existing space around buildings.

6. In my opinion, 'well designed' in this context means either an integrated form or a subordinate one. Due to its unlike cuboid form, the flat roof of the extension prevents an effective visually integrated result with the host building, the prominent feature of which is a large scale hipped roof.
7. The space about the host building on the appeal site is unusual because it spreads mainly sideways towards the rear and is quite restricted in depth from the original rear wall. The extension occupies virtually the whole of that depth along the shared boundary and is orientated towards the side space. It would have on this side, when finished, rendered panels above a brick waist to match the host building. The eaves line ties in closely, when due allowance is made for a junction of a flat roof with a pitched one. For those reasons, I consider that the extension sits comfortably within its plot and general surroundings.
8. Having said that, a subordinate result is not obtained due mainly to the position, height and scale of the chimney. To my mind, notwithstanding its intrinsic design, the chimney is out of place because it bears no relation to either the extension or the host building, given its freestanding nature above a flat roof; it looks overpowering. Moreover, from the neighbours' side (no.10), which does not have the benefit of such side space as the appeal site, the result is a high wall of discordant brick-work (no rendered panels are on this side, or are proposed), the scale of which is greatly exaggerated by the position, height and mass of the brick chimney.
9. I acknowledge that the extension is at the rear and has limited visual impact. Although I bear that in mind, good design is to be encouraged everywhere to make attractive places in which to live, whether viewed from private or public land. Government policy is to promote good design and the Development Plan reflects this. The extension does not amount to good design for the reasons I have given. I conclude that the proposed development is harmful to the character and appearance of the area in conflict with the requirements of Policy QD14.

Living Conditions

10. The proposed development backs onto rear gardens westwards and is alongside a shared boundary to another, northwards. LP Policy QD27 requires development not to cause material nuisance and loss of amenity to residents, including such things as daylight, sunlight and outlook. LP Policy QD14 applies a similar requirement to extensions and alterations and is implemented with reference to a 45 degree guideline.
 11. Given the distances and orientations involved, I am satisfied that the extension and chimney do not interfere with the outlook and light of the adjoining occupiers to the rear. However, as far as I can tell from the submitted drawings, the extension cuts a 45 degree line from the patio doors of the adjoining occupiers at no 10. From my examination of the light and outlook from there (in the garden) I formed the view that some loss of light (particularly afternoon sunlight) and outlook have resulted.
-

12. Even so, mid-day sunlight is high in the sky and is not blocked by the proposed development. Also, whereas I felt a sense of enclosure in that garden due to the extension, it was not an unpleasant feeling or in any way claustrophobic or shut in. The chimney, however, felt overbearing because of its position, height and mass. In the circumstances, I conclude that the overall effect of the proposed development on the living conditions of the adjoining occupiers counts against it to an unacceptable degree, in conflict with the requirements of the above policies.

Other Considerations

13. The Appellant asserts that the proposed development as carried out is only marginally different to a fallback position derived from the then prevailing permitted development rights and points to the Council's decision not to take enforcement action. Having regard to its reasoning in a letter to the Appellant dated 23 January 2009 (erroneously shown as 2008) I do not disagree with the Council's enforcement position. The fallback is that the extension would remain but the chimney may not.
14. I bear in mind that any fallback position does not prevent me from dismissing an appeal for a scheme that is patently unacceptable in planning terms. The fallback position in this case is not indicate an acceptable impact as I am required to examine the planning merits of the appeal proposal under current circumstances, which are changed. I note that new permitted development rights [Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008] would rule out a scheme that is greater than 3 metres beyond the rear wall of the original dwellinghouse; the extension reaches 6.8 metres. In any event, I have identified harm to the character and appearance of the area and to the living conditions of the adjoining occupiers attributable to the chimney especially. Thus, the proposed development is more harmful than the fallback position and I am in no doubt that it is patently unacceptable in planning terms for the reasons I have given.
15. Third Parties state that smoke from the chimney has been a problem. I have no evidence before me that shows this to be a continuing problem or one that is not being addressed under Environmental Health legislation. However, I acknowledge that the current position may be attributable to the good practice of the Appellant in the choice of fuels to be burnt, which may not be the case with any future owners. To my mind, the design and scale of the chimney is a constant reminder to adjoining occupiers of potential problems in that regard, which adds to the unacceptable effect of the proposed development.
16. I have examined those many other chimney examples to which my attention is drawn, but find no reason to consider the appeal before me other than upon its individual planning merits. I share the Council's view that most of those examples are of chimneys that are part of the original fabric of dwellings and are thereby well-related to them, unlike with the appeal scheme. I have considered all other matters raised but none alters my conclusions on the main issues, which lead me to dismiss the appeal.

B C Scott
INSPECTOR

DOCUMENTS SUBMITTED AT THE HEARING

Document 1

The Council's letter of notification of the arrangements for the Hearing

Document 2

Direction dated 4 June 2008 by the Secretary of State concerning saved policies contained in the Brighton and Hove Local Plan 2005



Appeal Decision

Site visit made on 18 June 2009

by **J D Westbrook BSc(hons) MSc MRTPI**

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

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**Decision date:
7 July 2009**

Appeal Ref: APP/Q1445/A/09/2098560

Flat 9, 8 Eaton Gardens, Hove, BN3 3TP

- 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 Paul Davies against the decision of Brighton and Hove City Council.
- The application (Ref BH2008/03678), dated 24 November 2008, was refused by notice dated 29 January 2009.
- The development proposed is the construction of a new balcony and double doors to the bay of a first floor flat.

Decision

1. I allow the appeal and grant planning permission for the construction of a new balcony and double doors to the bay of a first floor flat at Flat 9, 8 Eaton Gardens, Hove, BN3 3TP, in accordance with the terms of the application Ref BH2008/03678, dated 24 November 2008, and the plans submitted therewith, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.

Main issue

2. I consider the main issue in this case to be the effect of the proposed balcony on the living conditions of the occupiers of Flat 8, 8 Eaton Gardens, by way of noise, privacy and light.

Reasons

3. The appeal property is a first floor flat in a small detached block of two flats, to the north and rear of the main building within No 8 Eaton Gardens. This block is a relatively new addition to the older main building. Flat 9 has a bay window to the living room that looks south over a communal grassed area. There is a footpath across this communal area, which gives access to the rear car park serving the flats at No 8 Eaton Gardens. The ground floor flat in this small detached block (Flat 8) has a similar southerly outlook over the communal grassed area, but also has a private, fenced-off garden to the east, with access from patio doors in the east elevation. Flat 9 has a living room window and two bedroom windows directly overlooking the private garden area of Flat 8.
4. The proposed development would involve the replacement of the central portion of the bay window with double doors of a similar design to the existing windows. These doors would give access to a balcony that would wrap around the bay, supported on cantilevered brackets. It would have a hardwood decking base, black painted steel balusters and frame, and a hardwood handrail.

5. The owner of Flat 8 contends that the proposed balcony would result in additional noise and a loss of privacy within the private garden area. In my opinion, the existence of balconies in flatted developments is not uncommon and, since in this case the proposed balcony would project over a communal garden area having regular usage, it would be unlikely to generate any significant additional internal noise for the occupiers of Flat 8. With regard to loss of privacy, I note that the proposed balcony would offer the potential for some limited additional visibility over the private garden of Flat 8. However, views would be only at an oblique angle and would not, in my opinion, result in any significant additional loss of privacy when considered against the direct visibility already existing from the east-facing windows in Flat 9.
6. The owner of Flat 8 also contends that the proposed balcony would result in loss of light. The appellant has submitted a shadow study that appears to indicate that any overshadowing from the balcony onto the bay window of Flat 8 would be very limited. Since the shadow study does not indicate a time of year or time of day, I do not consider that it adequately displays the potential effects of the proposed balcony in a variety of situations. Nevertheless, given the limited scale and orientation of the proposed balcony, together with its height above the bay window of Flat 8, I am satisfied that no serious loss of light would result from the proposal.
7. For the above reasons, I do not consider that the proposal would result in any significant harm to the living conditions of the occupiers of Flat 8, by way of noise, privacy and light, and that it would not, therefore, conflict with saved policies QD14 and QD27 of the Brighton and Hove Local Plan.

Other Matters

8. I have had regard to the fact that the appeal site lies within The Willett Estate Conservation Area and the requirements under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. In this specific case, the Council has accepted that the proposed balcony and double doors would not harm the character or appearance of the Conservation Area. I concur with this view, and to that extent I find that it would preserve its character and appearance.
9. The owner of Flat 8 has expressed concern about the construction of the balcony and the possible structural impact on Flat 8. I appreciate these concerns, but in the circumstances of this case, these are not planning matters before me, and are more appropriately dealt with under separate legislation.

J D Westbrook

INSPECTOR



Appeal Decision

Site visit made on 19 June 2009

by **J D Westbrook BSc(Hons) MSc MRTPI**

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Decision date:
6 July 2009

Appeal Ref: APP/Q1445/A/09/2099821
128-129 Lewes Road, Brighton, BN2 3LG

- 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 Peemark Ltd against the decision of Brighton and Hove City Council.
- The application (Ref BH2008/02977), dated 5 September 2008, was refused by notice dated 31 October 2008.
- The development proposed is the change of use of a basement from retail storage to 2 No studio flats. New pavement lights for studio flats below. Erection of bike store to rear and installation of railings to rear.

Decision

1. I dismiss the appeal.

Main issue

2. I consider the main issue in this case to be the effect of the proposed change of use on the living conditions of the occupiers of the proposed studio flats by way of light, outlook, pedestrian access and residential amenities.

Reasons

3. Nos 128 and 129 Lewes Road are two-storey, mid-terraced properties within a group of commercial properties on the east side of Lewes Road. Each property has a basement area that is currently unused. The two basements are connected. The proposal would involve the conversion of each basement into a self-contained studio flat, with access via steps to the rear. There would be new doors and windows to the rear and a new pavement light to the front of each flat. Each flat would have a small terrace area and external store to the rear, and there would be a cycle store above the external store to No 129. To the east of the appeal site is a disused and overgrown builders' yard, and it would appear that the only access to the proposed flats would be through this yard. The yard is apparently not in the ownership of the appellants.
4. The appellants have submitted two daylight analyses of the proposed development. One was apparently submitted without reference to the external bike store and a later study was submitted to include the store. The latter analysis indicates that the proposed studio rooms would meet minimum requirements for daylight levels, albeit only barely and only by increasing the reflectance of the external walls from the initial figure of 0.371 to a revised figure of 0.833. The initial study indicated that the figure of 0.371 was a typical figure for standard constructions. I have no information as to whether the significantly increased figure of 0.833 is readily achievable or maintainable.

Accordingly, I have some concerns about the level of light likely to be available to the future occupiers of the flats, which would, even using the best case scenario as provided, be barely acceptable.

5. There are basement flats in the vicinity of the appeal site, but these appear to have the advantage of a front stairwell and yard. No 130, adjacent to the appeal site, has a basement flat, but this has a large amenity area to the rear. Each of the proposed flats would have only a pavement light to the front and a small amenity space to the rear. Each amenity space would have a significantly restricted outlook dictated by the nature of the access, the existence of decking and/or a cycle store above, and the height of the boundary walls/fences. This limited outlook, when combined with the minimum daylight factors within each flat, leads me to conclude that the flats would not provide adequate living conditions for any future occupiers by way of light and outlook. As such the proposal would conflict with saved policies SU2 and QD27 of the Brighton and Hove Local Plan (LP).
6. There would appear to be some confusion about access to the appeal properties from Melbourne Street and the provision of bin storage. At the time of my visit, the only access to the flats was through the vacant builders' yard from Melbourne Street at a point adjacent to No 32A. This was a complex and inconvenient route. There is apparently a legal agreement for access to the appeal properties through the builders' yard, but I have no evidence of this or what form this right of access takes.
7. The appellants have provided evidence of a recent planning permission (ref: BH2008/02965), at No 124 Lewes Road, relating to the demolition of a store room and the creation of a new vehicular access from Melbourne Street into the builders' yard. The drawings submitted with the application indicate that the access would also include a pedestrian access into the builders' yard area for the use of Nos 128 and 129. There is also a bin storage area shown outside of the application site but within the builders' yard, to the rear of No 126 Lewes Road. The scale of the plan available to me does not permit me to identify to which property or properties the bin store would belong. In any case, the pedestrian access as shown would end at a point within the builders' yard, and the bin storage area would be located somewhat randomly within the yard, but outside of the site boundary shown for No 124 and Nos 128 and 129.
8. In view of the limited information available as to access rights to the appeal properties, together with the degree of separation of the proposed new access from Melbourne Street from the properties themselves, I consider that this current proposal cannot guarantee a short, safe, attractive and direct pedestrian access through the unused and overgrown builders' yard. This, together with concerns over the adequacy and availability of the proposed bin store, leads me to conclude that the proposal would not provide acceptable living conditions for the future occupiers of the flats by way of pedestrian access and residential amenities, and that it would conflict with saved policies QD27 and TR8 of the LP.
9. The appellants have provided details of planning appeal decisions relating to other sites within the City of Brighton and Hove. These decisions indicate that the relevant inspectors considered that the Council could not demonstrate an

up-to-date five-year supply of deliverable housing sites, and that the provision of internally ventilated bathrooms should not necessarily be a reason for refusal of planning permission. I note these points, but in the light of my conclusions on the failure of this proposal to provide adequate living conditions for future occupiers on other matters, I do not consider that these points outweigh my other more fundamental concerns.

J D Westbrook

INSPECTOR



Appeal Decision

Site visit made on 23 June 2009

by **Philip Willmer BSc Dip Arch RIBA**

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

The Planning Inspectorate
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Decision date:
8 July 2009

Appeal A Ref: **APP/Q1445/E/09/2099652**

21 North Road, Preston, Brighton, East Sussex, BN1 6SP.

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mrs Kim Stoddart against the decision of Brighton and Hove City Council.
- The application Ref. BH2008/02929, dated 31 August 2008, was refused by notice dated 11 November 2008.
- The works proposed are described as "proposed rear single storey extension to property".

Appeal B Ref: **APP/Q1445/A/09/2094223**

21 North Road, Preston, Brighton, East Sussex, BN1 6SP.

- 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 Mrs Kim Stoddart against the decision of Brighton and Hove City Council.
- The application Ref. BH2008/02926, dated 6 October 2008, was refused by the Council by notice dated 11 November 2008.
- The development proposed is described as "construction of single storey rear extension to property".

Decision

1. I dismiss these appeals.

Main Issues

2. I consider the main issues to be firstly, the effect of the proposed development on the special architectural character and historic interest of the listed building, the setting of the terrace and thereby the conservation area. Secondly, the impact of the development on the living conditions of neighbouring residential occupiers.

Reasons

3. The appeal property, number 21, is one of a terrace of modest 18 century cottages on the south side of North Road situated in the Preston Village Conservation Area. The rear walls of the cottages are built of flint with brick quoins and dressings to door and window openings. The rear wall of 21, in contrast to the neighbouring cottage, appeared new or extensively renovated as the brickwork to the openings seemed recent and the flint work was coursed and struck pointed. Notwithstanding these works, this cottage nevertheless

remains one of what I saw to be a visually coherent terrace, and it is this which I consider defines its special architectural and historic interest.

4. There is a single storey extension to the rear of number 19 and rear dormers have been built here and at number 25. While these have changed the appearance of the rear of the terrace, these alterations have not been so dramatic that the visual cohesiveness, and therefore the special architectural and historic interest, of the terrace has been lost.
5. The appellant proposes a single storey addition to the rear to form a dining room. It would be full width and project into the garden by some 3.7 metres or so, being a little over half the depth of the existing cottage. I understand that the side walls would be of masonry construction finished with knapped flints, the west wall fully glazed along with a sloping roof.
6. In my judgement imaginative well designed yet modest contemporary additions to listed buildings can sometimes, in appropriate circumstances, appear as sensitive high quality additions that do not detract from the buildings' special interest. However, in this case, having regard to the scale of the existing cottage and terrace in relation to the proposed addition, I consider that it would result in an unsatisfactory extension. The full width glazing to the south elevation would, as identified by the appellant, allow views of the existing rear wall. Nevertheless, in my opinion, the extension would by virtue of its depth, scale and form detract from the listed building, the terrace and the overall setting of the listed building and thereby the character and appearance of the conservation area.
7. Further, as the drawings before me are in outline and limited to schematic plans, sections and elevations only, they do not, in my opinion, either illustrate or describe the works proposed adequately. Were planning permission and listed building consent granted, it would be impossible for a contractor to (a) know from the drawings what precisely had been permitted or, (b) carry out the works without potentially adversely harming the integrity of the listed building. Accordingly, I find that to consider the proposed works without detailed drawings or an adequate specification would be to disregard the duties imposed by Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
8. I conclude in respect of the first main issue that the proposed development would have a detrimental impact on the special architectural character and historic interest of the listed building, as well as the setting of the terrace and thereby the Preston Village Conservation Area. The proposal is therefore contrary to the advice in PPG15 as reflected in Policies HE1, HE6, QD14 and QD27 of the Brighton and Hove Local Plan (LP).
9. The rear gardens of the cottages are relatively small and enclosed and there is already an extension to the rear of number 19. The proposed addition would project some 3.7 metres from the rear wall of the terrace and be built full width across the plot with solid walls to either boundary. I agree with the Council that the proposal would not, due to its single storey form, result in a significant loss of light to neighbouring properties but would inevitably lead to a greater sense of enclosure. However, in my opinion this would not, because of the

existing configuration of development, have a significant impact on the living conditions of neighbouring residential occupiers.

10. I conclude in respect of the second main issue that the proposal would not have a detrimental impact on the living conditions of neighbouring residential occupiers. The proposal therefore accords with the objectives of LP Policies QD14 and QD27 in this regard.

Conclusions

11. I have concluded that this proposal would not adversely affect the living conditions of neighbouring residential occupiers. However, I consider that this factor is outweighed by the unacceptable harm that would ensue to the listed building, the terrace and the conservation area. To my mind these are compelling objections. I have considered the other matters raised, but none change my overall conclusion, reached on the planning merits of the proposal, that the appeals should not succeed.

Philip Willmer

INSPECTOR



Appeal Decision

Site visit made on 1 July 2009

by **Peter Bird** BSc DipTP MRTPI MRICS

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

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Decision date:
13 July 2009

Appeal Ref: APP/Q1445/A/09/2100448

49 Old Mill Close, Patcham, Brighton, East Sussex BN1 8WE

- 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 & Mrs R Hopwood against the decision of Brighton & Hove City Council.
- The application Ref BH2008/02925, dated 3 September 2008, was refused by notice dated 14 November 2008.
- The development proposed is the erection of a detached bungalow.

Decision

1. I dismiss the appeal.

Main Issues

2. The main issues in this appeal are the effects of the proposal on firstly, the area's character and appearance, including nearby trees protected by a tree preservation order; and secondly, the living conditions of the future occupiers of the proposed dwelling, especially in relation to the space around the building.

Reasons

3. No 49 Old Mill Close is a detached bungalow situated at the end of a cul-de-sac within a predominantly residential part of the built-up area of Brighton. The site's wider context contains a range of housing of differing age, type and size. Nevertheless, I share the Inspector's view in the earlier appeal, Ref APP/Q1445/A/06/2031922, that a significant influence on the distinctiveness of the character and appearance of Old Mill Close is its landscaped central verge, which in part, and, to my mind in combination with the width of the highway, creates a sense of spaciousness. Moreover, this is enhanced by the single storey dwellings, including No 49, at the end of the cul-de-sac and their back-drop of mature trees.
4. The proposal would sub-divide the curtilage of No 49 to create a new plot essentially to the side and rear of the present dwelling for a modest two bedroom bungalow. Whilst the remaining curtilage for the existing bungalow would be a reasonably sized, the new plot would be markedly smaller, especially in relation to the space at the rear of the proposed dwelling. This pattern of development would be clearly out of keeping with the area, particularly the characteristic plot size that is integral to the locality's spatial

quality. Despite the generous size of plot, both as existing and as proposed, to the present bungalow, the width of the property's existing highway frontage is relatively limited. To punctuate this frontage with a further and separate point of access would, in my view, exacerbate the harm to the spaciousness of the area's character and appearance, especially at an important focus in the street scene, given the contribution of this group of existing bungalows at this point. I note that the bungalow's design would reflect others in the area. However, despite the appellants' intention for a low roof pitch, bearing in mind the building's footprint, the bungalow's overall height would still be significant. Having regard to the dwelling's consequent bulk I consider the proposal would result in a congested development on this relatively small plot.

5. The appellants argue that the deeds show the existing property comprises more than one plot. They have also drawn attention to other housing developments in the area, the circumstances of which are not before me. Nevertheless, each proposal needs to be considered on its merits in relation to current national and local planning policies, which I have done here.
6. Although no tree survey has been provided, from what I saw at my visit the proposed dwelling would be in close proximity to the canopy of protected trees albeit outside of the site, but adjacent to the northern/rear boundary. In this regard I share the concerns of the earlier Inspector, in that although a bungalow is now proposed rather than the previous houses, the proposal poses a significant threat to the adjacent protected trees. These trees dominate the external space at the rear of the present and proposed bungalow. The appellants argue that existing trees and shrubs would be retained. Even if the necessary care was ensured during construction, in my view there would be a realistic likelihood of pressure from future occupiers seeking to carry out works to the trees, either due to potential physical damage to the proposed property, or to improve their living conditions in relation to the use of the space at the rear of the dwelling. The consequent effect of such works on the appearance of these significant trees would be likely to add to the harm to the area's character and appearance I have described above.
7. Whilst older properties in Brighton may have limited space around them, Planning Policy Statement 3: *Housing* makes clear that good design is fundamental to the development of high quality new housing. Part of the assessment of this quality is the provision of private outdoor space such as residential gardens. In this case the space at the rear of the proposed bungalow would fail to reflect the standard expected by national policy, and in particular the use of the space would be seriously affected by the adjacent protected trees.
8. I conclude that the proposal would have a harmful effect on the area's character and appearance. In this regard it would conflict with Policies QD1 and QD2 of the Brighton & Hove Local Plan 2005 (LP), which amongst their considerations seek to achieve a high standard of design and enhance the positive qualities of the local neighbourhood. Moreover, LP Policy QD16 relates to trees, the likely detriment to adjacent protected trees would therefore be contrary to the aims and objectives of this policy. Having regard to the external space to the proposed dwelling, the proposal would fail to reflect the

expectations of national and local planning policies for good quality housing and thus would be harmful to the living conditions its future occupiers. In this regard it would conflict with LP Policies QD3 and QD27, which although the efficient and effective use of sites is sought particular attention is nevertheless paid to the design and quality of space between buildings and the amenity of occupiers.

9. I share the Council's concern for protected species. However, I understand there has been a change in the circumstances relating to the activity of badgers in the area. Therefore, for the purposes of this appeal, and in the absence of other evidence, I shall give no further consideration to this matter. Other objections have been raised by the Council concerning the adequacy of the details in relation to the Lifetime Homes standards and the use of limited resources in the proposed development. However, even if these matters were to be satisfactorily addressed, neither they nor the support from interested parties for this proposal would outweigh my conclusions on the main issues.
10. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Peter Bird
INSPECTOR



Appeal Decision

Hearing held on 24 June 2009
Site visit made on 24 June 2009

by **R J Marshall** LLB Dip TP MRTPI

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

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Decision date:
14 July 2009

Appeal Ref: APP/Q1445/A/09/2100912 8, Wivelsfield Road, Saltdean, BN2 8FQ

- 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 Burnett against the decision of Brighton & Hove City Council.
- The application Ref BH2009/00063, dated 6 January 2009, was refused by notice dated 23 March 2009.
- The development proposed is a rear extension and roof conversion.

Decision

1. I dismiss the appeal.

Procedural matters

2. At the appeal an application for cost was made on behalf of Mr D Burnett against Brighton & Hove City Council. This application is the subject of a separate Decision.

Main issues

3. The main issues in this appeal are the effect of the proposed development on:
first, the character and appearance of the surrounding area; and
second, the living conditions of neighbours with special reference to visual impact on the occupants of No.10 Wivelsfield Road.

Reasons

Character and appearance

4. The appeal property is sited amidst suburban dwellings. It is a bungalow with a fully hipped roof. To create additional space for accommodation it is proposed that the roof should be raised slightly and a ridge line created running parallel to the road. This newly created roof would be of a semi-hipped design. It is also proposed to extend the property rearwards with a roof containing a ridge running at 90° to the road frontage.
5. The Council's main concern on this issue is that the scale and design of the proposed extension would make the appeal property appear unduly prominent and out of keeping amidst a uniform group of buildings.

6. However, the height of the roof would be raised only slightly and at roof level there would still be sufficient room between properties to either side to ensure the retention of a reasonably spacious appearance. The semi-hipped roof design would assist in limiting the bulk of the new roof. The extension to the rear would be barely seen in views from Wivelsfield Road or other public areas. To the limited extent that it would be seen from Wivelsfield Road it would be partly in the context of the lengthy ridge line of the adjoining bungalow at No. 6. For all these reasons I am satisfied that the appeal building as extended would not look unduly prominent.
7. Turning to the Council's concern on uniformity, the appeal property is one of 3 adjoining hipped roof bungalows in Wivelsfield Road. However, the frontage of the appeal property has already been altered by a garage extension and thus appears different from the other 2 properties. Moreover, in the vicinity of the site Wivelsfield Road contains a wide range of properties including bungalows, chalet bungalows and houses. In this context, although the proposed development would comprise a fairly substantial change in the appearance of appeal building, it is a satisfactory design solution.
8. Moreover, quite a number of properties nearby have unattractive large flat roof dormers. The appellant's approach towards providing additional roof space is far more satisfactory in visual terms.
9. I conclude that the proposed development is well-designed and takes appropriate account of the character of the area. As such it would accord with Policies QD1, QD2 and QD14 of the Brighton and Hove Local Plan 2005.

Neighbours' living conditions

10. The Council's sole concern on this issue is on the visual impact of the proposed development on the occupants of the adjoining property at No. 10 Wivelsfield Road.
 11. This neighbouring property is a bungalow with its main front and rear elevations broadly in line with those of the appeal property. The proposed extension would result in a slightly taller side elevation facing No. 10. This together with the proposed part gable end design would result in a more dominant feature adjoining this neighbouring property. It would not however appear unacceptably over-dominant when seen from the side windows in the main part of this bungalow given the already restricted outlook from them.
 12. However, the proposed rear extension would extend the appeal property alongside the side elevation of a rear conservatory at No. 10. Given the length of the extension, and the relatively narrow gap of just over 2.5 m between the properties, this would make the appeal property appear over-dominant and intrusive in views from the conservatory. In arriving at this view I accept that the appeal site is on lower lying land. However, any benefit that this might have would be negated by the extent to which the eaves height of the proposed development would be higher than those currently on the appeal property. It could be argued that views from the neighbour's conservatory are themselves slightly unneighbourly. However, that does not justify the current proposal.
-

13. In arriving at this view I appreciate that Local Plan Policy QD14 which the Council relies upon on this issue says in its explanatory text that extensions to residential properties should normally be sited at least 1 metre from a joint boundary. This is stated as being to prevent loss of light to adjacent properties. In its Committee report the Council placed some weight on this aspect of the Policy not being met. At the hearing, however, it conceded that the extension would in fact be just over 1 m from the common boundary with No. 10 Wivelsfield Road. The confusion arose as the Council had relied upon those application plans that inaccurately showed the gap to the boundary rather than a corrected later submission.
14. That said I do not consider that this weakens the Council's stance. Policy QD14 as a whole considers more than just loss of light to neighbouring properties. It also refers to matters such as outlook which is of more direct concern to the Council. I do not read the explanatory text as meaning that all extensions over 1 m from a common boundary will be acceptable. It may be that in many cases such a gap would prevent undue loss of light. However, it does not mean that other harm, such as that which I have found in this case, would not arise.
15. I now turn to considerations raised solely by neighbours, to both sides of the appeal site and to the front and rear. I have carefully considered the points raised on, amongst other things, loss of privacy and light. However, I am satisfied that factors such as the relative disposition of windows and the distance to the proposed development from these properties would prevent the harm alleged. Lack of harm in these respects does not, however, outweigh the other harm I have found.
16. I conclude that the proposed development would detract from the living conditions of the occupants of No.10 Wivelsfield Road, with special reference to visual impact. It would be contrary to Local Plan Policy QD14 in so far that it seeks to prevent such harm.

Conclusion

17. Harm on the second issue outweighs the lack of harm on the first issue.
18. For the reasons given above I conclude that the appeal should be dismissed.

RJ Marshall

INSPECTOR

DOCUMENTS

- 1 Letter of notification of appeal and those notified.

NEW APPEALS

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

QUEEN'S PARK

BH2009/00300

Brasserie Pizza Pasta 48/49 St James's Street
Brighton

Display of 1 no. internally illuminated fascia
sign, 1 no. non-illuminated projecting sign, 1 no.
internally illuminated menu board
(retrospective).

APPEAL LODGED

03/07/2009

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

PRESTON PARK

BH2009/00469

7 York Villas Brighton

Demolition of garage and erection of two storey
side extension.

APPEAL LODGED

07/07/2009

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

REGENCY

BH2008/03468

Flats 1 and 2 94 Montpelier Road Brighton

Listed Building Consent for erection of a garden
shed and loggia to the rear (Retrospective).

APPEAL LODGED

06/07/2009

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

CENTRAL HOVE

BH2008/03388

Flat 15 3 Third Avenue Hove

Construction of external cast iron balcony
including formation of new door opening to
existing bay window. Replacement of existing
velux window with larger conservation type.

APPEAL LODGED

03/07/2009

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

BRUNSWICK AND ADELAIDE

BH2009/00414

The Old Market 11A Upper Market Street Hove

<u>DEVELOPMENT DESCRIPTION</u>	Erection of 2no. new penthouse apartments on the roof of the Old Market combined with a new meeting room facility for the Old Market. Extension of existing stair/lift well to south for access to the new apartments, alterations to windows and installation of front canopy.
<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	09/07/2009
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	STANFORD
<u>APPEALAPPNUMBER</u>	BH2009/00501
<u>ADDRESS</u>	30 Goldstone Way Hove
<u>DEVELOPMENT DESCRIPTION</u>	Front extension to match existing elevation and porch infill. New external access stairs, landing and approach.
<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	15/07/2009
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	WESTBOURNE
<u>APPEALAPPNUMBER</u>	BH2009/00837
<u>ADDRESS</u>	53A New Church Road Hove
<u>DEVELOPMENT DESCRIPTION</u>	Demolition of existing dwelling and the erection of 3no. detached houses with ancillary landscaping works
<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	20/07/2009
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	ST. PETER'S & NORTH LAINE
<u>APPEALAPPNUMBER</u>	BH2009/00647
<u>ADDRESS</u>	3 Camden Terrace Brighton
<u>DEVELOPMENT DESCRIPTION</u>	Remove UVPc cladding to upper floor to front elevation and render area to match remainder of front elevation.
<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	16/07/2009
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	HANGLETON & KNOLL
<u>APPEALAPPNUMBER</u>	BH2009/00078
<u>ADDRESS</u>	Land rear of Robins Court 16 Clarke Avenue Hove
<u>DEVELOPMENT DESCRIPTION</u>	Erection of a single storey dwelling with accommodation in roof space, rooflights and front dormers. Provision of amenity space and off street parking with new crossover.
<u>APPEAL STATUS</u>	APPEAL LODGED

APPEAL RECEIVED DATE 21/07/2009
APPLICATION DECISION LEVEL Delegated

WARD **QUEEN'S PARK**
APPEALAPPNUMBER BH2009/00890
ADDRESS 218 Freshfield Road Brighton
DEVELOPMENT DESCRIPTION Rear first floor extension (resubmission of BH2008/00603).
APPEAL STATUS APPEAL LODGED
APPEAL RECEIVED DATE 22/07/2009
APPLICATION DECISION LEVEL Delegated

WARD **WITHDEAN**
APPEALAPPNUMBER BH2009/00930
ADDRESS 18 Windmill Drive Brighton
DEVELOPMENT DESCRIPTION Single storey rear extension (part retrospective).
APPEAL STATUS APPEAL LODGED
APPEAL RECEIVED DATE 21/07/2009
APPLICATION DECISION LEVEL Delegated

WARD **STANFORD**
APPEALAPPNUMBER BH2009/00587
ADDRESS 7 Orchard Road Hove
DEVELOPMENT DESCRIPTION Erection of a two storey side extension incorporating existing garage and first floor side extension.
APPEAL STATUS APPEAL LODGED
APPEAL RECEIVED DATE 21/07/2009
APPLICATION DECISION LEVEL Delegated



**Brighton & Hove
City Council**

INFORMATION ON HEARINGS / PUBLIC INQUIRIES
12th August 2009

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

Brighton Sea Life Centre, Madeira Drive, Brighton

Planning application no: • BH2007/02654
 • BH2007/02655

Description: • Removal of Conditions 4 and 5 of BH2005/06566/LB.
 • Removal of conditions 4 and 5 of BH2005/06570/FP.

Decision: Non-determination

Type of appeal: Informal Hearing

Date: **14th July 2009 – PLEASE NOTE THIS HEARING WAS NOT
PREVIOUSLY REPORTED ON THIS LIST IN ERROR AND HAS
ALREADY BEEN HEARD – AWAITING INSPECTORS DECISION.**

Location: Hove Town Hall

6 Cliff Approach, Brighton

Planning application no: BH2008/03090

Description: Demolition of existing detached house. Erection of apartment building comprising 7 no. self-contained flats, with provision for communal garden, cycle parking and car parking facilities (Resubmission of BH2007/03867).

Decision: Non determination

Type of appeal: Informal Hearing

Date: Tuesday 15 September 2009

Location: Hove Town Hall, Committee Room 2

Land rear of 140 – 146 Springfield Road, Brighton

Planning application no: BH2008/03194

Description: Erection of a terrace of 4 no. two bedroom dwellings.

Decision: Committee

Type of appeal: Public Inquiry

Date: Tuesday 29th September – Thursday 1st October

Location: Hove Town Hall

Land at Brighton Marina

Planning application no: BH2007/03454

Description: Demolition of Asda superstore to create 3 -10 storey building with enlarged store (3112 sqm increase) and 2,025 sqm of other Class A1-A5 (retail/restaurant/drinking) uses on ground floor with 779 residential units above and community hall and new pedestrian/cyclist bridge link from cliff to roof of building and associated engineering works.

Demolition of petrol filling station to create 28 storey building with 182 sqm of Class A uses at ground floor and 148 residential units above. Demolition of McDonalds restaurant to create 5 - 16 storey building with enlarged drive-thru restaurant (285 sqm increase) and 131sqm of other Class A uses and 222 residential units above. Demolition of estates office to create 3-4 storey building of 35 residential units. Demolition of western end of multi-storey car park to create 6-11 storey building adjacent to western breakwater of 117 residential units with stair access from breakwater to Park Square. Demolition of part of the eastern end of multi-storey car park to create single storey petrol filling station, pedestrian footbridge and new lift and stair access. Total: 1301 residential units. Associated car parking spaces (805 residential, 666 commercial), cycle parking (1907 residential, 314 in public realm), servicing, plant, refuse, CHP unit, public and private amenity space, hard & soft landscaping and outdoor recreation areas. Change of use of two A1 retail units (524 sqm) within Octagon to medical use (Class D1). Alterations to vehicular, pedestrian and cyclist access and circulation, including new roundabout and transport interchange behind Waterfront.

Decision: Committee
Type of appeal: Public Inquiry
Date:
Location: