

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 24 FEBRUARY 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

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

Co-opted Members Mr J Small (CAG Representative)

Officers in attendance: Jeanette Walsh (Head of Development Control), Hamish Walke (Area Planning Manager (East)), Zachary Ellwood (Interim Area Planning Manager (West)), Andrew Renaut (Head of Transport Planning Policy), Hilary Woodward (Senior Lawyer) and Penny Jennings (Senior Democratic Services Officer)

Apologies: Apologies were received from Councillor Steedman

PART ONE

214. PROCEDURAL BUSINESS

214A. Declaration of Substitutes

214.1 Councillor Kemble was in attendance as substitute Member for Councillor Caulfield.

214B. Declarations of Interest

214.2 Councillors Hyde (Chairman) and C Theobald declared a non-prejudicial interest in Application BH2009/02354, The Old Music Library, 115-116 Church Street, Brighton. Both had considered an application for the same premises when an application had come before a Licensing Panel for determination. However, the two sets of legislation and considerations to be taken were separate and they remained of a neutral mind in respect of the planning application. Therefore, both intended to remain present during its consideration and to take part in the discussion and voting thereon.

214.3 Councillor Davey declared a personal and prejudicial interest in Application BH2009/02943, 123-125 Portland Road, Hove. As he lived close to the application site he stated that he would withdraw from the meeting during its consideration and would take no part in the discussion or voting thereon. Councillor Cobb referred to the same application stating that as the site was located within her Ward she had received correspondence from a number of local residents. She had not expressed an opinion in

relation to the application remained of a neutral mind and would therefore remain present during its consideration and intended to take part in the discussion and voting thereon.

214C. Exclusion of Press and Public

214.4 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").

215. MINUTES OF THE PREVIOUS MEETING

215.1 Councillor Smart referred to Paragraph (8) of the minute relating to Application BH2009/02228, 28 Marine Drive, Rottingdean stating that he had enquired whether the scheme could proceed without use of the public car park.

215.2 Councillor Smart also referred to Paragraph (6) of the minute relating to Application BH2009/02970, Community Base, 113 Queen's Road, Brighton stating that he also enquired whether there were any extant permissions in place in relation to the site.

215.3 **RESOLVED** – That subject to the amendments set out above the Chairman be authorised to sign the minutes as a correct record.

216. CHAIRMAN'S COMMUNICATIONS

Web casting

216.1 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.

Health Impact Assessment of the Licensing Act 2003

216.2 The Chairman explained this matter had been referred to the Committee from the Licensing Committee for their information and would subsequently be forwarded to the Cabinet Member for Environment.

216.3 The Council had commissioned a health impact assessment of the Licensing Act 2003 and the direct implications arising from the final report for the planning authority were:

To control the impacts of the introduction of flexible alcohol licensing hours through the land use classifications and to use the test of public amenity;

To review planning policy with the aim of using the planning system to develop and maintain a balance between the establishment and extension of large chains of licensed premises and that of small businesses including small local public houses;

To ensure that any change of use to an external area associated with licensed premises is subject to planning permission (e.g. waste storage area to beer gardens);

To consider using planning gain to fund the provision of community facilities that provide alternatives to drinking, especially for young people;

To enforce the land-use designations made in planning applications;

Enforcement officers should challenge any change to the implementation of land-use category A4 when the category A3 was applied for and granted planning permission;

To integrate strategies for the licensing of sales of alcohol and planning, ensuring that planning and licensing authorities work together.

216.4 The Chairman went on to explain that the planning system and supplementary planning policy may be used to achieve some measures to improve public health matters arising from development of the licensed trade.

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

217. PETITIONS

217.1 There were none.

218. PUBLIC QUESTIONS

218.1 There were none.

219. DEPUTATIONS

219.1 There were none.

220. WRITTEN QUESTIONS FROM COUNCILLORS

220.1 There were none.

221. LETTERS FROM COUNCILLORS

221.1 There were none.

222. NOTICES OF MOTION REFERRED FROM COUNCIL

222.1 There were none.

223. APPEAL DECISIONS

223.1 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.

224. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

225. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

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

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

Application:	Site Visit Requested by:
BH2009/03038, Saunders Glass Sussex Place	Head of Development Control
BH2009/03155, Unit 1 Fairway Trading Estate, Eastergate Road	Head of Development Control
BH2009/0377 7 BH2009/03078 Former Thwaites Garage Site, 33 Mighell Street	Head of Development Control

227. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST : 24 FEBRUARY 2010:

(i) TREES

(1) Councillor Smart referred to the sycamore tree positioned very close to the retaining wall adjoining the public footpath at Brighton & Hove High School. He enquired whether it would be possible to require re-instatement works to be carried out. Councillor Wells referred to the crack in the paving (shown in the photograph submitted with the report) enquiring whether removal of the tree had been requested on those grounds.

(2) The Arboriculturist explained that although guidance could be sought regarding retaining the trees and rebuilding the wall around the trees as the trees themselves were not fine specimens it was recommended that they be replaced.

227.1 **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 grant consent to felling the trees referred to subject to the conditions set out in the report as follows:

BH2010/00291, Brighton & Hove High School, Montpelier Road, Brighton

- 227.2 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 6 of the report and resolves to grant consent to fell the tree subject to the conditions set out in the report as follows:

BH2009/03029, The Pantiles, Shirley Drive, Hove

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

- A. Application BH2009/02941, Arts D & E Buildings, University of Sussex, Falmer –** Demolition of existing Arts D & E Buildings, removal of temporary Russell Building and construction of new 4 storey academic building, new 2 storey lecture theatre and associated landscaping.

- (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 constituent elements of the scheme. a model was also on display. Elevational drawings were shown as were views across the site including those taking in the adjacent AONB.

Questions/Matters on Which Clarification was Sought

- (3) Councillor Smart enquired loss of car parking and sought clarification of the location of the new replacement car park.
- (4) Mr Small, CAG referred to the submitted drawings which indicated obscure glazing on some elevations and sought clarification regarding the location of these mesh panels. The Head of Development Control explained that different materials were proposed on different elevations of the building.
- (5) Councillor Cobb sought further details regarding the public art contribution requesting information regarding the form it was proposed this would take and its location. It was explained that the provision of art in the public realm on its campus was managed by the University itself and was not a planning consideration.
- (6) Councillor McCaffery enquired whether the replacement buildings would be as high as the existing. It was explained that although they would be as high, the bulk of the development would be lower than the highest part of the existing building. In answer to further questions it was explained that the lecture theatre would be of brick with an accessible green roof. Details were given of the location of coloured glazed and solid panels. Whilst supporting the application Councillor McCaffery considered it disappointing that the use of more brick was not proposed.
- (7) Councillor Kemble sought clarification regarding the location and type of cycle racks to be used.

Debate and Decision Making Process

- (8) Councillor Mrs Theobald stated that she considered the proposals would provide better buildings which would be more fit for purpose than the existing.
- (9) Councillor McCaffery re-iterated that she considered it regrettable that the use of more brick was not proposed.
- (10) A vote was taken and Members voted unanimously that minded to grant planning permission be given.

227.3 **RESOLVED** - That the Committee has considered 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 the applicant entering into a Section 106 Obligation and to the conditions and informatives set out.

B. Application BH2009/02911, Roedale, Burstead Close, Brighton – Demolition of residential home and the development of a 5 storey building containing twenty four affordable flats with 24 parking spaces.

- (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 scheme. He explained that one parking space per unit would be provided on site and that there were also good links to local public transport.
- (3) Mr Munt spoke on behalf of neighbouring objectors. In their view the proposed building would be too tall, overbearing and would result in loss of privacy and amenity for those living in the neighbouring blocks. It would also represent overdevelopment of this small close and would have a detrimental impact on views to the adjoining open space.
- (4) Mr Hawkins and Ms Houlton spoke on behalf of the applicants in support of their application, stating that the scheme had been amended in order to address objections received and to seek to ensure that the development was in keeping with the neighbouring backdrop of Hollingbury Golf Course/Hill Fort and Burstead Woods and adjoining land designated as open countryside and a local nature reserve which fell within the boundary of the South Downs National Park.
- (5) Councillor Lepper spoke in her capacity as Local Ward Councillor re-iterating the points made on behalf of neighbouring objectors. Whilst supporting the principle of development she considered that this development would be too high and would be intrusive and overbearing and detrimental to existing green setting as it was set on raised ground at the end of a small cul-de-sac. Reduction in the coloured panelling to the side elevation would not reduce its height; she also had concerns regarding potential water run-off drainage difficulties which could arise.

Questions/Matters on Which Clarification was Sought

- (6) Councillor C Theobald enquired whether the existing on-site children's playground would be retained and it was explained that a small amenity space would be provided on-site and a contribution made towards improved provision in the vicinity
- (7) Councillor C Theobald also sought confirmation regarding the proposed location of obscure glazing within the units. It was explained that this would be used to some secondary windows.

Debate and Decision Making Process

- (8) Councillor Carden stated that he considered that the applicant should be required to provide a sprinkler system. The Area Planning Manager explained that the access arrangements would remain the same as for the existing development and that building control regulation requirements would need to be met.
- (9) Councillor Smart stated that he did not consider the proposal would result in an unsightly development and therefore supported it.
- (10) Councillor McCaffery considered the scheme would be acceptable.
- (11) Councillor Cobb considered that the design of the scheme was very disappointing, particularly the use of obscure glazing to some secondary windows.
- (12) A vote was taken and on a vote of 6 with 5 abstentions planning permission was granted.

227.4 **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 the applicant entering into a Section 106 Agreement and to the conditions and informatives set out and to imposition of additional conditions relating to surface water run off.

C. Application BH2009/02606, The Old Ship Hotel, King's Road, Brighton –
Demolition of hotel garage and construction of new 7 storey extension (Basement-5th floor) to provide 42 bedrooms, 2 conference rooms, car parking and restaurant/bar.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Interim Area Planning Manager (West) gave a presentation detailing the application referring to a block plan showing the proposals in the context of the existing street frontage and rear elevations. Proposed floor plans were also shown. The Council's Sustainability Officer had indicated that they were satisfied with the proposed sustainability measures and energy strategy for the new development.

Questions/Matters on Which Clarification was Sought

- (3) Councillor Davey referred to the works carried out to upgrade and improve the street paving in the area. The footway immediately adjacent to the site had yet to be improved and he queried whether part of the proposed contribution to off site highway

improvements could be used for that purpose. The Interim Area Planning Manager agreed that an informative to that effect could be added.

- (4) Mr Small, CAG enquired regarding the exterior finishes proposed. It was explained that a rendered finish would be applied to match the existing. Painted block work was also to be used. In answer to further questions it was explained that the top floor would be predominantly glass with a metal frame. Mr Small confirmed that CAG had welcomed the application subject to officer approval of materials and details.

Debate and Decision Making Process

- (5) Councillor Cobb stated that Councillor Davey's comments regarding where it might be appropriate for the contribution towards off-site highway improvements to be spent was welcome. It was disappointing that information had not been provided in the report. She would like to see a lot more detail in reports regarding where it was proposed individual contributions were to be spent and the timeframe.
- (6) Councillor Wells concurred with points made by Councillors Cobb and Davey.
- (7) A vote was taken and Members voted unanimously that they were minded to grant planning permission.

227.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the recommendation set out in paragraph 10 of the report and resolves that it is minded to grant planning permission subject to the applicant entering into a Section 106 Agreement to the conditions set out and to the amendments set out below:

Condition 6 to be amended to read:

1. Notwithstanding the details shown on the submitted drawings, further details and specifications of the balconies, glass balustrading, handrail, coping, window frames, eaves, doors, ground floor shop fronts, air conditioning units/ducting and any other external plant or equipment and screening thereof (including any sustainable development measures required in connection with meeting the BREEAM excellent standards necessary to comply with the provisions of conditions 3 and 4) shall be submitted to and approved by the Local Planning Authority at a scale of 1:20 elevations and 1:1 sections in writing before work commences, and shall be completed in strict accordance with approved plans.

Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.

Add informative 9 to read:

9. in respect of the financial contribution towards off-site highways improvements to be secured through a Section 106 Agreement, the Planning Committee has expressed a preference for this to be used, at least in part, for upgrading the pavement to the front of the site on Black Lion Street to a quality commensurate with that found in the immediate vicinity of the site.

D. Application BH2009/02607, Old Ship Hotel, King's Road, Brighton – Demolition of hotel garage.

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) A vote was taken and Members voted unanimously that they were minded to grant conservation area consent.

227.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 10 of this report and resolves to grant Conservation Area Consent subject to the conditions and informatives set out.

(iii) MINOR APPLICATIONS

E. Application BH2009/01489, Ocean Heights, Roedean Road, Brighton – Demolition of existing dwelling and construction of 7 residential apartments (part-retrospective).

- (1) The Area Planning Manager (East), Mr Walke referred to the fact that at their meeting held on 25/11/2009 the Committee had resolved to defer the application pending further negotiations by officers. The report placed before Members reflected those negotiations and the further representations received.
- (2) The Area Planning Manager gave a presentation highlighting the differences between the approved application and the scheme as built. He also referred to a very late further letter of objection from the resident of 5 Roedean Heights.

Questions/Matters on Which Clarification was Sought

- (3) Councillor Cobb referred to the fact that there had been a large volume of correspondence from neighbouring residents objecting to the scheme citing the conflicting information given regarding the height of the development and the distances between the development and neighbouring properties. The applicant had indicated that they had proceeded with the scheme following a delay of 8/9 months whilst awaiting advice from the Council. The Head of Development Control explained that notwithstanding that one of the case files had gone missing all of the original plans were available on line. The distances given in the officer's earlier report had been based on minimum distances and this had given rise to confusion. However, as the development had been built Members had been able to see its impact in relation to the neighbouring street scene, as they had visited the site.
- (4) Councillor Smart enquired regarding the number and location of the leylandi to be planted along the site boundary, he had concerns that the space where they were proposed was too narrow and too close to the neighbouring boundary for them to thrive. The Area Planning Manager confirmed their precise location which would be in a less constrained position than Councillor Smart had thought.
- (5) Councillor C Theobald stated that she was confused regarding the trees to be planted. The species proposed had changed and it appeared that these were slower growing species than originally proposed. The Arboriculturist explained the species proposed

were suited to growing in coastal locations and made ideal hedging plants. Although they took slightly longer to establish themselves they were hardy enough to withstand coastal weather conditions.

- (6) Councillor C Theobald also referred to the height of the development questioning why it was so much higher in her view than agreed and whether the sole reason for this had been in order to accommodate a sprinkler system. It was explained that the height had been reduced slightly as a result of a reduction in the height of the lift shaft.
- (7) Councillor McCaffery expressed confusion regarding the actual height of the development, particularly how much higher it was than the agreed scheme.
- (8) The Area Planning Manager stated that notwithstanding comments made regarding the height, dimensions and appearance of the building as it had been built, Members were in a position to determine the application on that basis and to decide whether or not they considered it was acceptable.
- (9) The Solicitor to the Committee confirmed that notwithstanding that the scheme had undergone a number of changes as it had been built Members were in a position to determine whether or not they were minded to approve it. Applicants were able to seek retrospective approval and the Committee should determine any application on its merits.

Debate and Decision Making Process

- (10) Mr Small, CAG referred to the substantial amount of timber cladding used. The scheme was now significantly different in appearance to that originally submitted. It now appeared that the timber used was not locally sourced coppiced wood, but that it had been transported from the north of England by a supplier who sourced materials worldwide. This situation was far from ideal.
- (11) Councillor Smart sought further clarification regarding the differences between the two schemes, particularly in relation to the thickness of the render and materials used in constructing the balconies. He wished to know the height and depth of the balconies. It was explained that these had been modified so that views from them were oblique and ameliorated any impact on neighbouring amenity.
- (12) Councillor Cobb referred to that fact that a large number of conditions appeared to be required in order to mitigate against any detriment to neighbours. To her this indicated that the scheme was an overdevelopment.
- (13) Councillor C Theobald stated that she considered it regrettable that the development had ever been built. It was an eyesore which had a detrimental impact on neighbouring residents. She considered that officers of the department were at fault in that outstanding matters should have been resolved sooner.
- (14) The Head of Development Control stated that there was an extant permission in place. Some elements of the scheme were retrospective and Members needed to determine whether they considered the scheme was acceptable or whether in their view it was so detrimental to neighbouring amenity that it should be refused.

- (15) The Solicitor to the Committee re-iterated that applicants were entitled to submit applications retrospectively. Members needed to determine applications on their merits. It was inappropriate to deal with them punitively.
- (16) Councillor McCaffery thanked officers for their clarification. She had been concerned regarding the height of the development. However, given the amount of screening proposed on balance she supported the application.
- (17) A vote was taken and on a vote of 7 to 3 with 1 abstention planning permission was granted.

227.7 **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 resolves to grant planning permission subject to the conditions and informatives set out.

Note: Councillor Kemble stated that he intended to abstain from voting as he had not been present on previous occasions when the application had been discussed. Although he remained of a neutral mind he did not consider he had the same background knowledge of the site as other Members.

F. Application BH2009/02915, Windlesham School, 190 Dyke Road, Brighton – Alterations to existing classroom including removal of 1 roof light and lowering of the East section of the building with new mono pitched roof.

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

Debate and Decision Making Process

- (2) Councillor McCaffery considered the structure should be erected in the position agreed in the earlier planning permission. She sought clarification of the changes between the application as approved and its precise distance nearer to the boundary wall. She considered the structure was overbearing and had a detrimental impact on neighbouring amenity.
- (3) Councillor Kennedy stated that she did not understand why enforcement action had not been taken as the structure had not been erected in its agreed location. As the structure was resting on the ground rather than having foundations which had been set down into it, she considered that it should be possible for the structure to be moved.
- (4) Councillor Davey stated that although he had voted that the original application be approved he was very unhappy that it not been erected in the agreed location.
- (5) Councillor Hamilton stated that he wanted the structure to have been built in its agreed location and wanted action to be taken to ensure that it was.
- (6) The Head of Development Control stated that the application was before Members for consideration and determination as built; they could refuse permission if they considered it had a significant and unacceptable impact. Applicants could submit a

revised scheme. Enforcement action was not taken automatically and an assessment needed to be made as to whether or not enforcement action would be appropriate. As the application had not been determined, enforcement action had not been considered yet.

(7) Councillor C Theobald referred to the "temporary" status of the building and it was confirmed that the structure would be permanent. The current use as a classroom would be temporary until 2012. Thereafter it would be used for storage.

(8) A vote was taken and on a vote of 6 to 5 planning permission was granted.

227.8 **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.

G. Application BH2009/02797, 106 Waldegrave Road, Brighton – Erection of bicycle shelter to front of property.

(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 and explained that by virtue of its location within the conservation area and by reason of its siting in a small elevated front garden the bicycle shelter was considered to be damaging to the existing property, the surrounding street scene and the conservation area.

(3) Councillor Allen spoke in his capacity as a Local Ward Councillor stating that notwithstanding a recent decision of the Planning Inspectorate relating to a similar bicycle shelter elsewhere in Waldegrave Road he considered it was appropriate for the Council to adopt a more flexible approach. The Council was encouraging residents to use sustainable forms of transport and it was not appropriate to expect residents of terraced properties to carry their bicycles through the house on each occasion they were. He did not consider that the structure was overly dominant or that it would lead to a proliferation of such requests. For consistency a uniform colour type of shelter could be required.

Debate Decision Making Process

(4) Councillor Kennedy stated that she shared the view that the Council needed to turn its mind to the matter of green transport and to the very real difficulties of those living in terraced houses who were bicycle owners. Clear policies needed to be put together indicating where/under what circumstances shelters could be provided in residents' front gardens and whether certain types of shelter/colour could be permitted which would give a uniform appearance within the street scene, or whether appropriate screening could be considered acceptable. Councillor McCaffery also concurred in that view.

(5) Mr Small, CAG referred to photographs of the structure (now removed) stating that the properties in the conservation area were well maintained and of a uniform appearance

and that to introduce the possibility that a galaxy of “sheds” might appear was unacceptable.

- (6) Councillor Cobb agreed considering that existing policy should be upheld.
- (7) Councillor C Theobald whilst having some sympathy with the applicant considered that if approved the application could set a precedent. On balance she considered that it was important to uphold the Council’s planning policies on this matter.
- (8) A vote was taken and on a vote of 4 to 3 with 4 abstentions planning permission was refused.

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

H. Application BH2009/02354, The Old Music Library, 115-116 Church Street, Brighton – Change of use from library (D1) to restaurant (A3) and steel louvres on Eastern roof slope to serve plant room.

- (1) The Area Planning Manager (East), Mr Walke gave a presentation detailing the constituent elements of the scheme including the proposed treatment of the rear garden/yard area. Although it was proposed it would be enclosed by a 2.1m high flint and brick wall it was considered that that the twitten running behind the wall would benefit from increased security and surveillance which could be provided by introducing lower walling and railings above.
- (2) Ms Marriage spoke on behalf of neighbouring objectors living in the adjacent mews development. In their view the proposed hours of operation of the premises, particularly the period during which the rear patio would be use were too long and did not reflect that of other similar businesses in the vicinity. They were proposing that Condition 9 be amended to ensure that use of the rear seating area cease by 11.00pm rather than at 11.00pm.
- (3) Mr Polito, the applicant spoke in support of his application stating that the proposals had been designed with the intention of bringing the building back into use whilst responding sympathetically to the concerns of local residents; the business would operate as a high quality restaurant rather than as a drinking establishment.

Questions/ Matters on Which Clarification was Sought

- (4) Councillors Davey and Wells sought clarification regarding the location and proximity of neighbouring residential accommodation to the rear “garden” area.
- (5) Councillor C Theobald sought clarification regarding disabled access to the premises and it was explained that it would still be possible to obtain access from the rear as well as from the front entrance. Councillor Theobald also requested information regarding the boundary treatment proposed adjoining neighbouring residential properties and the twitten to the rear.

Debate and Decision Making Process

- (6) Councillor Smart stated that he considered the proposed hours of opening were too long, he would like the period during which the rear yard could be used to be reduced. Councillor Davey concurred in that view. Councillor Davey proposed that the hours of operation should be reduced as there was a concern about the impact of the development on the amenity of the immediately adjacent residents.
- (7) Councillor McCaffery enquired regarding the hours of operation agreed by the Licensing Panel when the Licensing application had been agreed recently. It was reported that this was not known. Councillor Cobb stated that it would have been useful if information had been available to Members.
- (8) Councillor Hyde, the Chairman stated that her recollection was that shorter hours of operation had been agreed than those requested by the applicant. The premises would not be able to stay open longer than permitted by the licensing authority.
- (9) The Solicitor to the Committee stated that the Committee acting as the planning authority needed to make their own determination of the application which was caught by separate legislation than that applied by the licensing authority.
- (10) Councillor Smart considered that the time by which use of the rear yard should cease should factor in sufficient time for it to be cleared of customers. Members then suggested that conditions be applied requiring the rear patio be cleared by 10.00pm and that the premises themselves should close by midnight.
- (11) A vote was taken in relation to proposed conditions 8,9 to take on board the points set out in (10) above. This was approved on a vote of 10 with 1 abstention. The substantive vote was then taken and Members voted unanimously that planning permission be granted.

227.10 **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 planning permission subject to the applicant entering into a Section 106 Agreement and to the conditions and informatives set out .

I. Application BH2009/02943, 123-125 Portland Road, Hove – Alterations to shop front including insertion of ATM cash machine. Erection of external condenser unit to the rear within timber plant enclosure.

- (1) The Interim Area Planning Manager (West), Mr Ellwood gave a presentation detailing the scheme. He explained that although the applicant had carried out other works at the site the application before the Committee related only those matters set out. The applicant had been advised of the need to submit further application(s) in relation to those outstanding matters. Condition 1 needed to be deleted as it no longer applied and Condition 2 required amendment.

Questions/Matters on Which Clarification was Sought

- (2) Councillor Smart enquired regarding the number of car parking spaces which would be lost. It was explained that none would be lost in relation to the current application, although 4/5 could be lost in consequence of the consequent Traffic Regulation Orders.
- (3) Councillor Smart also enquired regarding colour of the windows fronting Portland Road. It was explained that these would be clear but would have a vinyl coating.
- (4) Councillors Davey and Wells and Mr Small CAG requested whether it would be possible to add an informative to ensure that the windows remained clear and clear of advertisement features. The Area Planning Manager stated that an advertising material to be placed in the window would require separate advertisement consent.

Debate and Decision Making Process

- (5) Councillor Cobb referred to the unauthorised works which had been carried out stating that the applicants had behaved inappropriately. She considered that they had flouted proper procedures.
- (6) The Solicitor to the Committee explained that the Committee needed to address the application before them with a neutral mind and to determine it accordingly irrespective of whether or not it had been submitted retrospectively.
- (7) A vote was taken and Members voted and on a vote of 6 to 4 of those Members present, Members voted that planning permission be granted.

227.11 **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 and to the following amendments:

Condition 1 to be deleted.

Condition 2 to be amended to read:

2. Within two months of the date of this permission a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration shall be submitted for approval by the local planning authority the measures shall be implemented within one month of the local planning authority's written approval of the scheme in strict accordance with the approved details and shall thereafter be retained as such.

Reason: To safeguard the amenities of occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

Add Informative 4 to read:

For the avoidance of doubt the applicant is advised that this grant of planning permission is restricted to those works and details shown on the approved plans/drawings only. A separate application for planning permission will be required for any further external plant or equipment, including the fan coil units that have recently

been installed on the northern elevation of the building without prior permission from the local planning authority.

Note 1: Having declared a personal and prejudicial interest in the above application Councillor Davey left the meeting and took no part in the discussion, debate or decision making process thereon.

Note 2: Councillors Caulfeld, Cobb, Smart and Wells voted that planning permission be refused.

J. Application BH2009/00696, 39 Salisbury Road, Hove – Demolition of existing building and erection of a four storey private residential building containing 9 mixed size units and community area on ground floor.

(1) The Head of Development Control explained that consideration of the application was to be deferred as an error had been found in the re-submitted plans. The applicant had been requested to address this matter prior to the application being determined.

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

228. 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

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

Application:	Site Visit Requested by:
BH2009/03038, Saunders Glass, Sussex Place	Head of Development Control
BH2009/03155, Unit 1, Fairway Trading estate, Eastergate Road	Head of Development Control
BH2009/0377 & BH2009/03078, Former Thwaites Garage Site, 33 Mighell Street	Head of Development Control

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

229.1 **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 representation received by the Council after the Plans List reports had been submitted for printing was circulated by Members on the Friday preceding the meeting. 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 they should in exceptional circumstances be reported to the Committee. This is in accordance with resolution 147.2 of the then Sub Committee on 23 February 2006.

The meeting concluded at 5.45pm

Signed

Chairman

Dated this

day of