





**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	4 November 2009
Time:	2.00pm
Venue	Council Chamber, 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

133. 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.

134. MINUTES OF THE PREVIOUS MEETING

1 - 20

Minutes of the meeting held on 14 October 2009 (copy attached).

135. CHAIRMAN'S COMMUNICATIONS

The following matters will be raised under this item:

- (a) Involvement and participation on Planning Committee by Brighton and Hove Federation of Disabled People;
- (b) Protocol: Voting against officer recommendations; and
- (c) Start time of site visits during the winter months

136. PETITIONS

21 - 22

Petition Presented by Councillor Jayne Bennett at Council on 8 October 2009 in respect of Park House, Old Shoreham Road - report of the Director of Strategy and Governance (copy attached).

137. PUBLIC QUESTIONS

PLANNING COMMITTEE

(The closing date for receipt of public questions is 12 noon 29 October 2009)

No public questions received by date of publication.

138. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 29 October 2009)

No deputations received by date of publication.

139. WRITTEN QUESTIONS FROM COUNCILLORS

No written questions have been received.

140. LETTERS FROM COUNCILLORS

No letters have been received.

141. NOTICES OF MOTION REFERRED FROM COUNCIL

No Notices of Motion have been referred.

142. APPEAL DECISIONS

23 - 32

(copy attached).

143. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

33 - 34

(copy attached).

144. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

35 - 36

(copy attached).

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

146. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST : 4 NOVEMBER 2009

(copy circulated separately).

147. 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

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

PLANNING COMMITTEE

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.

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, 27 October 2009

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm, 14 OCTOBER 2009

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Hyde (Chairman), Wells (Deputy Chairman), Carden (Opposition Spokesperson), Caulfield, Cobb, Davey, Hamilton, McCaffery, Rufus, Smart, Steedman and C Theobald

Co-opted Members: Mr R Amerena (CAG),

Officers in attendance: Mr P Vidler (Deputy Development Control Manager), Hamish Walke (Area Planning Manager), Kate Brocklebank (Senior Planning Officer), Kathryn Boggiano (Senior Team Planner), Maria Seale (Major Projects Officer), Jason Hawkes (Planning Officer), Steve Reeves (Principal Transport Planning Officer), Pete Tolson (Principal Transport Planning Officer), Hilary Woodward (Senior Lawyer) and Penny Jennings (Senior Democratic Services Officer)

PART ONE

117. PROCEDURAL BUSINESS

117A. Declaration of Substitutes

117.1 Councillor Rufus attended in substitution for Councillor Kennedy.

117.2 Mr R Amerena was in attendance in substitution for Mr J Small (CAG).

117B. Declarations of Interest

117.3 Councillor Caulfield referred to Application BH2009/01729, Falmer High School, Lucraft Road, Brighton stating that the site was located in her ward and she had expressed support for the principle of an academy but she had not expressed an opinion in respect of this application. She confirmed in response to questions by the Solicitor to the Committee that she remained of a neutral mind and would remain present during the discussion and voting thereon.

117.4 Councillor Caulfield also referred to Application BH2009/01594, Stammer Link Road, Falmer explaining that she was Chairman of the Stanmer Park Stakeholders Group. She had not however expressed an opinion in respect of this application, remained of a neutral mind and would therefore remain present during the discussion and voting thereon.

117C. Exclusion of the Press and Public

117.5 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 to 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).

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

118. MINUTES OF THE PREVIOUS MEETING

118.1 **RESOLVED** - That the Chairman be authorised to sign the minutes of the meeting held on 23 September 2009 as a correct record.

119. CHAIRMAN'S COMMUNICATIONS

Web casting

119.1 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.

120. PETITIONS

120.1 There were none.

121. PUBLIC QUESTIONS

121.1 There were none.

122. DEPUTATIONS

122.1 There were none.

123. WRITTEN QUESTIONS FROM COUNCILLORS

123.1 There were none.

124. LETTERS FROM COUNCILLORS

124.1 There were none.

125. NOTICES OF MOTION REFERRED FROM COUNCIL

125.1 There were none.

126. APPEAL DECISIONS

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

127. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

128. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

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

129.1 **RESOLVED** - That the following site visits be undertaken by the Committee prior to determining the application:

Application;	Site Visit Requested by:
*BH2009/01477, Land adjacent to Amex House and land adjacent to 31 White Street, Brighton	Deputy Development Control Manager
*BH2009/01811, 112-113 Lewes Road, Brighton	Deputy Development Control Manager
*BH2009/02089, The Royal Pavilion, (Eastern Lawns), Brighton	Deputy Development Control Manager

*Anticipated as applications coming forward for decision at the next scheduled meeting of the Committee.

130. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST:14 OCTOBER 2009**(i) SUBSTANTIAL OR CONTROVERSIAL APPLICATIONS OR APPLICATIONS DEPARTING FROM COUNCIL POLICY**

A. Application BH2009/02014, The Old Market, 11A Upper Market Street – Erection of 2 no. new penthouse apartments on the roof of the Old Market. New maintenance terrace provided at roof level above the existing east entrance lobby. Extension of existing stair/lift well to south for access for the new apartments, alterations to windows and installation of front canopy.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Planning Officer, Mr Hawkes gave a presentation detailing the scheme. He also referred to additional representations received which were set out in the "Additional Representations List." Elevational drawings were displayed showing the building's current appearance from various perspectives and its appearance should permission be granted for the proposed scheme. The principle differences between this scheme and that previously refused which was now the subject of a combined appeal (planning and listed building consent) were also explained.
- (3) Mr Chavasse spoke on behalf of objectors to the scheme stating that in their view the previous grounds for refusal by the Committee had not been overcome. The information submitted by the applicant in relation to viability of the building, should this scheme not proceed had not been subjected to independent financial analysis and should therefore be treated with caution. If built, the scheme would result in a permanently disfiguring glass box being placed on top of a listed building.
- (4) Mr Wells-Thorpe spoke on behalf of the applicant in support of its application. As an architect of some 40 years standing, similar treatments had been used on numerous buildings elsewhere without detriment either to the host building or to the surrounding area. The proposals had been sensitively designed and were sympathetic to the buildings surroundings. Little of the original building remained as it had been much altered since the 1820's when it had been built.
- (5) Councillor Watkins spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme. He considered that it would be gross overdevelopment of an important listed building, would destroy its appearance especially when viewed from Western Road and would dominate the surrounding conservation area which was characterised by two and three storey houses.

Questions/Matters on Which Clarification was Sought

- (6) Councillors Davey and Steedman sought clarification regarding the financial information submitted by the applicant, enquiring whether evidence had been provided to indicate that the venue would close in the event that this scheme was unable to proceed. Confirmation was also sought as to whether advice had been sought from the District Valuer (DV) in respect of this matter. The Planning Officer explained that as the

building had been well maintained, and the proposals were not considered to be enabling development, there was no requirement to seek advice from the DV.

- (7) Councillor C Theobald sought clarification regarding the height of the proposed glazed roof extension. The Planning Officer explained that this would differ depending on where this was measured from. Councillor McCaffery asked whether this extension would be constructed entirely of glass and it was explained that it would be of glass with a rendered plinth at the bottom. Internal framing would also be provided for the glass.
- (8) Councillor Davey referred to the photomontages which had been displayed referring to the reflective quality of the glass and it was confirmed in answer to his questions that the glass provided would be reflective rather than transparent with no clear views into/through the glazed section of the building during daylight hours. Blinds would be provided for use in the evening, although their use could not be enforced.
- (9) Councillor Steedman enquired of those representing the applicant whether account had been taken of future increased maintenance costs arising in relation to the scheme and whether this would increase the level of residual debt to be serviced. It was explained that this had been built into financial projections for a ten year period.

Debate and Decision Making Process

- (10) Councillor Steedman stated that in his view the financial viability or otherwise of the existing use if planning permission was refused needed to be considered and felt that he needed to form a view on that matter. He did not consider that he had sufficient information to do that based on the information provided and therefore wished to make a formal request for deferral in order for the information provided to be evaluated independently. Councillors Davey and Rufus echoed those concerns.
- (11) Councillor McCaffery confirmed that she did not wish the existing community facilities to be jeopardised and considered that more information regarding financial viability was required. Notwithstanding this she also had concerns regarding the appearance of the proposed glass extension on top of the building. She considered that the impact of the proposals both on the building itself and on within the neighbouring street scene was not acceptable.
- (12) Councillor Hyde stated that viability was one of the many considerations to be made in determining the application. In her view Members had been provided with sufficient information to determine the application.
- (13) Councillor Wells stated that he remained of the view that the development would be overbearing and would be detrimental to the neighbouring street scene. The appearance of the proposed extension would be detrimental to the listed building and its towering appearance would be completely unacceptable in the context of neighbouring street scene and when seen in longer views. Councillor Smart concurred stating that longer views of the frontage of the building from Western Road would be marred.

- (14) Councillors Caulfield and C Theobald agreed stating that they considered the proposed development to be detrimental both to the host building and in the context of the neighbouring street scene and therefore unacceptable. The proposed scheme would have a detrimental impact.
- (15) Councillor Hamilton stated that he considered the current application represented an improvement on the earlier one which he had also considered to be acceptable. He would therefore be voting in support of the application.
- (16) Councillor Steedman proposed that consideration of the application be deferred pending receipt of more detailed information as outlined in paragraph 9 above, this was seconded by Councillor Davey. A vote was taken and the proposal for deferment was lost on a vote of 9 to 3.
- (17) A further vote was then taken and on a vote of 8 to 2 with 2 abstentions planning permission was refused.

130.1 **RESOLVED** – That planning permission be refused for the following reasons:
Reasons for Refusal:

1. The proposed development would be visually obtrusive and would have a harmful impact on the townscape and roofscape in the vicinity of the development, would not reflect the scale and appearance of the surrounding area, would detract from the character and appearance of the Brunswick Town Conservation Area and would fail to preserve the setting of adjacent listed buildings. The proposal is therefore contrary to policies QD1, QD2, HE3, and HE6 of the Brighton & Hove Local Plan and to government guidance in PPG15 Planning and the Historic Environment.

2. The proposed development would have an adverse effect on the external appearance of the building contrary to policy HE1 of the Brighton & Hove Local Plan.

Additional Informative:

The Planning Committee noted its concern that if approved the proposed development might possibly be seen as a precedent for similar developments nearby.

Note: Councillor Caulfield proposed that planning permission be refused; this was seconded by Councillor Wells. A recorded vote was then taken. Councillors Caulfield, Cobb, Hyde (Chairman), McCaffery, Rufus, Smart, C Theobald and Wells voted that planning permission be refused. Councillors Carden and Hamilton voted that planning permission be granted. Councillors Davey and Steedman abstained. Therefore on a vote of 8 to 2 with 2 abstentions planning permission was refused.

B. Application BH2009/02015, The Old Market, 11A Upper Market Street, Hove – Erection of 2 no. new penthouse apartments on the roof of the Old Market. New maintenance terrace provided at roof level above the existing east entrance lobby. Extension of existing stair/lift well to south access to the new apartments, alterations to windows and installation of front canopy.

- (1) It was noted that this application has formed the subject of a site visit prior to the meeting.
- (2) Councillors Cobb and Wells stated that they considered the proposals to be completely out of keeping and incongruent with the appearance of the listed building itself and would have a damaging impact upon it. Other Members concurred in that view.
- (3) A vote was taken and on a vote of 8 to 2 with 2 abstentions listed building consent was refused.

130.2 **RESOLVED** – That listed building consent be refused on the grounds that by virtue of its scale, height, design and appearance the proposed development would be dominant and uncharacteristic, and thereby cause harm to the external appearance of this grade II listed building. The proposal is therefore contrary to policy HE1 of the Brighton & Hove Local Plan and to government guidance in PPG15 Planning and the Historic Environment, which seeks to preserve the character of a listed building.

Note: Councillor Wells proposed that listed building consent be refused; this was seconded by Councillor Cobb. A recorded vote was then taken. Councillors Caulfield, Cobb, Hyde (Chairman), McCaffery, Rufus, Smart, C Theobald and Wells voted that listed building consent be refused. Councillors Carden and Hamilton voted that listed building consent be granted. Councillors Davey and Steedman abstained. Therefore on a vote on 8 to 2 with 2 abstentions listed building consent was refused.

C. Application BH2009/01729, Falmer High School, Lucraft Road, Brighton - Partial demolition of Falmer High School (including the North Block, Canteen, Kitchen and Caretaker's flat) and construction of new Academy complex (ClassD1), including sports hall, dining hall, performance areas, adaptable teaching spaces, caretaker's flat and communal space, along with a floodlit multi use games area (MUGA) and full size all weather pitch, and associated car and cycle parking, educational wind turbine, energy centre incorporating renewable technologies, landscaping and temporary construction access.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting. A scale model had been provided by the applicant and was on display in the meeting room. Samples of the materials proposed including glazing materials for the front elevation to the building had also been provided.
- (2) The Senior Planning Officer, Ms Brocklebank gave a detailed presentation setting out the constituent elements of the scheme. Elevational drawings, photographs and photomontages were displayed showing the front and rear elevations of the existing and proposed building. Perspectives of the site in strategic and longer views from neighbouring locations including Stanmer Park and Hollingbury Hill Fort were also shown.
- (3) Ms Brocklebank went on to explain that the applicants had sought to address concerns raised in relation to the previously approved outline scheme. The colour of the proposed silicone glazing material had been altered (it would now be of a darker more muted shade) in order to address concerns raised by the South Downs Joint

Committee. The scheme would achieve an excellent BREEM rating and a further 100 pupils could be accommodated on completion of the works.

Questions/Matters on Which Clarification was Sought

- (4) Councillors Davey and Steedman sought clarification of the glazing materials to be used as those shown on the photomontages did appear stark and white particularly when shown in long views. The Senior Planning Officer explained that the darker materials displayed at the meeting would be used. It had not been possible to incorporate this change into the photomontages used.
- (5) Councillor Davey also enquired regarding the height of the proposed development. It was explained that the new building would be slightly higher than the existing school building but the same height as the nearby "Racquets Health Club" building.
- (6) Councillor C Theobald enquired regarding the location of any trees which would be lost as a consequence of the development and regarding the access arrangements and parking to be provided on site. The Senior Planning Officer explained that detailed discussions had taken place with the Council's arboriculturist. One mature beech tree and 18 other specimens of lesser quality would be removed all of which were to be replaced elsewhere on the site.
- (7) Councillor Smart asked whether sole access would continue to be from Lucraft Road and whether the possibility of widening that road, particularly the area under the railway bridge had been explored. As the school was currently undersubscribed but would have capacity for 100 further pupils on completion of the works he had some concerns that the existing road capacity might be insufficient. The Principal Transport Planning Officer, Mr Tolson explained that the existing arrangements were considered adequate, given that the site was well served by public transport (buses and trains) and that outline planning permission had already been granted for the new academy. The majority of existing pupils who were of secondary school age and therefore less likely to be driven to/from school by parents arrived on foot or by public transport and, it was considered that future pupils would do the same.

Debate and Decision Making Process

- (8) Councillor C Theobald regretted the loss of the mature beech tree and the fact that it had not proved possible to widen the access road. However, she supported the scheme which she considered would provide a wonderful educational and sporting facility both for students and the local community.
- (9) Councillor Carden whilst supporting the proposal queried whether the level of car parking provided would be sufficient to accommodate the community uses which would take place outside the school day. It was explained that the level of car parking provided (which would be the same as at present), was considered sufficient given the good public transport links.
- (10) Councillor Caulfield supported the scheme but considered that the 100 additional cycle parking spaces proposed would be inadequate. Given the site's location an increased

provision would encourage greater use of this means of transport. Councillors Davey and Steedman concurred in that view.

- (11) The Principal Transport Planning Officer explained that the number of spaces to be provided was greater than required by the SPG. However, a condition of the Travel Plan was that the existing arrangements be monitored and provision increased if necessary. Following discussion it was agreed that proposed Condition 6 be amended to require 200 cycle parking spaces to be provided.
- (12) Councillor Steedman whilst happy to support the scheme was anxious to ensure that the silicone glazing to the front elevations in particular was of a suitably muted shade. Following discussion it was suggested by the Deputy Development Control Manager and subsequently agreed by the Committee that final approval to these materials should be made by the Development Control Manager in consultation with the Chairman, Deputy Chairman and Opposition Spokesperson.
- (13) Mr Amerena (CAG) considered the scheme to be acceptable but was of the view that the appearance of the front elevation would be improved by removal of the lettering indicating that the building was "Falmer Academy." Members concurred in that view. The applicant's architect who was present at the meeting indicated that the lettering could be deleted.
- (14) A vote was taken and members voted unanimously that it was minded to grant planning permission.

130.3 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 10 of the report and resolves that it is minded to grant planning permission subject to completion of a Section 106 Agreement in the terms also set out in the report. The following conditions to be amended slightly to read as follows:

3. Samples of materials to be used in the construction of the hard landscaping of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be fully implemented in accordance with the approved details prior to occupation of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

6. Amend Condition 6 to read:

The provision of cycle parking for not less than 200 cycles shall be implemented in full prior to first occupation in strict accordance with details which have been submitted to, and approved in writing by the Local Planning Authority.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

Delete Condition 9.

14. Amend Condition 14 to read:

The area of playing field affected by the contractor's compound and its access shall be restored to its former condition within three months of the first occupation of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the retention and quality provision of playing field land in accordance with policy HO19 of The Brighton & Hove Local Plan.

23. Amend Condition 23 to read:

The development shall be carried out in accordance with the details contained in the Statement of Plant and Machinery dated 9 July 2009 and completed prior to first occupation, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton and Hove Local Plan.

27. Delete "...solaglas silicone glazing glass sample BA0129 Polar White Opaque (sample 5)." and add new Condition:

Samples of opaque silicone glazing to the front elevation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policy QD1 of the Brighton & Hove Local Plan.

Additional New Condition:

Notwithstanding the details shown on the drawings hereby approved, the lettering reading "Falmer Academy" to the front elevation at first floor level does not form part of this planning permission.

Reason: To ensure a satisfactory appearance to the development and to comply with policy QD1 of the Brighton & Hove Local Plan.

(ii) MINOR APPLICATIONS

D. Application BH2009/01856, 63 Holland Road, Hove - Demolition of existing building and erection of a five storey building accommodating retail/office and restaurant facilities on the ground floor and basement 6 no two bedroom and 1 no 3 bedroom flats above.

(1) The Senior Team Planner, Ms Boggiano gave a presentation detailing the constituent elements of the scheme. Photographs were shown of the adjacent Palmeira Grande building and of neighbouring properties to the rear in Lansdowne Street and Gwdyr Mansions. This application contained revisions to the previous scheme for redevelopment of the site approved in 2008 and she delineated the differences between this scheme and that previously approved.

(2) Whilst the principle of redevelopment had been established it was considered that the extension to the penthouse accommodation at fifth floor level proposed would result in a significant disparity in height between the new building and 61 Holland Road to the south. This five storey building would dominate the adjoining building and would fail to

respect the design and scale of its surroundings. The development would be visually obtrusive and the appreciation of space between the buildings on that section of Palmeira Square would be compromised which would be detrimental to the townscape. For those reasons it was recommended for refusal.

- (3) Mr Fox, the applicant spoke in support of his application. He referred to information circulated by Lewis and Co planning consultants acting on his behalf setting out information in support of his application. He stated that the current application represented a significant improvement on the previous application which had also sought to take on board guidance from CABE in relation to the previous application.

Questions/Matters on Which Clarification was Sought

- (4) Councillor Smart asked for clarification regarding the height of the proposed building in the context of the Palmeira Grande development.

Debate and Decision Making Process

- (5) Councillor Wells stated that he disagreed that the development would be unbalanced when viewed in the context of the conservation area, considering on the contrary that it would provide a positive contribution to the area.
- (6) Councillor McCaffery concurred stating that she did not consider the proposed building would be visibly intrusive, in her view it was more acceptable than the development proposed in respect of the Old Market building and would be in keeping with its surroundings.
- (7) Councillor Rufus agreed stating that the current proposal appeared to represent an improvement on the previous scheme.
- (8) Councillor Cobb expressed concern at the lack of on-site parking particularly bearing in mind the site's location; she considered that this was a serious omission. Councillor C Theobald agreed.
- (9) A vote was taken and on a vote of 6 to 5 with 1 abstention planning permission was granted.

- 130.4 **RESOLVED** – That minded to grant planning permission be given subject to the applicant entering into a Section 106 Agreement to secure contributions of £3,500 towards sustainable transport infrastructure and £2,000 to amend the Traffic Regulation Order to ensure the development is car free. The proposed development is considered to respect the scale and design of its surroundings would not be visually obtrusive and would not detract from the character and appearance of the Brunswick Town Conservation Area. The following conditions to be applied:

Section 106 Obligation:

£3,500 towards a sustainable transport infrastructure and £2,000 to amend the Traffic Regulation Order (as above) and

Conditions:

Pre- commencement conditions in respect of the previous application have not been discharged. Those conditions to be carried through to this application.

Note: Councillor McCaffery proposed that planning permission be granted, this was seconded by Councillor Wells. A recorded vote was then taken. Councillors Carden, Caulfield, McCaffery, Rufus, Steedman, and Wells voted that planning permission be granted. Councillors Cobb, Davey, Hyde (Chairman), Smart and C Theobald voted that planning permission be refused. Councillor Hamilton abstained. Therefore on a vote of 6 to 5 with 1 abstention planning permission was granted.

E. Application BH2009/01889, 2A Shirley Drive, Hove – Erection of rear two storey extension and new front and side entrance canopy.

(1) A vote was taken and the 11 members of the Committee who were present when the vote was taken voted unanimously that planning permission be granted.

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

Note: Councillor C Theobald was not present when the vote was taken in respect of the above application.

F. Application BH2009/00422, 23A & 23E Coleridge Street, Hove - Change of use from Office (B1) to 6 self contained flats with formation of balconies to front elevation and demolition of single storey rear section to no. 23A & 23E.

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

(2) The Senior Team Planner, Ms Boggiano gave a presentation detailing the scheme. Elevational drawings and photographs were shown including views from the rear. Reference was made to the earlier appeal decision received from the Planning Inspectorate which was relevant to the consideration of the application. In the light of that decision it was considered that loss of the commercial property was acceptable and the proposed housing mix were acceptable and the scheme would not be detrimental to the living conditions of adjacent residents. The increased level of amenity space proposed at ground and first floor levels was considered acceptable to the scale and character of the development.

Questions/Matters on Which Clarification was Sought

(3) Councillor Cobb sought clarification regarding the lack of parking associated with the development and the fact that the scheme did not fully meet lifetime homes standards and that none of the units were wheelchair accessible. The Senior Team Planner confirmed that the scheme was car free and that as a conversion it was not required to meet the same lifetime homes requirements as a new build scheme. At six dwellings

the number of units fell below the threshold (10) at which disabled access requirements needed to be met.

Debate and Decision Making Process

- (4) Councillor Cobb stated that the site was located in her ward and she was aware that lack of parking presented a problem in that part of the City. Provision of additional units without the benefit of off-street parking at this location was unacceptable in her view. The applicant had indicated that he had been unable to let the commercial element of the development due to lack of parking facilities.
- (5) A vote was taken and on a vote of 9 to 1 with 2 abstentions planning permission was granted.

130.6 **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 to grant planning permission subject to the conditions and informatives also set out in the report. Condition 2 to be deleted.

Note: Councillor Cobb voted that planning permission be refused. Councillors Caulfield and C Theobald abstained from voting in respect of the above extension.

G. Application BH2009/01786, Land Adjacent to 1 Rushlake Close, Brighton - Erection of 1 no. 3 bedroom detached house.

- (1) A vote was taken and members voted unanimously that planning permission be granted.

130.7 **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 agrees to grant planning permission subject to the conditions and informatives set out in the report.

H. Application BH2009/01594, Stanmer Link Road, Falmer, Brighton - Outline application for amendments to layout of Sports Centre Road and proposed Stanmer Link Road (as proposed by BH2001/02418/FP) on the section within the University of Sussex boundary. To include widening, bollard lighting, bus stop and new access into sports centre car park. Reserved Matter Approval sought for access, appearance, layout and scale.

- (1) The Major Projects Officer, Ms Seale gave a presentation setting out details of the proposed scheme. Visuals were displayed indicating the extent and location of the works proposed she explained that outline permission was sought for alterations to the existing Sport Centre Road within the University of Sussex site and to the Stanmer Link Road which was proposed as part of the community stadium development. The alterations were sought for highway safety reasons as a result of the stadium development and its impact on the university campus.
- (2) The widening proposed on the Sports Centre Road would bring it up to a standard consistent with other roads within the campus and would also accommodate the new

bus stop. The widening of this part of the Link Road was proposed on the bend for highway safety reasons, the lighting was also proposed to aid highway safety. The new bus stop would be needed following the closure of Falmer House Road which buses currently used (buses would continue to exit via Knight's Gate Road). The new car park accesses were needed for highway safety reasons as a result of the new bus stop.

Questions/Matters on Which Clarification was Sought

- (3) Councillor Rufus enquired regarding the location of the proposed highway lighting bollards and sought clarification whether any lighting was situated there at present. The Major Projects Officer confirmed that this lighting did not exist currently. Councillor Rufus also requested clarification regarding the measures which were to be put into place to protect bat habitats.
- (4) Councillor McCaffery sought confirmation regarding the status of the tree survey referred to in the report. It was explained that following an initial survey a further assessment was being made.
- (5) Councillor Hyde, the Chairman referred to the comments received from the Sussex Downs Joint Committee in relation to the original scheme in reaction to the need for a full tree survey to be taken and enquired whether it was proposed that the earth bund resulting from the works would be planted with trees. It was confirmed that it would although this area did not fall within that covered by this application.
- (6) Councillor C Theobald sought clarification that on completion of the works the original road would be blocked off and would be retained for access by emergency vehicles. It was confirmed that this would be the case.

Debate and Decision Making Process

- (7) Councillor Caulfield expressed concern regarding location of the proposed lighting. She was anxious to ensure that lighting would be provided along the whole section of the link road and not just in association with the sports centre. She was also concerned that a full environmental impact assessment be carried out to ensure that any lighting was placed to avoid detrimental impact on to those areas which bordered the boundary with the national park. The Major Projects Officer explained that lighting was proposed in relation to the remainder the site associated with the stadium development. Rigorous conditions would need to be met by the applicant; however, these fell outside the area covered by this application.
- (8) A vote was taken and on a vote of 8 with 4 abstentions minded to grant planning permission was approved.

130.8 **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 that it is minded to grant outline planning permission subject to expiry of the publicity period (following re-consultation on amended plans and description) and no new material considerations being raised and subject to the conditions and informatives set out in the report and to the proposed amendments set out in the "Late Representations List."

Following expiry of the consultation period the wording of additional Condition 15 is to be agreed by the Development Control Manager in consultation with the Chairman, Deputy Chairman and Opposition Spokesperson.

Note: Councillors Caulfield, Davey, Rufus and Steedman abstained from voting in respect of the above application.

- I. **Application BH2009/00058, The Priory, London Road, Brighton** – Construction of additional storey to existing block of flats, to form 2 two bedroom and 2 three bedroom flats with a roof garden to each unit. New cycle store.
- (1) The Area Planning Manager (East), Mr Walke gave a presentation detailing the scheme by reference to elevational drawings and photographs of the existing buildings and showing the two blocks to which it was proposed to add an additional floor. He explained that the top floors of both of these blocks had been scaled back in order to negate any detrimental impact, overlooking or loss of amenity which could result either to the remaining blocks within this or neighbouring developments. Onerous conditions were proposed in relation to the proposed works as it had yet to be established whether the bat habitat situated under the ship lap above flat 16 in Block D operated as a hibernation roost or for maternity purposes or both.
 - (2) Ms Bartlett spoke on behalf of the applicant in support of their application explaining that the revised application sought to address objectors' earlier concerns. The scheme had been scaled back so that it was 14m away from the adjacent site at its closest point. The increased height of two of the blocks would not be readily visible from outside the site.
 - (3) Councillor G Theobald spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme. He considered the scheme to be unacceptable. It would be to the detriment of neighbouring residents who had recently purchased and were now the freehold owners of the site. The blocks were currently of a uniform appearance; this would be compromised by the proposal. Neighbouring residents would also be deprived of daylight, and suffer from overlooking and amenity would be compromised in order to provide additional parking. Given that the majority of residents were elderly, loss of use of the lifts during the works was also an issue. The existing vehicular access was narrow and additional vehicular movements would create a traffic hazard.

Questions/Matters on Which Clarification was Sought

- (4) Councillor Hamilton enquired regarding the height of other neighbouring flatted development, in particular in relation to blocks opposite the site on the other side of the London Road. It was explained that these were of 3/4 storeys in height.
- (5) Councillor Caulfield sought clarification of the differences between this scheme and the previously refused one.
- (6) Councillor Davey referred to the current freehold ownership of the site and enquired regarding the ability of the applicant to lodge this application. The Area Planning Manager explained that the applicant had not acted improperly in submitting the

application and issues relative to ownership of the freehold were not a planning consideration.

- (7) Councillor Smart enquired regarding whether access to the amenity space associated with the new flats would be by means of a walkway. The Area Planning Manager explained that each flat would have access to its own private amenity space which could not be accessed from by of the other flats.

Debate and Decision Making Process

- (8) Councillor C Theobald stated that she considered the proposal to be completely unacceptable, that it would be detrimental to those currently occupying the top floors of the affected blocks and to other residents, would result in overlooking (from the units themselves and from balconies) and loss of amenity and would set a precedent in relation to the remaining and neighbouring blocks.
- (9) Councillor C Theobald It would also result in unacceptable increases in noise levels to the flats immediately beneath as result of the configuration of the new apartments. She had particular concerns regarding the noise disturbance which would result from kitchens and lounges being located above bedrooms. She was not satisfied that imposition of building regulations would eliminate all noise, as these requirements were not always sufficient. She was also concerned that insufficient details of any proposed bat protection measures had been provided. Councillor Caulfield concurred in that view.
- (10) Councillor McCaffery referred to the access/egress arrangements considering the exiting arrangements from the site onto a busy highway to the south were inadequate and could result in injury/accident.
- (11) A vote was taken and on a vote of 6 to 3 with 3 abstentions members voted that planning permission would have been refused had an appeal against non-determination not been lodged.

130.9 **RESOLVED** - That had an appeal against non-determination not been lodged planning permission would have been refused for the following reasons:

1. The proposed development would increase the height of the buildings which are higher and of greater bulk than those properties on the opposite side of London Road and adjoining to the south and would be detrimental to the street scene and contrary to policies QD2, QD3, QD14 and HO4 of the Brighton & Hove Local Plan.

2. The proposed development would result in loss of amenity to the residents of adjoining properties, by virtue of overlooking and increased noise levels as a consequence of the proposed external terraces and the layout of the proposed flats in relation to those beneath, contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan.

Note: Councillor C Theobald proposed that planning permission be refused; this was seconded by Councillor Cobb. A recorded vote was then taken. Councillors Caulfield, Cobb, Davey, Hyde (Chairman), C Theobald and Wells voted that planning permission

be refused. Councillors Carden Hamilton and Steedman voted that planning permission be granted. Councillors McCaffery, Rufus and Smart abstained. Therefore on a vote of 6 to 3 with 3 abstentions members voted that they would have refused planning permission had an appeal against non-determination not been lodged.

J. Application BH2009/01545, First Floor Flat, 23 Stanford Road, Brighton – Roof conversion incorporating 2 no. rear dormers and 2 no. front roof lights (part retrospective) (resubmission of BH2009/00346).

- (1) The Area Planning Manager (East), Mr Walke gave a presentation detailing the proposed scheme. He showed photographs of the dormers as built (with particular reference to the left hand one), as opposed to the form permitted in accordance with planning permission BH2007/03987. The works had already been carried out and part retrospective approval was therefore sought. It was considered that the northernmost dormer, by virtue of its size, positioning and inappropriate design formed an incongruous addition which was detrimental to the appearance of the building and the surrounding area.
- (2) Mr Johnson, spoke on behalf of the applicant in support of their application. He explained that no objections had been received from neighbouring residents, who were most affected by the development, indeed they had expressed support. In answer to questions, Mr Johnson explained that the applicant had been unable to build this dormer in line with the planning permission granted as the staircase leading into the loft conversion had needed to be reconfigured in order to satisfy Building Control regulations. The photograph displayed did not accurately reflect the appearance of the left hand dormer as currently in situ as further amendments had been made, these were explained for the benefit of the Committee.

Questions/Matters on Which Clarification was Sought

- (3) Councillor Smart asked whether the left hand dormer which had the appearance of a French door could be used to access a sitting out/terrace area at roof level. The applicant's representative explained that it did not and, that the sole purpose of the "door" was as a means of escape in the event of a fire.
- (4) Councillor Smart also queried whether if permitted the development could be considered to set a precedent. The view of Officer's was that it could.

Debate and Decision Making Process

- (5) Councillor Rufus stated that he considered the scheme to be acceptable and did not consider it set a precedent as planning permission was required by virtue of the fact that the dwelling was a maisonette rather than a single dwelling house. If the property had been a single dwelling house planning permission would not be required as the works could have been carried out as permitted development.
- (6) Councillors Smart and Davey sought further clarification about the appearance of the dormers as built.

- (7) Councillor Carden stated that the window had been built in the manner shown as the staircase had been built against the neighbouring party wall and there would be insufficient headroom had the dormer been constructed in accordance with the original permission.
- (8) Councillor Davey referred to the fact that huge dormers could be observed on a number of properties located across the City, none of which had required planning permission, this development seemed modest by comparison. This development could not be viewed from the highway and could only be viewed by occupiers of adjacent properties none of whom had objected.
- (9) Councillor Rufus stated that a common sense and pragmatic view needed to be adopted. The property was not located in a conservation area and for the space to work properly internally this design solution was needed this, did not in his view run contrary to the appropriate SPG.
- (10) The Deputy Development Control Manager explained that the need to satisfy Building Control regulations did not override the need to apply for planning permission or the need to meet the requirements of any planning permission granted.
- (11) A vote was taken and on a vote of 5 to 3 with 4 abstentions planning permission was granted.

130.10 **RESOLVED** – That planning permission be granted on the grounds that the proposed northern most rear dormer, is not incongruous in its setting, is not detrimental to the appearance of the building or the surrounding area and therefore accords with policies QD1 and QD14 of the Brighton & Hove Local Plan and Supplementary Planning Guidance Note SPGBH1: Roof Alterations and Extensions. The following condition to be added:

1. The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.

Reason: To ensure a satisfactory appearance of the development in the interests of the visual amenities of the area and to comply with policies QD1 and QD214 of the Brighton & Hove Local Plan.

Note: Councillor Rufus proposed that planning permission be granted, this was seconded by Councillor Davey. A recorded vote was then taken. Councillors Caulfield, Davey, Rufus, C Theobald and Wells voted that planning permission be granted. Councillors Cobb, Hamilton and Smart voted that planning permission be refused. Councillors Carden, Hyde (Chairman), McCaffery, and Steedman abstained. Therefore on a vote of 5 to 3 with 4 abstentions planning permission was granted.

131. 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

131.1 **RESOLVED** – That the following site visits be undertaken by the Committee prior to determining the application:

Application:	Site Visit Requested by :
*BH2009/01477, Land adjacent to Amex House and land adjacent to 31 White Street, Brighton	Deputy Development Control Manager
*BH2009/01811, 112-113 Lewes Road, Brighton	Deputy Development Control Manager
BH2009/02089, The Royal Pavilion (Eastern Lawns), Brighton	Deputy Development Control Manager

*Anticipated as applications coming forward for decision at the next scheduled meeting of the Committee.

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

132.1 **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 or 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 are 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 accordance with Resolution 147.2 of the then Sub Committee on 23 February 2006.

The meeting concluded at 6.20pm

Signed

Chairman

Dated this

day of

Subject: Petitions
Date of Meeting: 4 November 2009
Report of: Director of Strategy & Governance
Contact Officer: Name: Penny Jennings Tel: 29-1065
E-mail: penny.jennings@brighton-hove.gov.uk
Key Decision: No
Wards Affected: Stanford

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 To receive the following petitions presented at Council on 8 October 2009 and any petitions presented directly to the Planning Committee.

136 (i) To receive the following petition presented at Council on 8 October 2009 by Councillor Bennett and signed by and signed by 103 people:

"I would like to register my objection to the proposals for the above site for the following reasons:

- *The appearance and size of the new building is inappropriate (4/5 floors and not in keeping with the area).*
- *There will be an increase in the volume of traffic in the area.*
- *There is not enough parking for the 72 flats (only 24 car parking spaces being provided).*

APPEAL DECISIONS

	Page
A. ST PETER'S & NORTH LAINE WARD	
Application BH2008/02282, 16 Park Crescent, Brighton. Appeal against refusal to grant retrospective planning permission to reinstate rear lobby, demolished in 1964 and to restore original footplate as shown at rear. (Delegated Decision) APPEAL ALLOWED (copy of the letter from the Planning Inspectorate attached).	25
B. WOODINGDEAN WARD	
Application BH2009/00641, 146 Bexhill Road, Woodingdean. Appeal against refusal to grant planning permission for single storey front extension. (Delegated Decision) APPEAL ALLOWED (copy of the letter from the Planning Inspectorate attached).	27
C. ROTTINGDEAN COASTAL WARD	
Application BH2008/03090, 6 Cliff Approach, Rottingdean, Brighton. Appeal against non-determination of application to grant planning permission for erection of an apartment building of 7 self-contained flats, with communal garden space, cycle parking, refuse and recycling and car parking facilities. (Committee Decision) APPEAL DISMISSED (copy of the letter from the Planning Inspectorate attached).	29



Appeal Decision

Site visit made on 25 August 2009

by **C J Leigh BSc(Hons) MPhil(Dist) MRTPI**

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

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**Decision date:
1 October 2009**

Appeal Ref: APP/Q1445/A/09/2101956

16 Park Crescent, Brighton, East Sussex, BN2 3HA

- 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 Marina Ray against the decision of Brighton & Hove City Council.
- The application Ref. BH2008/02282 was dated 20 June 2008 and was refused by notice dated 6 October 2008.
- The development proposed is described as 'retrospective permission to reinstate rear lobby, demolished in 1964, to restore original footplate as shown on title plan'.

Preliminary matters

1. The appeal property is listed Grade II*. Listed Building Consent was granted by the City Council on 14 May 2008 for 'internal alterations associated with the conversion of the building from three flats to two flats' (ref. BH2007/02710). I have been provided with copies of the approved plans which show, in addition to this description of works, a new porch to the rear elevation with balustrade. Those drawings are, essentially, the scheme that is now before me in order to obtain planning permission for the same works.
2. The new porch/lobby shown on both sets of drawings has been erected and, whilst it differs in some respects to the approved drawings, the Council state they have no objection to the as-built structure. The balustrade has also been erected and this too differs from the submitted drawings; it is this aspect to which the Council's objection to the application for planning permission stems from.
3. I have therefore determined this appeal on the basis of seeking planning permission for the retention of a rear lobby (demolished in 1964) to restore original footplate, with balustrade above.

Decision

4. I allow the appeal and grant planning permission for the retention of a rear lobby (demolished in 1964) to restore original footplate, with balustrade above at 16 Park Crescent, Brighton, East Sussex, BN2 3HA in accordance with the terms of the application (ref: BH2008/02282, dated 20 June 2008) and the plans submitted with it.

Reasons

5. The front elevations to the Park Crescent properties have a good degree of consistency, which is also evident in the strong visual continuity seen in the railings to the street with their spearhead finials. The rear elevations of the

properties – fronting the communal garden – have evidently seen more alterations over the years. I agree with the Council that the reinstatement of the rear porch/lobby as-built is an appropriate change to the property that enhances the architectural interest of the terrace.

6. I saw that the garden walls to the properties in the Crescent are in varying states of repair, but the original railings largely remain and they are in a more florid design than the railings to the front elevations. This, again, gives a degree of visual continuity to the rear boundary walls of the properties. In contrast, I saw that at upper levels there is little consistency in the design, positioning, height or form of balustrade railings. The balustrade railings that have been installed at No. 16 are more ornate than some of the other railings at adjoining properties, but in my opinion the design and height reflect well the restrained exuberance of the original garden railings at the terrace, without unduly competing for visual prominence at the property or the wider terrace.
7. I am therefore satisfied that the works at the property are not harmful to the architectural and historic interest of the appeal property and the Park Crescent terrace, or to the character and appearance of the wider Valley Gardens Conservation Area within which the site lies. Thus, it accords with saved Policies QD1 and HE1 of the Brighton and Hove Local Plan 2005. I have allowed the appeal accordingly, and as the development has already been undertaken there is no need to attach conditions.

C J Leigh
INSPECTOR



Appeal Decision

Site visit made on 15 September 2009

by **J O Head BSc(Econ) DipTP MRTPI**

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

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**Decision date:
6 October 2009**

Appeal Ref: APP/Q1445/D/09/2110650

146 Bexhill Road, Woodingdean, Brighton, East Sussex BN2 6QA

- 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 Miss Sally Baldwin against the decision of Brighton & Hove City Council.
- The application Ref BH2009/00641, dated 17 April 2009, was refused by notice dated 15 June 2009.
- The development proposed is a single storey front extension.

Decision

1. **I allow the appeal**, and grant planning permission for a single storey front extension at 146 Bexhill Road, Woodingdean, Brighton in accordance with the terms of the application, Ref BH2009/00641, dated 17 April 2009, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Application for costs

2. An application for costs has been made by Miss Sally Baldwin against Brighton & Hove City Council. That application is the subject of a separate Decision.

Main issues

3. The main issues are the impact of the proposal on the appearance of the property and of the street scene; and its impact on the living conditions of the occupiers of the adjoining properties, with reference to light and outlook.
4. The second reason for refusal on the Council's decision notice refers to an adverse impact on the residential amenity of No 144 Bexhill Road. The Council has advised that this is an error and that the affected property is considered to be No 148 Bexhill Road. I have reached my decision on that basis.

Reasons

5. On the first issue, this part of Bexhill Road is lined with 2-storey terraced houses on the south side only, with rising open downland to the north. The

ground floor frontages of many of the houses have been altered by single-storey additions in a variety of styles, with flat, hipped and lean-to roofs all in evidence. This has created a rather cluttered and irregular appearance, although, because of the siting of the terraces below the level of the road and behind reasonably sized front gardens, it is the upper floors and roofs that are the most prominent element in the street scene.

6. The proposed extension would replace the existing flat-roofed open canopy porch at No 146 with a full-width extension with a lean-to tiled roof and a central front door. Provided that matching materials were used, I consider that this would improve the appearance of the front elevation of the house, which is currently somewhat disjointed and lacking in symmetry. The width of the proposed extension would be greater than the others in the vicinity but it would, in my view, be of better design and appearance than many of them and would be no more prominent in the street scene. Bearing in mind the existing front additions that are characteristic of the locality, I consider that the design requirements of Local Plan Policies QD1, QD2 or QD14 would be satisfied and that no harm would be caused to the appearance of the property or to the street scene in Bexhill Road.
7. As to the impact of the proposal on the adjoining properties, the appellant states that the proposed extension is intended to align with the existing front addition at No 144, the property to the west, and it would, on that basis, have no impact on the living conditions of the occupiers of that property. The property to the east, No 148, is set a little behind No 146 and I saw that the outlook from its front ground floor window is already enclosed by the 2-storey flank wall of No 146 and by the solid flank wall of the existing flat-roofed porch. However, the main outlook from the front windows of the houses is towards the open land to the north. The proposed extension would be higher than the porch, because of its pitched roof, and would also project further into the front garden. Nonetheless, in my estimation, the additional height and projection involved would not have a significant impact on the already restricted outlook to the north-west from the window at No 148 and would have only a marginal impact on the level of daylight reaching the room that it serves. There would be no effect on sunlight because of the orientation of the windows. Any loss of amenity to No 148 would not, in my judgment, be so severe as to conflict with the requirements of Local Plan Policies QD14 or QD27 and the proposal would not harm the living conditions of the occupiers of either of the adjoining properties.
8. As there would also be no harm to the street scene, the proposed extension is acceptable, subject to the statutory time condition and to a condition requiring the use of materials to match the existing house, for the reason given in paragraph 6 above. I have imposed the model condition from Circular 11/95 in preference to that suggested by the Council.

John Head

INSPECTOR



Costs Decision

Hearing held on 15 September 2009

by **J O Head** BSc(Econ) DipTP MRTPI

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

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Decision date:
12 October 2009

Costs application in relation to Appeal Ref: APP/Q1445/A/09/2105404 6 Cliff Approach, Brighton, East Sussex BN2 5RB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr James Oliver, Safe Go Ltd for a full award of costs against Brighton & Hove City Council.
- The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the erection of an apartment building for 7 self-contained flats, with communal garden space, cycle parking, refuse and recycling and car parking facilities.

Summary of Decision: The application fails and no award of costs is made.

The Submissions for Mr James Oliver, Safe Go Ltd

1. On behalf of Mr Oliver, Mr Bareham submitted a written application for an award of costs. Reference is made to paragraphs A12, A18, B10 & B12 of Circular 03/2009. The application is on the basis that the Council acted unreasonably by not determining the planning application, with no reasons given for the delay. The delay was extensive (almost 8 months) and might have led to the applicant losing the right to appeal. A full award of costs is requested, in accordance with paragraph A18.

The Response by Brighton & Hove City Council

2. For the Council, Mr Hill said that there were staffing and manpower issues. The Council had a staff shortage and temporary officers left at short notice. That is the only mitigation that can be offered at this stage.

Applicant's reply

3. Mr Bareham said that those issues are an internal matter, not a planning one.

Conclusions

4. I have considered this application for costs in the light of Circular 03/2009 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
5. Paragraph B10 of the Circular refers to failure to determine an application within the time limits because of the complexity of the case and because of

substantive or unforeseen concerns arising from it. Those circumstances do not appear to apply here. Paragraph B12 relates only to enforcement proceedings. However, paragraph B11 advises that, in any appeal against non-determination, the authority should explain the reason for not reaching a decision within the relevant time limit. The submission in the written application that the case officer "failed to visit the site until 24 March 2009 – over 5 months after the application was registered" was not disputed by the Council. Neither was the submission that the case officer then left the Council's employment without completing a promised report on the planning application.

6. The planning application was registered by the Council on 2 October 2008 and the applicant was given a target date of 27 November 2008 for a decision to be issued. No explanation was given to the applicant for the delay in undertaking a site visit or in reaching a decision on the planning application and none has since been given, other than the generalised reference to staffing difficulties in response to the application for an award of costs.
7. Nevertheless, at the hearing, the Council was represented by a Senior Planning Officer, who gave evidence that, had a decision been reached, planning permission would have been refused for a number of reasons. It has not been suggested that the evidence given at the hearing was insubstantial or inadequate to support those reasons. If the planning application could have been determined favourably within the relevant period, an award of costs may well have been justified, as the delay to the proposed development would have been unreasonable and the appeal could have been avoided. However, it is clear that a favourable decision from the Council would not have been the outcome. I have also dismissed the appeal.
8. Paragraph B8 of Circular 03/2009 says that allegations of mishandling of the planning application may be an indicator of unreasonable behaviour by the planning authority, but that the purpose of the costs application process is not to resolve by investigation every allegation of unreasonable behaviour. Rather it is to decide whether or not an award of costs in respect of the appeal is justified on the available evidence in a particular case. Although the Council's delay in determining the planning application without any proper explanation amounts clearly, in my opinion, to unreasonable behaviour, it has not resulted in an unnecessary appeal and has not, therefore, caused the applicant to incur or waste expense in that regard. The conditions for an award of costs set out in paragraph A12 of the Circular have not therefore been fully met.
9. I consider that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated and I therefore conclude that an award of costs is not justified.

Formal Decision

10. I refuse the application for an award of costs.

John Head

INSPECTOR



Costs Decision

Hearing held on 15 September 2009

by **J O Head** BSc(Econ) DipTP MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
12 October 2009

Costs application in relation to Appeal Ref: APP/Q1445/A/09/2105404 6 Cliff Approach, Brighton, East Sussex BN2 5RB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr James Oliver, Safe Go Ltd for a full award of costs against Brighton & Hove City Council.
- The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the erection of an apartment building for 7 self-contained flats, with communal garden space, cycle parking, refuse and recycling and car parking facilities.

Summary of Decision: The application fails and no award of costs is made.

The Submissions for Mr James Oliver, Safe Go Ltd

1. On behalf of Mr Oliver, Mr Bareham submitted a written application for an award of costs. Reference is made to paragraphs A12, A18, B10 & B12 of Circular 03/2009. The application is on the basis that the Council acted unreasonably by not determining the planning application, with no reasons given for the delay. The delay was extensive (almost 8 months) and might have led to the applicant losing the right to appeal. A full award of costs is requested, in accordance with paragraph A18.

The Response by Brighton & Hove City Council

2. For the Council, Mr Hill said that there were staffing and manpower issues. The Council had a staff shortage and temporary officers left at short notice. That is the only mitigation that can be offered at this stage.

Applicant's reply

3. Mr Bareham said that those issues are an internal matter, not a planning one.

Conclusions

4. I have considered this application for costs in the light of Circular 03/2009 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
5. Paragraph B10 of the Circular refers to failure to determine an application within the time limits because of the complexity of the case and because of

- substantive or unforeseen concerns arising from it. Those circumstances do not appear to apply here. Paragraph B12 relates only to enforcement proceedings. However, paragraph B11 advises that, in any appeal against non-determination, the authority should explain the reason for not reaching a decision within the relevant time limit. The submission in the written application that the case officer "failed to visit the site until 24 March 2009 – over 5 months after the application was registered" was not disputed by the Council. Neither was the submission that the case officer then left the Council's employment without completing a promised report on the planning application.
6. The planning application was registered by the Council on 2 October 2008 and the applicant was given a target date of 27 November 2008 for a decision to be issued. No explanation was given to the applicant for the delay in undertaking a site visit or in reaching a decision on the planning application and none has since been given, other than the generalised reference to staffing difficulties in response to the application for an award of costs.
 7. Nevertheless, at the hearing, the Council was represented by a Senior Planning Officer, who gave evidence that, had a decision been reached, planning permission would have been refused for a number of reasons. It has not been suggested that the evidence given at the hearing was insubstantial or inadequate to support those reasons. If the planning application could have been determined favourably within the relevant period, an award of costs may well have been justified, as the delay to the proposed development would have been unreasonable and the appeal could have been avoided. However, it is clear that a favourable decision from the Council would not have been the outcome. I have also dismissed the appeal.
 8. Paragraph B8 of Circular 03/2009 says that allegations of mishandling of the planning application may be an indicator of unreasonable behaviour by the planning authority, but that the purpose of the costs application process is not to resolve by investigation every allegation of unreasonable behaviour. Rather it is to decide whether or not an award of costs in respect of the appeal is justified on the available evidence in a particular case. Although the Council's delay in determining the planning application without any proper explanation amounts clearly, in my opinion, to unreasonable behaviour, it has not resulted in an unnecessary appeal and has not, therefore, caused the applicant to incur or waste expense in that regard. The conditions for an award of costs set out in paragraph A12 of the Circular have not therefore been fully met.
 9. I consider that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated and I therefore conclude that an award of costs is not justified.

Formal Decision

10. I refuse the application for an award of costs.

John Head

INSPECTOR

NEW APPEALS LODGED

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

WITHDEAN

BH2009/00173
40 Varndean Gardens, Brighton
Single storey rear extension, first floor front extension, replacement porch, associated external alterations, and creation of full width first floor terrace to rear (Amendment to planning permission ref: BH2008/00082).
APPEAL LODGED
25/09/2009
Delegated

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

REGENCY

BH2009/00083
36 Victoria Street, Brighton
Provide staircase access from existing terrace balcony to ground floor courtyard.
(Retrospective).
APPEAL LODGED
28/09/2009
Delegated

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

STANFORD

BH2009/00817
Ground Floor, 2 Landseer Road, Hove
Erection of single storey rear extension.
APPEAL LODGED
24/09/2009
Delegated

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

APPEAL STATUS
APPEAL RECEIVED DATE
APPLICATION DECISION LEVEL

WESTBOURNE

BH2009/01741
158 Westbourne Street, Hove
Conversion of single storey garage to a two storey self-contained dwelling.
APPEAL LODGED
13/10/2009
Delegated

WARD

APPLICATION NUMBER
ADDRESS
DEVELOPMENT DESCRIPTION

GOLDSMID

BH2009/00410
33 Cissbury Road, Hove
Proposed two-storey side extension to form a separate two-bedroom dwelling.

<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	09/10/2009
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	PRESTON PARK
<u>APPLICATION NUMBER</u>	BH2009/00437
<u>ADDRESS</u>	114 Hythe Road, Brighton
<u>DEVELOPMENT DESCRIPTION</u>	Construction of roof terrace (Retrospective).
<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	14/10/2009
<u>APPLICATION DECISION LEVEL</u>	Delegated



**Brighton & Hove
City Council**

INFORMATION ON HEARINGS / PUBLIC INQUIRIES
4th November 2009

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

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: Tuesday 3rd November – Friday 6th November
Tuesday 10th November – Friday 13th November
Tuesday 17th November – Friday 20th November
Tuesday 24th November – Wednesday 25th November
Tuesday 1st December – Friday 4th December
Tuesday 8th November – Wednesday 9th November

Location: Brighton Centre – East Wing

30 Vernon Terrace, Brighton

Planning application no: BH2009/00739

Description: Certificate of lawfulness for an existing use of a roof terrace.

Decision: Delegated

Type of appeal: Public Inquiry

Date: **WITHDRAWN**

Location:

Park House, Old Shoreham Road, Hove

Planning application no: BH2008/03640

Description: Demolition of former residential language school and erection of 5 storey block of 72 flats.

Decision: Committee

Type of appeal: Informal Hearing

Date:

Location:

The Hyde, Rowan Avenue, Hove

Planning application no: BH2009/01249

Description: Proposed construction of two blocks of 2 and 3 storeys to provide a total of 27 new sheltered housing units with associated caretaker's flat, support and recreation areas including private landscaped gardens and car and cycle parking facilities.

Decision: Committee

Type of appeal: Public Inquiry

Date:

Location: