





**Brighton & Hove  
City Council**

# Planning Committee

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| Title:   | <b>Planning Committee</b>  |
| Date:    | <b>30 June 2010</b>  |
| Time:    | <b>2.00pm</b>  |
| Venue    | <b>Council Chamber, Hove Town Hall</b>   |
| Members: | <p><b>Councillors:</b> Hyde (Chairman), C Theobald (Deputy Chairman), Carden (Opposition Spokesperson), Alford, Cobb, Davey, Hamilton, Kennedy, McCaffery, Simson, Smart and Steedman</p> <p><b>Co-opted Members:</b> Mr P Andrews (Conservation Advisory Group)</p> |
| Contact: | <p><b>Jane Clarke</b><br/>Senior Democratic Services Officer<br/>01273 291064<br/>jane.clarke@brighton-hove.gov.uk</p>   |

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## AGENDA

### 34. 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.*

### 35. MINUTES OF THE PREVIOUS MEETING

1 - 18

Minutes of the meeting held on 9 June 2010 (copy attached).

### 36. CHAIRMAN'S COMMUNICATIONS

### 37. PETITIONS

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

### 38. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 24 June 2010)

No public questions received by date of publication.

### 39. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 24 June 2010)

No deputations received by date of publication.

## **PLANNING COMMITTEE**

### **40. WRITTEN QUESTIONS FROM COUNCILLORS**

No written questions have been received.

### **41. LETTERS FROM COUNCILLORS**

No letters have been received.

### **42. NOTICES OF MOTION REFERRED FROM COUNCIL**

No Notices of Motion have been referred.

### **43. APPEAL DECISIONS**

**19 - 32**

(copy attached).

### **44. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

**33 - 34**

(copy attached).

### **45. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

**35 - 36**

(copy attached).

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

### **47. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST**

(copy circulated separately).

### **48. 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**

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

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

## PLANNING COMMITTEE

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

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

Agendas and minutes are published on the council's website [www.brighton-hove.gov.uk](http://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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For further details and general enquiries about this meeting contact Jane Clarke, (01273 291064, email [jane.clarke@brighton-hove.gov.uk](mailto:jane.clarke@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk).

Date of Publication - Tuesday, 22 June 2010



**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 9 JUNE 2010**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Hyde (Chairman), C Theobald (Deputy Chairman), Carden (Opposition Spokesperson), Alford, Cobb, Davey, Fallon-Khan, Hamilton, Kennedy, McCaffery, Rufus and Smart

**Co-opted Members** Philip Andrews, Conservation Advisory Group (CAG)

**Officers in attendance:** Paul Vidler (Deputy Development Control Manager), Steve Reeves (Principal Transport Planner), Hilary Woodward (Senior Lawyer), Nicola Hurley (Area Planning Manager (West)), Claire Burnett (Area Planning Manager (East)), Kathryn Boggiano (Senior Planning Officer) and Jane Clarke (Senior Democratic Services Officer)

**PART ONE**

**17. PROCEDURAL BUSINESS**

**17a Declarations of Substitutes**

- 17.1 Councillor Rufus declared that he was substituting for Councillor Steedman.
- 17.2 Councillor Fallon-Khan declared that he was substituting for Councillor Simson.

**17b Declarations of Interest**

- 17.3 Councillor Alford declared a personal and prejudicial interest in application BH2010/00931, 8 Hazel Close as he had formally objected to the application. He did not take part in the discussion or voting and left the room for the duration of the application.
- 17.4 Councillor Cobb declared an interest in application BH2010/00559, Dolphin House, Manchester Street as she had been closely involved in licensing issues relating to the objectors residences. She believed that she may have predetermined the application because of this and therefore did not take part in the discussion or voting and left the room for the duration of the application.
- 17.5 Councillor Mrs Theobald declared that she had also been involved in the same licensing issues connected to the objectors on application BH2010/00559, Dolphin House, Manchester Street but did not feel she had predetermined the application. She remained in the meeting and took part in the discussion and voting thereon.

- 17.6 Councillor Kennedy declared an interest in application BH2010/00083, Land to rear of 67-81 Princes Road, as she had expressed a definite opinion and had predetermined the application. She did not take part in the discussion or voting and left the room for the duration of the application.
- 17.7 Councillor Hyde, The Chairman declared a personal and prejudicial interest in application BH2010/00083, Land to the rear of 67-81 Princes Road, as the applicant had carried out work for a member of her family she did not take part in the discussion or voting and left the room for the duration of the application. Councillor C Theobald, the Deputy Chairman took the Chair during consideration of this application.
- 17.8 Councillor McCaffery declared an interest in application BH2010/00944, Community Base, 113 Queens Road, as she had already expressed a view in a letter and so had predetermined the application. She did not take part in the discussion or voting and left the room for the duration of the application.

### **17c Exclusion of the Press and Public**

- 17.9 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.
- 17.10 **RESOLVED** - That the public be not excluded from the meeting during consideration of any item appearing on the agenda.

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

- 18.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 19 May 2010 as a correct record of the meeting with the following amendments:

“Councillor Carden declared a personal interest on application BH2010/00669, 75 Crest Way, North Portslade in knowing an objector to the application but as he did not consider that this amounted to a prejudicial interest he took part in the discussion and voting thereon.”

“Councillor Smart believed there were problems with aspects of the site including overlooking of two of the units and child safety, and was particularly concerned about the shared space on what was already a small road with no distinction between pedestrian pathways and the roadway.”

### **19. CHAIRMAN'S COMMUNICATIONS**

- 19.1 The Chairman welcomed Councillor Trevor Alford to the Committee and believed that he would make a valuable contribution to the work of the committee. The Chairman also welcomed Mr Philip Andrews to the Committee as the new Chairman of the Conservation Advisory Group.



**20. PETITIONS**

20.1 There were none.

**21. PUBLIC QUESTIONS**

21.1 There were none.

**22. DEPUTATIONS**

22.1 There were none.

**23. WRITTEN QUESTIONS FROM COUNCILLORS**

23.1 There were none.

**24. LETTERS FROM COUNCILLORS**

24.1 There were none.

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

25.1 There were none.

**26. APPEAL DECISIONS**

26.1 There were none.

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

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

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

28.1 The Committee noted the information regarding informal hearings and public inquiries as set out in the planning agenda.

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

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

| <b>Application:</b>  | <b>Site visit requested by:</b>    |
|--|------------------------------------|
| BH2010/00060 & 00061, St Augustine's Church, Stanford Avenue, Brighton | Deputy Development Control Manager |
| BH2009/01355, Wolseley Build Centre, 19 Bristol                        | Councillor Mrs Theobald            |

|                   |  |
|-------------------|--|
| Gardens, Brighton |  |
|-------------------|--|

**30. REQUEST TO DISCHARGE UNILATERAL UNDERTAKING IN ASSOCIATION WITH PLANNING PERMISSION REFERENCE BH2007/00862, 73 – 75 TRAFALGAR STREET**

- 30.1 The Solicitor to the Committee introduced the report and stated that a financial contribution to amend a traffic regulation order had been paid to the Council under the terms a S106 Unilateral undertaking dated 20 February 2008 relating to the above planning application. However, unfortunately the development was not built in accordance with the terms of the planning permission and the development was therefore unauthorised. A retrospective application seeking approval of the development as built was subsequently submitted and approved, subject to a further S106. Effectively the contribution already paid was then transferred to the new S106. The original S106 was now obsolete and the report recommended that the same can be formally discharged.
- 30.2 Councillor Davey asked if the new application had already been granted, and whether the new S106 conditions had been met and the Solicitor agreed that they had. The money had been paid as part of the previous scheme and would be transferred over as part of this new application.
- 30.3 **RESOLVED** – That the Committee authorises officers to discharge the Unilateral Undertaking dated 20 February 2008 in association with planning permission BH2007/00862.

**31. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST: 9 JUNE 2010**

**(i) TREES**

- 31.1 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation and resolves to grant consent to fell the tree which is the subject of this application subject to the conditions set out in the report.

Application BH2010/00887, 76 Crescent Drive North, Woodingdean.

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

**A. Application BH2010/00559, Dolphin House, Manchester Street, Brighton – Change of use to language school (D1) and/or offices (B1).**

- (1) The Area Planning Manager (East), Ms Burnett introduced the application and demonstrated plans and elevational drawings. She stated that the application was for a change of use to a language school, and/or offices. Flexible use of planning permissions

were allowed and at times desirable. The property had been vacant since May 2008. Representations had been received from residents in Dolphin Mews objecting to the impact on residential amenity and loss of office space in the city the application would create.

The application had been assessed on policy EM5 and the premises had been actively marketed with a flexibility of tenure and space sufficiently offered, but had failed to generate interest. Officers therefore felt that a change of use was appropriate. The residents objections around loss of amenity related in large part to the proposed café within the site. The applicants had stated that this would be used as a common room rather than a café however, and any problems with noise or overlooking would be resolved by conditions for obscured glazing and restricted opening to the rear windows. The site would have a management plan to ensure students did not congregate in the area and the opening hours of the language school would be conditioned. Transport provision and parking on site was considered adequate.

- (2) Mr Hainsworth, a resident of Dolphin Mews, attended the meeting to speak against the application and stated that Dolphin Mews was only 3.9 metres away from the application site and he was concerned that this application would create a noise nuisance for the residents. The concerns of the residents had been detailed in a letter to the Planning Authority and Mr Hainsworth welcomed the conditions proposed in the report. He asked the committee to include use of a sound limiter for any recorded or amplified sound at the premises and to exclude the site from applying for an alcohol licence. He also felt that students congregating outside to smoke would also be a problem for the residents.
- (3) Councillor Smart asked if the residents had had problems with smokers from the premises in the past and Mr Hainsworth said he had not.
- (4) The Chairman noted that Licensing and Planning were separate regimes and licensing concerns could only be addressed by the Licensing Committee.
- (5) Mr Rainier, agent for the applicant attended the meeting to speak in favour of the application. He stated that there were many merits to the scheme including the proposed mixed use. The area was not tranquil by nature, but was in the city centre and surrounded by bars. Improvements had been made to the building in order to sell it, but the applicants had been unsuccessful. The language school was a use supported by the policies of the Council and the applicants had addressed many of the objections raised by officers and objectors. Obscured glazing had been agreed for the ground and first floors with restricted openings. A management plan to prevent congregation of students had been agreed and there was no access to the building from the rear of the premises. The commons area was only supplied with vending machines and the students would only be present for a period of eight weeks during their course and so the provision of extra cycle parking would not be necessary as it was unlikely they would have use of a bicycle during that time.
- (6) Councillor Kennedy asked for details about the access and egress between Dolphin House and Dolphin Mews. Mr Rainier replied that there were fire doors in the back of the building, but these would not be used except in an emergency. All access and egress for staff and students would be via the front entrance and the rear of the property was secured with a locked gate to ensure students did not smoke in this area.

- (7) Councillor Alford asked whether all the windows were to be obscured. Mr Rainier replied that the applicant had made representations against this condition as they believed it was unnecessary to have obscured glazing on all floors. There was no direct overlooking past the first floor and he felt this was an onerous and unacceptable condition. The Deputy Development Control Manager, Mr Vidler, stated that any floors with a direct window to window relationship with Dolphin Mews would need to be obscured. He felt this applied to the ground, first and second floors.
- (8) Councillor Mrs Theobald asked if the windows were restricted openings and Mr Rainier confirmed that it was.
- (9) Councillor Smart asked if this language school would have a similar number of students to the one on Portland Place and Mr Rainier replied it would have around 200 students at peak times.

### **Debate and Decision Making Process**

- (10) Councillor Kennedy stated that she wanted to see the building back in use for employment but this needed to be balanced with residential amenity. She believed the conditions proposed by Mr Hainsworth were reasonable and acceptable and asked if a condition could be included for no access from Dolphin Mews for students or members of staff. She noted that the courtyard in Dolphin Mews was enjoyed by residents and did not want to see this amenity disturbed. Mr Vidler suggested that these requests go into the management plan for the site, which included general measures to protect residential amenity, to ensure adequate control over the issues.
- (11) Councillor Alford asked for clarification on whether all the floors would be obscure glazed as the applicant had represented against this. The Chairman agreed and felt that the building would need to be obscured to at least the second floor as there was a close window to window relationship here with Dolphin Mews.
- (12) Councillor Fallon-Khan asked about the opening times of the site and asked if there had been restrictions previously when the building was used as office space. Ms Burnett replied that she was not aware of any previous restrictions. There would have been around 73 employees under the previous usage. Mr Vidler added that there was no proposed restriction on hours for the office use in this application, only for the language school use.
- (13) Councillor Mrs Theobald agreed that it was good to bring the building back into use, but was pleased there were opening restrictions. She felt that the residents amenity did need to be protected and asked if an informative could be added to state that an alcohol licence should not be applied for on the site.
- (14) Councillor Smart asked if the management plan gave the applicants authority to prevent students from smoking on the street and was informed that it did not. Mr Vidler added that the management plan was about educating users of the facility about what they should and should not do to protect the amenity of nearby residents.
- (15) Councillor Kennedy noted that the control of smokers outside City College was down to a management plan and she hoped this one would be robust enough.

(16) A vote was taken and on a unanimous vote planning permission was granted subject to the conditions and informatives set out in the report.

31.2 **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 receipt of a basement layout plan, and the conditions and informatives as set out in the report with the additional amendments as follows:

Amend Condition 3 to read:

Prior to the commencement of the language school (D1) use a site management plan is to be submitted to and approved in writing by the Local Planning Authority. The management plan should include details for dealing with the arrival and departure of students for classes, activities within common areas, smoking areas, no access (except in emergencies) for students and staff to the rear courtyard area adjoining Dolphin Mews, sound limiters for audio equipment, parking areas and general measures to ensure that the amenity of the neighbouring occupiers is not compromised. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

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

Amend Condition 4 to read:

Prior to the commencement of the language school (D1) use, the ground floor, first floor and second floor windows on the rear (western) elevation shall be obscurely glazed and permanently retained thereafter until such time that the use reverts back to offices (B1), unless otherwise agreed in writing.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

Insert additional Condition 10:

Prior to the commencement of the language school (D1) use details of the window opening restrictions are to be submitted to and approved in writing by the local planning authority. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter, unless otherwise agreed in writing.

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

Insert additional Condition 11:

Upon commencement of any proportion of D1 use the lower ground floor area identified on drawing no. ECDH. 04i shall be used for vehicular and cycle access and egress, parking, and for emergency purposes only.

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

**(iii) MINOR APPLICATIONS**

**B. Application BH2010/00944, Community Base, 113 Queens Road, Brighton – Display of externally illuminated mesh type banner to north elevation.**

- (1) Ms Burnett presented the application to the committee and demonstrated views of the application site. She stated that the application was for an external illuminated mesh banner located on the eastern side of Queens Road and adjacent to the North Laine and West Hill Conservation Areas. A similar application was refused last year and a current appeal on that decision was undetermined. An application had been approved in 2004 against officer recommendation. The key issue was the impact on the surrounding area and that the materials proposed were not sympathetic to the conservation areas.
- (2) The applicant, Mr Chalmers, attended the meeting to speak in favour of the application and stated that the application was for a small advert hording that would cover the side of an unattractive building. There was support in the community for this use and no objections had been received. There had been 24 letters of support and the application was outside the conservation area. He demonstrated pictures of advertising sited within the conservation areas and felt that his application would be no different. The owners of the building would ensure that no objectionable or inappropriate advertising would be agreed for the hording. He did not think the application contributed to road safety problems and added that the income generated was enormously important for helping to finance the charities situated within the building.
- (3) Councillor Rufus asked if there had been any objections to the application and Mr Chalmers replied he was not aware of any.
- (4) Councillor Cobb raised concern that some members of the committee needed to declare a personal interest in the item as they had the last time the application had been considered. Councillor Kennedy replied that Councillor Steedman had declared a prejudicial interest at the last committee where this site had been under consideration but was not present today and had been substituted by Councillor Rufus.
- (5) Councillor Mrs Theobald asked why the applicant was applying for a consent for four years and eleven months, and not five years. Mr Chalmers replied that he did not think it was possible to apply for a five year consent, but would do so if he could.
- (6) Councillor Fallon-Khan asked if there had been any contact between Mr Chalmers and Council Officers after the previous refusals to discuss the application. Mr Chalmers had reduced the size of the application to address concerns, and asked for hording to be reconsidered as it helped to financially support community groups.
- (7) Councillor Fallon-Khan asked if Mr Chalmers had enquired as to what size would be appropriate for the site and he replied that he had not had specific discussions in this regard.
- (8) Mr Vidler reminded the Committee that when deciding this application they needed to consider it in terms of impact on local amenity and public safety grounds. The content of the poster could not be controlled. He had no information on the other signs Mr Chalmers had referred to, but believed the street lamp banners in the area were much smaller.

- (9) Councillor Smart asked if there was any point in the applicant offering a policy on the content of the hording if it could not be controlled by the Planning Authority and Mr Vidler stated that this was not a material consideration for the Committee.

### **Debate and Decision Making Process**

- (10) Councillor Rufus stated that he felt frustrated that the planning process was designed to protect the public interest but was blocking this application, which was in the public interest to approve. There had been no objections from the public despite a high profile media case and he felt that the public either did not care about the application or did not mind. He felt that the safety and visual aspects were not an issue as drivers were regularly bombarded with visual stimulus and this would make no difference. The building itself was very unattractive and was sited in an unattractive area of Brighton and he did not believe the application would be detrimental to the visual impact of the area. He felt the officers were working in a cloistered environment and determining the application without reference to the clear public interest and public support this application enjoyed.
- (11) Mr Vidler reminded members that objections or lack of objections was not a reason to grant or refuse planning permission. All applications needed to be looked at objectively and according to policy and guidance.
- (12) Councillor Alford felt the scale of the application was a major issue and noted that there had been only a very slight reduction in size since the last application. There had been previous suggestions that small scale banners might be acceptable here but he did not feel the application as it stood was acceptable.
- (13) Councillor Mrs Theobald stated that she did not have objections to advertising signs on this site but felt that this application was very large and illuminated. She was also concerned about traffic safety at the nearby junction to the building.
- (14) Councillor Fallon-Khan stated that he had no particular issue in principle to this application but he was also troubled by the size and scale. He felt the current application was not significantly different to the one that had been previously refused and did not feel it was appropriate to grant this application. The Chairman concurred with this view.
- (15) Councillor Kennedy asked if highways were aware of any public safety issues when the building did have an advert on it. The Principal Transport Manager, Mr Reeves replied that the building was situated next to a busy junction with a number of accidents occurring at it, but not higher than was expected at a junction of this nature. There were no statistics to support refusal on highways safety grounds.
- (16) Councillor Cobb felt the application did pose a public safety threat regardless of whether statistics supported this. She believed that when the colours on an advert were bright this would constitute a distraction for drivers and felt she needed to stand by the previous decision of the Committee.
- (17) Councillor Davey stated that he had seen very distracting advertising signs already in the area and in the conservation areas. He felt the council would be inconsistent to turn this application down especially as there were council adverts already displayed close to this one.

(18) Councillor Smart stated that the committee should look at this application on its merits and not compare it with other advertising hordings in the area. He also felt the application was too large and stated he would stand by the committee's previous decision.

(19) A vote was taken and on a vote of 7 for and 4 against advertisement consent was refused for the reasons and informatives set out in the report.

31.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to refuse advertisement consent for the reason and informative set out in the report.

**C. Application BH2009/01355, Wolseley Build Centre, 19 Bristol Gardens, Brighton –** Demolition of existing building and construction of 9 new residential dwelling houses. Provision of on site parking, cycle store and refuse facilities.

(1) This application was deferred for a site visit.

**D. Application BH2010/00083, Land to rear of 67-81 Princes Road, Brighton –** Construction of 6 no. three-storey, two bedroom terraced houses with pitched roofs and solar panels. Provision of private and communal gardens, waste and refuse facilities, and erection of a street level lift gatehouse with cycle store.

[Note]: The Chairman Councillor Lynda Hyde declared a personal and prejudicial interest in this item and did not take part in the debate or voting thereon, and left the room during consideration of the application. The Deputy Chairman, Councillor Mrs Theobald took the chair for this application.

(1) The Senior Planning Officer, Ms Boggiano introduced the application and demonstrated views and elevational drawings. She noted that there was a railway line to the north and a waste transfer site nearby. The application was in the Round Hill Conservation Area and there was a previous refusal for eight dwellings on the site, which had been dismissed at appeal on the grounds of visual impact on the conservation area, lack of parking provision and a poor standard of accommodation for future users of the site. A new application in 2009 had reduced the number of dwellings to four, lowered the height of the buildings, included additional parking and an updated parking survey. This had been approved, but the applicants were now seeking to change the application to six dwellings. The overall footprint of the buildings would remain the same and the officers were recommending approval. She added there had been 164 letters of objection to the scheme.

(2) Ms Bell spoke against the application on behalf of local residents and felt that the site was overdeveloped and would have issues of overlooking. The gatehouse was out-of-character with existing properties and the window to window distances would at times be only 6 meters apart. There would be a loss of light from the scheme and the gatehouse would result in a bottle neck with limited access to the site. The nearby waste transfer site would have a serious detrimental effect on the amenity of the new residents and Ms Bell stated that at times the current residents were unable to open their windows or use their gardens as the unpleasant smells from the site were so strong. The green space was an important buffer for current residents and parking issues on the road were



a major concern as there was no extra capacity. She added that a new Car Parking Zone was being considered for the area adjacent to this site, and this would have a severe impact on parking via displacement vehicles.

- (3) Councillor Smart asked how the application would create a loss of light and Ms Bell replied that as the gardens of the current premises were north facing they only received late evening sun. The new scheme would block out this light.
- (4) Councillor Davey asked about the distances between properties and Ms Bell referred to an extension on the back of one of the existing properties which would only be around 6 meters away from the new proposed dwellings.
- (5) The agent to the applicant, Mr Coomber, addressed the committee and stated that there had been only modest changes to the approved application. The footprint was the same as previously and whilst the dwellings were slightly higher the site levels were considerably lower than existing houses on the road. There had been considerable input from consultees to ensure a high quality scheme with good landscaping on site. The window to window relationships would be greater than 6 meters and the topography of the site meant that there would be very limited views onto neighbouring properties. The landscaping would be detailed to mitigate any problems that might be perceived. He added that the application conformed to the existing policies of the Council.
- (6) Councillor Davey asked if a noise assessment had been performed on site and Mr Coomber replied that it had.
- (7) Councillor Davey asked why this did not deal with issues of noise emanating from the recycling facility. Mr Coomber replied that the assessment dealt with the levels of background noise on the site and these were deemed acceptable. He added that if noise was an ongoing problem for current residents then these properties would constitute a noise barrier to protect them from some of this disturbance.
- (8) Councillor Davey asked if this was conducive to a pleasant and high quality scheme for new residents and Mr Coomber replied that he believed the site would be a quiet and peaceful place to live with high sustainability credentials and lots of green space of residents.
- (9) Councillor Mrs Theobald asked how the site would be accessed for construction and Mr Coomber replied that the contractors would abide by the considerate contractors scheme. Many of the materials would need to be craned in as the TPO tree was a constraint on site.

#### **Questions/Matters on Which Clarification was Sought**

- (10) Councillor Smart asked if the hedge would be planted on the railway embankment. Ms Boggiano stated that it would be planted in the site boundary.
- (11) Councillor Alford raised concern over the dormer windows, which he felt had potential for creating problems with overlooking. Ms Boggiano replied that the dormers would only have very oblique views.

- (12) Councillor Davey noted that the previous appeal had been dismissed on grounds of unacceptable travel demands that would be created by the scheme. He asked what had been done to rectify this and noted that a Controlled Parking Zone was going to be introduced in an adjacent area. Ms Boggiano stated that there had been no up-to-date parking survey conducted at the previous appeal in 2007, and this was why the application had been refused.
- (13) Mr Reeves added that an additional car parking survey had been conducted in 2008/09 which produced reasonable evidence that there was sufficient evening capacity on the road for additional cars generated by the development. He recognised that a Controlled Parking Zone had been proposed for an adjacent area, but this was not a material consideration until it was approved, and he did not believe it would result in an unacceptable impact overall on the area.
- (14) Councillor Davey raised concerns over the standard of accommodation for new residents and Ms Boggiano replied that a noise assessment had been conducted and noise levels were at the limit of British Safety Standard levels when the windows were open, but this problem could be overcome by including ventilation systems to avoid the need to open the windows.
- (15) Councillor Davey asked how this problem would be overcome if residents were using their gardens. Ms Boggiano replied that as the gardens were at a lower level noise problems would be less of an issue. The problem mainly occurred in the bedrooms at night and mitigation measures would need to be implemented.
- (16) Councillor Cobb asked how accessible were bus stops in the area, how the rubbish was to be collected from the site, how far the gatehouse was from the dwellings, the width of the entrance to the gatehouse and how residents accessed this. Mr Reeves replied that a S106 contribution would go towards dropped curbs and tactile paving in the area, and there was a possibility of improving on-street cycle parking facilities. There were no bus stops in the vicinity of the site and that needed up-grading or improving. Ms Boggiano replied that the refuse would be stored at pavement level and residents would be required to transfer their waste to the upper level. The further dwelling from the gatehouse was around 48 metres away. Councillor Cobb asked what would happen if the residents required assisted removal of their rubbish. The Solicitor replied it was down to individual occupiers to assess their own capabilities and determine whether the property was right for their needs.
- (17) Councillor McCaffery asked if there was any vehicular access to the house and Ms Boggiano replied there was not.
- (18) Councillor McCaffery raised concerns over fire safety and emergency service issues. She felt the stairs were very long if the lift was out of order. Ms Boggiano replied that the fire service had been consulted. A sprinkler system was required, which would be dealt with at Building Regulations stage and the emergency services would access the site on foot if there was an emergency.
- (19) Councillor McCaffery asked why the applicant now wanted to increase the number of dwellings to six and was informed that this was due to the financial viability of the site. The Solicitor confirmed that viability is capable of being a material planning consideration.

- (20) Councillor McCaffery asked if all of the comments required had been received from Network Rail as she felt there could be problems with this. Ms Boggiano replied that she would check the planning file for their comments but added they were not consulted directly regarding the landscaping on site.
- (21) Councillor Rufus asked if the proposed ventilation systems created any additional noise on site. Ms Boggiano replied that there were more passive systems available and Environmental Health were satisfied that this could be addressed appropriately.
- (22) Mr Andrews, CAG asked what was the distance from the dormers on the front elevation to Princes Road and Ms Boggiano replied it was around 19 meters.
- (23) Mr Andrews asked if there was a rear fence to prevent overlooking from the dormers and Ms Boggiano replied that there was an existing fence and would be extensive landscaping on site to prevent overlooking and any views would be oblique.
- (24) Mr Andrews asked what was the distance from the windows to the rear garden fence along the Princes Road properties. Ms Boggiano replied it was around 12 meters, with the shortest distance around 6 meters.
- (25) Mr Andrews asked if there had been issues of overlooking raised when the previous scheme had been approved. Ms Boggiano confirmed this and added that the Inspector had fully considered this during the appeal and did not feel there would be overlooking from the dormers. The Inspector felt that there would be a greater issue from overlooking from the existing Princes Road properties onto the new site.

### **Debate and Decision Making Process**

- (26) Councillor Davey stated that he had concerns on the previous application and those concerns remained. The waste transfer site was a significant source of noise and he was concerned that the new dwellings would be acting as a noise buffer for other houses on the street as this did not indicate a high quality scheme. He felt the increase in dwelling numbers would create a cramped feel on the site and there were remaining concerns about parking provision. He felt the proposed CPZ needed to be factored into the considerations and did not feel he could support the application.
- (27) Councillor McCaffery stated that she was concerned about the safety issues on site as it was some way away from the main road. She believed the land may be contaminated and whilst the design of the dwellings and landscaping was very good, she felt these dwellings were situated in the wrong place.
- (28) Councillor Cobb agreed that the design was good but the location was not ideal. She recognised there had been a previous approval on the site, but felt there were still outstanding issues on safety, accessibility and rubbish collection. She was uncertain about whether she could support the application or not.
- (29) Mr Vidler addressed the committee and stated that Network Rail was consulted but no comments had been received. Access to the site for construction vehicles and fire engines was not a material planning consideration for Members and that four dwellings had already been approved for this site.

- (30) A vote was taken and on a vote of 2 for, 8 against and 0 abstentions planning permission was not granted.
- (31) Councillor Davey proposed refusal of the application, seconded by Councillor Rufus on the grounds of cramped accommodation, the low quality of accommodation and the negative impact on travel and parking provision in the area.
- (32) A short recess then followed in accordance with the Committee's procedure for planning decisions contrary to officer recommendations, to enable the precise wording of the proposed reasons for refusal to be drafted.
- (33) After the recess the detailed reasons and the related policies were read out and Councillor Alford asked whether further reasons for refusal could be added. He was particularly concerned with access for the emergencies services on site and did not feel the proposed sprinkler system was adequate to resolve this.
- (34) Mr Vidler informed the committee that access to the site was the same arrangements as the previously agreed scheme, and the Inspector had not raised this as an issue at the appeal.
- (35) The Solicitor added that the Planning Authority should be consistent in its decision making, but recognised that this committee was not constituted with exactly the same Members and that new issues could arise as considerations.
- (36) Councillor McCaffery also felt that there were disability access issues on the site and these did not seem to have been addressed anywhere. Councillor Rufus agreed and asked if the site conformed to lifetime homes standards. Ms Boggiano replied that half of the units were lifetime homes standards compliant whilst the other half were not. This was the same situation as what had existed in 2009 when the scheme had been approved.
- (37) Councillor Hamilton noted that if the Committee chose to add reasons to the refusal that were not considered on the previous application and the application went to appeal, the Council could be liable for costs if the refusal was unsustainable. The Solicitor to the Committee agreed and noted that if reasons were added that were not supported by evidence then this may also result in costs being awarded against the Council if the appeal was upheld.
- (38) Further reasons were not added to those already proposed and a recorded vote was taken. On a vote of 8 for, 2 against and 0 abstentions planning permission was refused for the reasons set out in the report.
- 31.4 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in paragraph 8 of the report and resolves to refuse planning permission for the following reasons:
1. The proposed development does not provide for the travel demands it creates, contrary to policy TR1 of the Brighton & Hove Local Plan.

2. The proposal, by reason of it having six dwellings on site, would result in a cramped standard of accommodation for future residents, contrary to policies QD27 and HO4 of the Brighton & Hove Local Plan.
3. The proposed development, by reason of its close proximity to the Hollingdean Waste Facility, would lead to unacceptable noise exposure to residents of the scheme, both inside and outside their dwellings, contrary to policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan

[Note]: Councillors Alford, Carden, Cobb, Davey, Hamilton, McCaffery, Fallon-Khan and Rufus voted for refusal of planning permission. Councillors Smart and Mrs Theobald voted against refusal of planning permission.

**E. Application BH2010/00931, 8 Hazel Close, Portslade** – Extension to time limit for the implementation of previous approval BH2005/00833/FP for the erection of a two bedroom attached house.

- (1) The Area Planning Manager (West), Mrs Hurley, introduced the application and demonstrated views and elevational drawings. She noted that the application had previously been approved and the applicant was applying for extension of the planning permission. There were no material changes in planning policy or guidance to consider except sustainable homes requirements, but this could be dealt with via conditions.
- (2) Councillor Smart asked if the design was similar to the adjoining property and Mrs Hurley agreed that it was.
- (3) Councillor Mrs Theobald asked how large the garden was and Mrs Hurley replied that it was of a similar size to its neighbour.
- (4) Councillor Cobb felt that it was not satisfactory to leave a plot empty for five years after planning permission had been granted and she did not feel she could support extending the permission even further.
- (5) A vote was taken and on a vote of 7 for, 2 against and 2 abstentions, full planning permission was granted subject to the conditions and informatives set out in the report.

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

**F. Application BH2009/02428, Land to rear of 197 Old Shoreham Road, Portslade** – Erection of 1 no. 2 storey building comprising 1 no. 2 bedroom maisonette and 2 no. 1 bedroom flats and associated cycle spaces, access road, footways and landscaping (3 residential units).

- (1) The Area Planning Manager (West) introduced the application and demonstrated views and elevational drawings. An application had been refused on this site in 2006 on the grounds of lack of parking provision and transport issues on the site. An appeal was dismissed and the lack of parking provision was upheld by the Inspector. A further application was submitted in 2009 and was refused on the grounds of design, scale, bulk and transport issues.

- (2) The agent to the applicant, Mr Bareham attended the meeting to speak in favour of the application and stated that this was a modestly sized dwelling and whilst there had been a previous refusal on scale, massing, bulk and footprint the current application was smaller. Whilst car parking issues were also stated as a reason for refusal by officers, Mr Bareham did not agree with this and felt that this application was a unique situation where the existing access constituted a highway safety issue and would be improved if it was closed off, and this was supported by the Highways Department. The application was now smaller and so there would be fewer residents generated by the new scheme, and Mr Bareham felt that the small increase in parking that this would create would be off-set by significant improvements to highway safety.

### **Debate and Decision Making Process**

- (3) Councillor Hamilton stated that there were good and bad points to this application and recognised that blocking up the highway access would benefit highway safety. He was concerned about the extra parking requirements the scheme would create though, as the road already had problems. Whilst the highway access could be dangerous, he felt that there were relatively few cars currently accessing and egressing the site and road safety in the area could be vastly improved by lowering the speed limit instead. He felt that on balance, as the site would not be accessible to vehicles if the application was granted and would create parking issues, he supported the recommendation from the officers.
- (4) Councillor Carden agreed and noted that fly-parking was already an issue along this road. There was a doctors surgery and school nearby that added to the parking issues along the road at peak times and on balance, Councillor Carden felt that he could not support the application and agreed with the officers recommendations for refusal.
- (5) Councillor Mrs Theobald felt that this scheme constituted a terrible back land development, that was poorly conceived and had unresolved parking issues.
- (6) A vote was taken and on a unanimous vote full planning permission was refused for the reasons set out in the report.

31.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation and resolves to refuse planning permission for the reasons set out in the report.

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

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

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

[Note 2: A list of representations received by the Council after the Plans List reports had been submitted for printing was circulated 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.]

**33. 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**

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

| <b>Application:</b>  | <b>Site visit requested by:</b>    |
|--|------------------------------------|
| BH2010/00060 & 00061, St Augustine’s Church, Stanford Avenue, Brighton | Deputy Development Control Manager |
| BH2009/01355, Wolseley Build Centre, 19 Bristol Gardens, Brighton      | Councillor Mrs Theobald            |

The meeting concluded at 5.15pm

Signed

Chair

Dated this

day of





**APPEAL DECISIONS**

|  | <b>Page</b> |
|--|-------------|
| <b>A. HANOVER &amp; ELM GROVE</b>  |             |
| Application BH2009/00963, 18a Totland Road, Brighton. Appeal against refusal to grant planning permission for replacement of windows with uPVC double-glazing. (Delegated decision) <b>APPEAL ALLOWED</b> (copy of the letter from the Planning Inspectorate attached).  | <b>21</b>   |
| <b>B. HOVE PARK</b>  |             |
| Application BH2009/00838, 40 Tongdean Avenue, Hove. Appeal against refusal to grant planning permission for construction of a new house. (Committee decision) <b>APPEAL DISMISSED</b> (copy of the letter and costs from the Planning Inspectorate attached).  | <b>23</b>   |
| <b>C. QUEENS PARK</b>  |             |
| Application BH2009/02120, 31 Upper St James's Street, Brighton. Appeal against refusal to grant planning permission for conversion of existing 3 bed maisonette above office premises to one 1 bed self-contained flat and one 2 bed self-contained maisonette. (Delegated decision) <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached). | <b>25</b>   |
| <b>D. GOLDSMID</b>   |             |
| Application BH2009/01995, 5 Wilbury Gardens, Hove. Appeal against refusal to grant planning permission for construction of crossover and vehicle hardstanding. (Delegated decision) <b>APPEAL DISMISSED</b> (copy of the letter from the Planning Inspectorate attached).  | <b>27</b>   |





# Appeal Decision

Site visit made on 12 May 2010

by **Victor Crumley** DipTP DMS MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
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**Decision date:**  
**28 May 2010**

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## Appeal Ref: APP/Q1445/A/09/2119018 18A Totland Road, Brighton, East Sussex BN2 3EN

- 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 Anna Tully against the decision of Brighton and Hove City Council.
- The application Ref BH2009/00963, dated 23 April 2009, was refused by notice dated 14 July 2009.
- The development proposed is replacement of windows with uPVC double glazing.

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### Decision

1. I allow the appeal, and grant planning permission for replacement of windows with uPVC double glazing at 18A Totland Road, Brighton, East Sussex, in accordance with the terms of the application Ref BH2009/00963, dated 23 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) Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, contained within the quotation from Shaws Installations, and dated 13 February 2009, for the avoidance of doubt and in the interests of proper planning.

### Main issue

2. I consider the main issue in this appeal to be the effect of the proposal upon the character and appearance of the building and the street scene.

### Reasons

3. The appeal property is the upper floor flat of a mid-terrace building, built as ground and first floor flats, in a street of attractive nineteenth century domestic properties. Although originally built to a standard appearance, the front elevations have changed with the use of painted render finishes in addition to the original brickwork, and there is considerable variety in the appearance of doors and windows. Apart from a rear lounge sliding sash window, the appeal flat is currently glazed with casement windows of considerable age, in a style which, in my view, is not sympathetic to the appearance of the building. The appellant wishes to replace them with sliding sash windows in uPVC, which the Council views as an acceptable material here, outside any conservation area. However, the ground floor flat has similar front windows to those above, and the Council argues that the use of windows in the appeal flat different in style

and material to those below would harm the appearance of the property and the street scene.

4. While I acknowledge that it would be best if all the front windows could be replaced at once in a coordinated scheme, I recognise that this poses practical difficulties where the upper and lower floors are in different ownerships. I noted a number of houses in the street where the upper and lower floor windows are different, and in this flatted street outside a conservation area, I do not find this to be unusual or unreasonable. In my view, it is important to take opportunities to improve the condition of the houses as they arise. The lower floor windows, like those above, are out of date and likely to be replaced in due course, and their continued existence should not in my view be allowed to prevent the improvement of the first floor flat with windows of an appropriate style.
5. I note that uPVC sash windows have been used elsewhere in the street, and I consider that the sliding sash windows now proposed would be an acceptable replacement that would fit well with the front elevation of the property. The Council has indicated that it has no objection to the proposals for the rear windows, and I agree. A planning condition, restricting permission to the approved plans for the avoidance of doubt and in the interests of proper planning, is required. I conclude that the proposal would not harm the character or appearance of the building or the street scene, and that it would comply with Policies QD1, QD2 and QD14 of the Brighton and Hove Local Plan.

*Victor Crumley*

INSPECTOR



# Appeal Decision

Site visit made on 12 May 2010

by **Victor Crumley** DipTP DMS MRTPI

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

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**Decision date:**  
**27 May 2010**

## Appeal Ref: APP/Q1445/A/10/2119610 40 Tongdean Avenue, Hove BN3 6TN

- 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 L Achurch against the decision of Brighton and Hove City Council.
- The application Ref BH/2009/00838, dated 7 April 2009, was refused by notice dated 18 August 2009.
- The development proposed is construction of new house.

### Application for costs

1. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

### Decision

2. I dismiss the appeal.

### Main issues

3. I consider the main issues in this appeal to be:
  - a) the effect of the proposal upon the character and appearance of the Tongdean Conservation Area;
  - b) the effect upon the living conditions of the occupiers of the adjacent property at No. 36 Tongdean Avenue with particular reference to loss of outlook and loss of privacy; and on the living conditions of the occupiers of the host property at No. 40 Tongdean Avenue, with particular reference to loss of outlook.

### Reasons

#### *Character and appearance*

4. The appeal site is the side garden of No. 40 Tongdean Avenue, a substantial 2-storey house in a large plot within the Tongdean Conservation Area. In my view the special character of the conservation area derives mainly from the spacious pattern of large houses in generous plots, mainly though not entirely of traditional appearance, designed to high standards and constructed of traditional materials. The many fine trees in the streets and gardens of the conservation area add maturity and considerable beauty, and contribute significantly to its character. These features are reflected in the published Conservation Area Character Statement, which refers to '...the grouping of individually designed large houses dating from the early 20<sup>th</sup> century on generous plots with mature street trees and dense garden and boundary planting'. Section 72(1) of the Planning (Listed Buildings and Conservation

Areas) Act 1990 places a duty on decision makers to give special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

5. The new house would be of traditional appearance and in certain respects would not be dissimilar to the existing property on the site. The ridge of the new house would be set at a similar level to that of No. 40, but because of the lower site level the new property would be considerably larger, with an overall height of about 8.6m by comparison with the 7m height of No. 40. It would contain three floors of accommodation, and although the second floor would be within the roof space, the rooms there would be lit by large glazed gables to front and rear, about 2m high, set entirely above first floor level. In these respects it would differ from No. 40 where first floor accommodation is contained within the roof space, and where much of the roof is drawn down to ground floor eaves level. In my view the appeal proposal would convey the appearance of a significantly larger house. It would be set back from the front of No.40, but a proposed open car port would be forward of it. The new property would be about 1.8m from the side wall of No. 40, and about 0.8m from the boundary with No. 36.
6. It was argued for the appellant that the spacious character of the conservation area does not extend to the side-to-side relationship of the houses, and that extensions and alterations have eroded the visual separation between houses. Although many houses are quite close to neighbouring properties, particularly where garages or side extensions have been built, I saw that extensions close to the boundary are usually single storey, as has occurred at No. 36, and are often softened by planting. In my view this helps to reduce the effect of building close to the boundary, and to retain the spacious character.
7. While I saw that a few smaller houses near the Barrowfield Close boundary of the conservation area have a more conventional spacing, the dominant appearance of well separated dwellings remains and contributes to the character of the area. I consider that the sub-division of this plot and the addition of the large house proposed, with high flank walls set very close to the adjacent houses, would appear cramped and overintensive, would harm the appearance of the street scene at this point, and would undermine the spacious character of the area. I conclude that it would fail to preserve or enhance the character or appearance of the Tongdean Conservation Area, and would contravene Policies QD1, QD2, QD3 of the Brighton and Hove Local Plan.

*Living conditions*

8. The adjacent house at No. 36 lies well to the rear of, and at a lower level than, the house proposed on the appeal site. In addition, although it occupies a substantial footprint, No. 36 is at present largely a single storey property, with a modest area of first floor accommodation set within the roof space. The 2-storey flank wall and high roof of the new house would project some 15m in front of its front elevation. At eaves level the flank wall would be about 2.5m above the eaves of No. 36, with the new ridge a further 3.5m higher; the wall and the high roof above would in my view give a feeling of towering over the front of No. 36. The orientation of No. 36 at an angle to the street and adjacent houses means that its front windows would also be oriented towards the new house. To the rear, the considerable height of the new house would be prominent from the extensive patio and lawned areas. While the outdoor spaces immediately in front and behind No. 36 are separated by its own garage block and rear extension from the boundary and the new house, I conclude that these outdoor areas, part of the rear garden and the windows on the front

elevation would suffer a severe overbearing and enclosing effect from the new property, and a significant loss of outlook.

9. The occupiers of No. 36 argued that the single storey section at the rear of the new house proposed to be sited along the boundary would have a flat roof which would be accessible from the first floor rear bedroom window and would be used as an outdoor balcony. This would result in severe overlooking of the rear of his property and garden, and would pose an unacceptable loss of privacy. I agree that such a use would be unacceptable, but I see no indication from the appeal drawings that it is intended to use the rear flat roof in this way. The matter could be set beyond doubt by the imposition of a suitable condition of any planning permission constraining the design of the window and use of the roof, and I do not therefore consider that the proposal threatens the privacy of the adjoining occupiers. However, this does not outweigh my conclusion about the loss of outlook.
10. The host property at No. 40 currently benefits significantly from the open character of its large side garden. The construction of this substantial property immediately adjacent to the side wall of No. 40 in this previously spacious setting would in my view have an adverse overbearing impact on the house and the garden at both the front and the rear, to the detriment of the living conditions of its occupiers. I acknowledge the general importance of increasing residential densities, but this should not in my view be done in a way that would harm living conditions for existing occupiers. This together with my concern about the effect on No. 36 leads me to conclude that the proposal would have an unacceptable adverse effect on the living conditions of the occupiers of the adjacent properties, contrary to Local Plan Policies QD1, QD2 and QD3.

#### **Other matters**

11. I have taken account of the fact that a substantial first floor extension has been approved at No. 36 which, if constructed in full, would increase markedly the size and bulk of that house. In my view, while this might reduce the effect of the appeal proposal on the patio areas closest to the rear of No 36, it would not change the impact on large areas of the rear garden or the effect at the front of the house, and does not cause me to reach a different conclusion.
12. I have noted the appellant's view that the design of the rear of the property is intended in part to screen the appearance of the rear of the boundary extensions to No. 36 from her garden, but I do not accept that this justifies the development now proposed. I have also taken into account her view that the Council's approval of a pair of semi-detached houses for the site at No. 42 supports the case for sub-division of the appeal site. However, the Council had previously resisted the subdivision of this plot into separate detached units, and I consider my decision to be consistent with that position. The Council argued that the approved semi-detached houses would have the appearance of a large single house on a substantial plot, and I have no reason to disagree. I note that, standing some 4m from the boundary with No. 40, the approved semi-detached pair would appear well separated from it. I do not therefore believe that the Council's position in that case supports the appeal proposal.

*Victor Crumley*

INSPECTOR

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# Costs Decision

Site visit made on 12 May 2010

by **Victor Crumley** DipTP DMS MRTPI

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

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**Decision date:**  
**27 May 2010**

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## Costs application in relation to Appeal Ref: APP/Q1445/A/10/2119610 40 Tongdean Avenue, Hove BN3 6TN

- 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 Mrs L Achurch for a full award of costs against Brighton and Hove City Council.
- The appeal was against the refusal of planning permission for construction of a new house.

**Summary of Decision: The application for an award of costs is refused.**

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### The Submissions for the Appellant

1. The appellant's case was submitted in writing.

### The Response by the Council

2. The Council's response was also made in writing.

### Conclusions

3. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
  4. The appellant argues that the reasons given for refusal were based on misrepresented and misleading information of plans and drawings as communicated to members orally and in writing. I assume that this refers to the officers' report to Committee, and the presentation of the case at the Committee meeting. The Committee report is detailed and lengthy, and in my view explains adequately the officers' views of the case. It is clear from the Committee minutes that drawings were exhibited at the meeting and discussed, and that matters of concern to the appellant were raised at the meeting. I cannot know exactly what was said at the meeting, but I see no evidence to demonstrate that these stages were conducted unreasonably.
  5. Complaint is made that the description of Tongdean Avenue given in Reason 1, which describes it as '...characterised by large plots with generous spaces between buildings' is misleading. I acknowledge that extensions to the sides of buildings and some recent redevelopment have resulted in buildings close to plot boundaries, but I consider that the effect of this depends on the height and bulk of buildings close to boundaries. I consider that it is possible to hold different views as to whether the relationship between the properties can be characterised in this way. I find the description to be a reasonable reflection of
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most of the properties in the street, and in my view the use of the phrase in this context would not mislead the Council members who made the decision, and could not be considered as unreasonable.

6. Complaint is also made about the use of the phrase 'three storey appearance' to describe the appeal proposal in Reason 2. The dwelling proposed would have living accommodation on ground, first and second floors. The second floor would be contained within the roof space, but its presence would be emphasised by the feature window created from a prominent glazed gable. The ridge level would be similar to No. 40, but the height of the new house would be greater. In these circumstances I find the use of the phrase 'three storey appearance' to be acceptable. The minutes make clear that at their Committee meeting members asked questions about the height and were shown the drawings. I do not therefore consider that the description was likely to convey a mistaken impression, and I do not find it to be unreasonable.
7. It is alleged that members' attention was not drawn to the approval granted for a large extension at No. 36, and that this was misleading. However, I find that the Committee report contains a paragraph which clearly states that an extension to No. 36 has been approved, and comments on the likely impact of this extension, should it be built, on the effect of the appeal proposal. The minutes state that the Area Planning Manager gave a presentation detailing the '.... history of the site and the extant (but yet to be executed) permissions granted in relation to neighbouring plots....'. It seems to me that members would be well aware of the permission to extend No. 36, and would be able to take it into account in reaching a decision. I do not find the Council's action on this matter to be unreasonable.
8. I consider that unreasonable behaviour resulting in unnecessary expense, as described in Circular 3/2009, has not been demonstrated and I therefore conclude that an award of costs is not justified.

### **Formal Decision**

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

*Victor Crumley*

INSPECTOR



# Appeal Decision

Site visit made on 12 May 2010

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

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**Decision date:**  
**1 June 2010**

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## Appeal Ref: APP/Q1445/A/09/2118016

### 31 Upper St James's Street, Brighton, BN2 1JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr S Williams against the decision of Brighton & Hove City Council.
- The application Ref BH2009/02120, dated 22 September 2009, was refused by notice dated 9 November 2009.
- The development proposed is the conversion of existing 3 bedroom maisonette above office premises to one 1 bedroom self-contained flat and one 2-bedroom self-contained maisonette.

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## Decision

1. I dismiss the appeal.

## Main issue

2. The main issue in this appeal is whether the proposed conversion would be consistent with the objectives set out in the development plan that seeks a range of housing types.

## Reasons

3. The appeal relates to an existing residential property that occupies the upper floors of a building fronting St James's Street. There is a separate entrance to the property, with commercial use on the ground floor.
4. Saved Policy HO9 of the Brighton & Hove Local Plan 2005 sets out the criteria to be satisfied to allow planning permission to be granted for the conversion of dwellings into smaller units of accommodation throughout the City. The use of the word 'and' in the list of criteria indicates to me that all the criteria must be satisfied in order to achieve compliance with the Policy. Criterion a) states that the original floor area shall be greater than 115 sq m or the dwelling shall have more than 3 bedrooms as originally built. I am informed by the Council that the internal floorspace of the dwelling is around 102 sq m, which the appellant does not dispute. The proposed development would therefore not satisfy the first criterion, and so would not satisfy Policy HO9.
5. The appellant has drawn my attention to an appeal decision from January 2009 which granted permission for the conversion of an existing dwelling into two dwellings, and where the original property did not satisfy criterion a) of Policy HO9 (ref. APP/Q1445/A/08/2083968). In his decision letter the Inspector observed that, in such circumstances, Policy HO9 is silent in whether planning permission will be granted for dwellings that do not meet one of the Policy's

criteria. My colleague further commented that, in such circumstances, it was necessary to see whether the Council's underlying intention of seeking to retain the existing stock of smaller dwellings suitable for family accommodation would be materially jeopardised. He then went on to observe that – in the case before him – the proposal would be for one small dwelling of similar size and suitability for family accommodation to the house as originally built, together with an additional one-bedroom flat. For this reason he concluded there would be no conflict with the objectives of Policy HO9.

6. That is not the case in the appeal before me. The proposed drawings show the larger (two bedroom) dwelling would be materially smaller than the existing dwelling as originally built and as exists now; the first floor would no longer be part of the dwelling, as it would become the new 1 bedroom flat. In my view, the reduction in floorspace would be to a degree that moves the property away from one containing a dwelling that might be suitable for family accommodation, and so would result in a reduction in the stock of smaller dwellings suitable for such occupation.
7. Thus, there are material differences in the previous appeal and the case before me. It is therefore my conclusion that the proposed development would not be consistent with the Council's objectives that seek to retain a range of housing types, and so would conflict with Policy HO9.
8. I consider the proposed conversion, including the external changes, would have no harmful effect upon the character and appearance of the East Cliff Conservation Area. However, in my judgement the conflict with Policy HO9 is sufficient to warrant the dismissal of the appeal.

*C J Leigh*

INSPECTOR



# Appeal Decision

Site visit made on 12 May 2010

by **Victor Crumley** DipTP DMS MRTPI

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

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**Decision date:**  
**26 May 2010**

## Appeal Ref: APP/Q1445/A/09/2119403 5 Wilbury Gardens, Hove, BN3 6HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr John Cramer against the decision of Brighton and Hove City Council.
- The application Ref BH2009/01995, dated 13 August 2009, was refused by notice dated 28 October 2009.
- The development proposed is construction of crossover and vehicle hardstanding.

### Decision

1. I dismiss the appeal.

### Main issues

2. I consider the main issues in this appeal to be:
  - a) the effect of the proposal upon the nearby elm tree;
  - b) the effect upon the character and appearance of the street scene.

### Reasons

#### *Effect on street tree*

3. The appeal proposal envisages the removal of a length of boundary wall in front of the appeal property and the construction of a vehicle crossing and hardstanding, comprising 2 strips of block paving within a shingle surface. A mature elm tree stands in the footpath outside the corner of the site and about 3m from it. The tree is part of the National Elm collection, which is dispersed throughout the City and maintained by the Council. Its protection and preservation are clearly important. The effect of the roots of the tree on the surface of the footpath are apparent from the substantial swelling of the surface around the base of the tree, and it is clear that the roots must reach well under the appeal site. The Council's arboriculturist advises that two structural roots lie beneath the site, and that the work of constructing the proposal would be likely to damage the roots, and potentially jeopardise the health of the tree.
4. The appellant has not commissioned his own arboricultural advice, but points out that a similar hardstanding with a comparable relationship to a mature elm has been allowed at No. 26 Wilbury Gardens, which he argues demonstrates that such a crossover can be constructed without damage to the root system. I understand that this scheme has only recently been completed, and I consider

it too early to judge whether or not harm has been done. Further, I consider that in assessing the impact of development on trees, the particular arboricultural features of each case are important. My own observation of this site leads me to concur with the views of the Council's arboriculturist, and in the absence of qualified advice to the contrary, I conclude that the proposal would be harmful to the health of the elm tree outside the site, contrary to Policies QD2 and QD16.

*Street scene*

5. The proposal envisages the removal of some 5m of low wall along the front of the property. Clearly, many of the existing shrubs and plants within the garden would also have to be removed. The appearance of frontages along Wilbury Gardens varies considerably, but it is not unduly dominated by front garden parking areas, and is assisted by a good proportion of retained boundary walls and cultivated gardens. The existing arrangement at the appeal site contributes positively to the generally attractive appearance of the area. I consider that the removal of the wall at the appeal site and the creation of an open fronted plot laid out mainly with shingle would have an adverse effect on the appearance of the street scene.
6. The appellant argues that the final appearance of the scheme at No. 26 adds 'visual relief' to the street scene, and that in this respect it is a success. I cannot agree. I find the unrelieved shingle finish and the absence of a side boundary and garden planting to result in a hard unsympathetic appearance which contributes little to the street scene, and I do not accept the result there as justification for the appeal proposal. I conclude that the proposal would harm the appearance of the street scene, contrary to local Plan Policies QD1 and QD2.

*Victor Crumley*

INSPECTOR

# PLANNING COMMITTEE

Agenda Item 44  
Brighton & Hove City Council

## NEW APPEALS LODGED

### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

### **ROTTINGDEAN COASTAL**

BH2010/00211

Grand Ocean Hotel, Longridge Avenue,  
Saltdean

Construction of three new residential units  
within existing Listed Building.

APPEAL LODGED

09/06/2010

Delegated

### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

### **WITHDEAN**

BH2009/02193

27 Glen Rise, Brighton

Conversion of bungalow to two storey house  
including 2 storey rear extension, roof  
extensions and associated works  
(Retrospective).

APPEAL LODGED

08/06/2010

Delegated

### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

### **HOVE PARK**

BH2010/00109

30 Goldstone Way, Hove

Erection of a front extension, new external  
access staircase and other external alterations.

APPEAL LODGED

08/06/2010

### WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

### **WITHDEAN**

BH2010/00396

11 Surrenden Crescent, Brighton

Erection of extensions reaching up to two  
storeys in height and remodelling to existing  
house.

APPEAL LODGED

09/06/2010

Delegated

|  |                                     |
|--|-------------------------------------|
| <b><u>WARD</u></b>                       | <b>ST. PETERS &amp; NORTH LAINE</b> |
| <b><u>APPLICATION NUMBER</u></b>         | BH2010/00226                        |
| <b><u>ADDRESS</u></b>                    | 51 Church Street, Brighton          |
| <b><u>DEVELOPMENT DESCRIPTION</u></b>    | Proposed rear dormer.               |
| <b><u>APPEAL STATUS</u></b>              | APPEAL LODGED                       |
| <b><u>APPEAL RECEIVED DATE</u></b>       | 09/06/2010                          |
| <b><u>APPLICATION DECISION LEVEL</u></b> | Delegated                           |

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| <b><u>WARD</u></b>                       | North Portslade  |
| <b><u>APPLICATION NUMBER</u></b>         | BH2010/00160   |
| <b><u>ADDRESS</u></b>                    | 1-2 New Barn Cottages, Foredown Road,<br>Portslade   |
| <b><u>DEVELOPMENT DESCRIPTION</u></b>    | Conversion of two semi detached cottages into<br>a single dwelling house incorporating a two<br>storey rear extension. |
| <b><u>APPEAL STATUS</u></b>              | APPEAL LODGED  |
| <b><u>APPEAL RECEIVED DATE</u></b>       | 09/06/2010   |
| <b><u>APPLICATION DECISION LEVEL</u></b> | Delegated  |

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**INFORMATION ON HEARINGS / PUBLIC INQUIRIES**  
**30<sup>th</sup> June 2010**

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**This is a note of the current position regarding Planning Inquiries and Hearings**  
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**Gala Bingo Hall & Adjacent Car Park, 193 Portland Road, Hove**

Planning application no: BH2009/03154

Description: Demolition of existing building. Redevelopment of site to provide new GP surgery at part ground floor level and part first floor level, new D1/D2 unit at ground floor level and 35 residential units above in part 2, 3, 4 and 5 storey building to include 14 affordable units. Provision of surface parking for 18 cars, cycle parking and landscaping.

Decision: Committee

Type of appeal: Informal Hearing

Date: Tuesday 7<sup>th</sup> September 2010

Location: Council Chamber, Brighton Town Hall

**25 Hazeldene Meads**

Planning application no: BH2010/00242

Description: Hip to gable roof extension to south end including 3 No. dormers, 1 No. rooflight and pitched roof porch extension at front elevation. Installation of 9 No. Solar Panels to rear over existing dormer.

Decision: Committee

Type of appeal: Public Inquiry

Date: TBC

Location: TBC

