



**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	2 February 2011
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall
Members:	<p>Councillors: Hyde (Chairman), C Theobald (Deputy Chairman), Carden (Opposition Spokesperson), Alford, Cobb, Davey, Hamilton, Kemble, Kennedy, McCaffery, Simson and Steedman</p> <p>Co-opted Members: Mr Philip Andrews (Conservation Advisory Group)</p>
Contact:	<p>Jane Clarke Senior Democratic Services Officer 01273 291064 jane.clarke@brighton-hove.gov.uk</p>

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AGENDA

204. 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.

205. MINUTES OF THE PREVIOUS MEETING

1 - 18

Minutes of the meeting held on 14 January 2011 (copy attached).

206. CHAIRMAN'S COMMUNICATIONS

207. PETITIONS

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

208. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 26 January 2011).

No public questions received by date of publication.

209. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 26 January 2011).

No deputations received by date of publication.

PLANNING COMMITTEE

210. WRITTEN QUESTIONS FROM COUNCILLORS

No written questions have been received.

211. LETTERS FROM COUNCILLORS

No letters have been received.

212. NOTICES OF MOTION REFERRED FROM COUNCIL

No Notices of Motion have been referred.

213. APPEAL DECISIONS

19 - 34

(copy attached).

214. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

35 - 36

(copy attached).

215. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

37 - 38

(copy attached).

216. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

39 - 42

The Committee noted the position on information on pre-application presentations and requests as set out in the planning agenda.

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

218. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST

(copy circulated separately).

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

220. 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

Members are asked to note that plans for any planning application listed on the agenda are now available on the website at:

<http://www.brighton-hove.gov.uk/index.cfm?request=c1199915>

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.

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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) or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Tuesday, 25 January 2011

BRIGHTON & HOVE CITY COUNCIL

PLANNING COMMITTEE

2.00pm 14 JANUARY 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Hyde (Chairman), Carden (Opposition Spokesperson), Alford, Allen, Davey, Hamilton, Kemble, Kennedy, K Norman, Simson, Smith and Steedman

Officers in attendance: Jeanette Walsh (Head of Development Control), Steve Walker (Senior Team Planner), Hamish Walke (Senior Team Planner), Roger Dowty (Design & Conservation Team Manager), Hilary Woodward (Senior Lawyer) and Jane Clarke (Senior Democratic Services Officer)

PART ONE

186. PROCEDURAL BUSINESS

186a Declarations of Substitutes

186.1 Councillor K Norman declared that he was substituting for Councillor Mrs Theobald.

186.2 Councillor Smith declared that he was substituting for Councillor Cobb.

186.3 Councillor Allen declared that he was substituting for Councillor McCaffery.

186b Declarations of Interests

186.4 Councillor Alford declared a personal and prejudicial interest in application BH2010/01967, Land adjacent to 481 Mile Oak Road as he was speaking against the item as Ward Councillor. He left the meeting during consideration of the item and did not take part in the discussion and voting.

186.5 Councillor Smith asked the Solicitor to the Committee for advice regarding application BH2010/02926, 25 Oaklands Avenue. The applicant for the application had attended one of his ward surgeries to present their application to him.

186.6 The Solicitor to the Committee asked Councillor Smith if he had at that time expressed a view on the application, and whether he had come to the Committee meeting with an open mind regarding the application. Councillor Smith confirmed that he had not formed or expressed any view on the application and came to it with an open mind.

186c Exclusion of the Press and Public

186.7 In accordance with Section 100A of the Local Government Act 1972 (“the Act”), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

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

187. MINUTES OF THE PREVIOUS MEETING

187.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 15 December 2010 as a correct record with the following amendment to item D application BH2009/03105, Medina House, Kings Esplanade, paragraph 2:

The Planning Officer, Mr Everest introduced the application and presented plans and elevational drawings. He stated that the building was locally listed and contained features of historical interest. Its last use was B1 light industrial and there had been no evidence submitted to demonstrate that this should be changed, or that the building was beyond economic repair. The application would provide parking for 9 vehicles and include a two storey restaurant. There were no objections on transport grounds.

At 9 storeys the building would be viewed as a tall building. The Medina House site was not though in an area identified as where tall buildings may be acceptable, and adopted guidance stated that conservation areas are not generally suitable for tall buildings. However, existing seafront development adjoining the site comprised tall buildings, so on this basis there was some justification for a building of the scale proposed.

The development would be highly visible from adjoining properties and would impact on loss of light however, which would fall below recommended levels. It was recommended that both planning permission and Conservation Area Consent be refused.

188. CHAIRMAN'S COMMUNICATIONS

188.1 There were none.

189. PETITIONS

189.1 There were none.

190. PUBLIC QUESTIONS

190.1 There were none.

191. DEPUTATIONS

191.1 There were none.

192. WRITTEN QUESTIONS FROM COUNCILLORS

192.1 There were none.

193. LETTERS FROM COUNCILLORS

193.1 There were none.

194. NOTICES OF MOTION REFERRED FROM COUNCIL

194.1 There were none.

195. APPEAL DECISIONS

195.1 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.

196. LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

196.1 The Committee noted the new appeals that had been lodged as set out in the planning agenda.

197. INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

198. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

198.1 The Committee noted the information on pre-application hearings and requests.

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

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

Application:	Requested by:
BH2010/02926, 25 Oaklands Avenue, Rottingdean	Councillor Simson

200. TO CONSIDER AND DETERMINE PLANNING APPLICATIONS ON THE PLANS LIST**(i) TREES**

200.1 There were none.

(ii) MINOR APPLICATIONS**(A) Application BH2010/01967, Land Adjacent to 481 Mile Oak Road, North Portslade – Erection of 2 semi detached dwellings.**

(1) The Senior Team Planner, Mr Walker, introduced the application and presented plans, photos and elevational drawings. He drew Members' attention to an additional recommended condition on the late list regarding slow worms. The site was in a built up area included in the development plan, but the adjacent paddock was classed as rural land in the policy. Outline planning permission had been refused in 2008 for reasons of harm to neighbouring amenity, proximity to the A27, potential damage to trees on site and the absence of an appropriate site survey for wildlife.

The new application was no longer sited on the party boundary and it was therefore felt that the impact on neighbouring amenity had been dealt with. It was noted that there was no separation between the site and the Downland environment, but was nether-the-less in a built up area. There would be some tree loss on site, but this would be mitigated by the proposed replacement planting.

In terms of residential amenity the neighbours at 481 Mile Oak Road would be most affected. The windows in closest proximity to the development would serve a lounge and bedroom. The outlook here would be reduced but a sufficient separation distance would be retained. Sufficient light would be received at ground floor level and would not constitute a significant impact on the property.

There were no concerns raised by the Highways Department and the development would reach level 5 under the Code for Sustainable Homes. It was noted that there was a greenway route to the rear of the site but this was not a key material planning consideration.

The ecological report stated that there were no badger setts on site and it was not suitable for bat colonies. There was low reptile use on site, but this did include slow worms and these would be relocated. It was noted that the fence of the development site was not in alignment with the plans and this needed to be corrected via condition to ensure there was no encroachment onto the Downland area.

(2) Councillor Alford spoke as local Ward Councillor in objection to the scheme and stated that the land had previously been a back garden, and a heavily wooded copse. The ground was a natural part of the South Downs and adjacent to the Park area. It was heavily used by wildlife including badgers and foxes. There were badger runs on the north and south part of the site and Councillor Alford had seen video

evidence of this. The current occupiers of 481 Mile Oak Road had installed a snake fence around their garden as they had adders using their back garden.

The dimensions of the proposed property would destroy the light and outlook of 481 Mile Oak Road, and the proposed development would be too close to the A27, with unacceptable noise levels for future occupiers. The rear boundary of the site was also in dispute. Councillor Alford asked for this application to be rejected on the same reasons for refusal as were previously given, as he did not feel these reasons had been addressed with the new application.

- (3) Ms Cattell, agent for the applicant, spoke in favour of the application and stated that the applicant was fully aware of the ecological concerns on site and had conducted a thorough survey. The site had limited ecological value, and the Council's Ecologist concurred with this view. Enhancements were being made to the site, including relocation of the slow worms, relocating of badger trails and an ecology site to be set up in the adjoining paddock to encourage biodiversity in the area. The principle of development on this land was accepted and the proposals would deliver much needed family housing in a traditional design that would enhance the street scene. The application would achieve maximum credits under the Lifetime Homes scheme and would include PV and solar panels as part of the sustainability of the scheme. The development met all relevant policies and would create a valuable contribution to the housing stock.

Questions/Matters on Which Clarification was Sought

- (4) Councillor Simson asked whether the crossover was close to the tunnel and Mr Walker replied that it was well away from the embankment, around 10-15 metres beyond the tunnel.
- (5) Councillor Simson asked for more details regarding the small window on the side elevation and Mr Walker replied that it would service an en-suite bathroom, have obscured glazing and would be around 3 metres away from the elevation of 481 Mile Oak Road.
- (6) The Chairman asked what the separation distances would be between the upper bedrooms of the existing and proposed properties, and whether this would have an effect on the light of 481 Mile Oak Road. Mr Walker replied that there would be approximately 3 metre separation distance and there would be some impact on light levels, but not sufficient enough to warrant a refusal.
- (7) The Chairman asked if there would be sufficient light to the lounge due to the conservatory windows and Mr Walker agreed. He added that it was not ideal, but it was sufficient.
- (8) Councillor Kemble asked what the size of the plot and the size of the developments were. Mr Walker replied that the plot size was 448 sq metres and the development was 121 sq metres for both houses.
- (9) Councillor Davey asked if the previous refusal had been a delegated or committee decision. Mr Walker replied that it was a delegated decision.

- (10) Councillor Davey asked if the A27 would have a noise impact on the proposed development. Mr Walker replied that a noise survey had been conducted and found that there would be no significant impact on the proposed development. This adequately dealt with the previous reason for refusal.
- (11) Councillor Hamilton noted that a number of badgers and reptiles had been seen using this area, and asked for confirmation that the ecologist had been to the site before agreeing with the recommendations of the ecology survey. Mr Walker confirmed that the Council's ecologist had seen both reports and was satisfied with the terms of the reports, and that he had been on site in the past.
- (12) Councillor Simson noted the objection from the Campaign for Rural England, which was based around the land being classified as greenfield. Mr Walker agreed but noted it was situated in a built up area. In principle development here was acceptable. The paddock adjoining the site was countryside land however.
- (13) Councillor Steedman asked if code level 5 for Sustainable Homes would in fact be achieved on this site, and asked if the Council would be particularly stringent in this case, given the location of the land adjacent to the South Downs National Park. Mr Walker replied that there was no reasons to assume that code level 5 could not be achieved. In the past where applications had failed to achieve code 5 it had been mainly due to design constraints, but the design here was fairly simple and traditional and so should be able to achieve the standards necessary for code 5.
- (14) Councillor Simson asked the agent, Ms Cattell why only one badger run was identified in the ecology report, when there was evidence of two. Ms Cattell replied that the ecology report had only found evidence of one track.
- (15) Councillor Davey asked Ms Cattell whether there would be any noise disturbance from the A27 for prospective residents. Ms Cattell replied that the noise survey had found that there was no mitigation needed as a result of noise impact on the development from the A27.

Debate and Decision Making Process

- (16) Councillor Carden stated that he knew the area very well. In the last 30 years he had visited the area it was not unusual to see badgers and foxes crossing the site and there had previously been a large badger set on site, which had been relocated when the A27 was built. He felt that noise disturbance could come and go depending on the wind direction, and noted that it was very noisy when the wind blew from a north-easterly direction. Councillor Carden had been worried for some time about the potential for cars to leave the by-pass at the juncture if visibility was poor, and crash into the application site below. However, for mainly ecological reasons he could not support the application on this site.
- (17) Councillor Simson shared Councillor Carden's concerns regarding the ecology on site and stated that there had been clear evidence of more than one badger track traversing the site, which put the accuracy of the report in question. She was also concerned about the impact on 481 Mile Oak Road, especially in terms of

overshadowing and loss of light. Councillor Simson also felt there would be a loss of privacy for these residents. Finally, she felt the site provided a natural barrier between the residential housing and the A27.

- (18) Councillor Hamilton believed that this site would be very noisy. He added that when the new A27 had been built, the current residents had received money to mitigate against the increase in noise levels and the nuisance this caused. He also did not feel that the design of the proposed development sat well with neighbouring properties and was not sympathetic to the area.
- (19) Councillor Norman felt that there was very little difference between this application and the previously refused application and did not feel he could support it.
- (20) Councillor Davey felt that the development was very close to the A27 and it was hard to believe that no mitigation would be necessary for noise disturbance. He agreed that the site acted as a barrier between the houses and the road and did not feel he could support the application.
- (21) The Head of Development Control, Ms Walsh, addressed the Committee and stated that no significant weight should be attached to what the applicant may have done to the site in preparation for development. The money received by residents when the A27 was built was likely to be for use to retrofit the houses to make them more sound proof, and not for compensation regarding any noise disturbance.
- (22) A vote was taken and on a vote of 9 against, 0 for and 2 abstentions, the recommendation to grant planning permission was not agreed.
- (23) Councillor Kemble proposed an alternative recommendation to refuse the application and Councillor Norman seconded the proposal.
- (24) A second recorded vote was taken and on a vote of 9 for, 0 against and 2 abstentions planning permission was refused for the reasons given below.

200.2 **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 reasons as follows:

1. The development would by reason of proximity, scale and general relationship to the neighbouring property result in significant harm to amenity for occupiers of 481 Mile Oak Road through loss of light and outlook to side (north-west) facing windows at ground and first floor level. The proposal is therefore contrary to policy QD27 of the Brighton & Hove Local Plan.
2. The development would, by reason of its scale and design be out of keeping with the adjoining properties and would not fit comfortably in the street scene to the detriment of the general amenities of this site adjacent to countryside/Downland, contrary to policies QD1 and QD2 of the Brighton & Hove Local Plan.

3. The Local Planning Authority does not consider that the occupiers of the proposed properties would benefit from a reasonable level of amenity due to noise from the adjoining A27 by-pass, contrary to policy QD27 and SU10 of the Brighton & Hove Local Plan.
4. The applicant has failed to satisfy the Local Planning Authority that appropriate site investigation works have been undertaken to demonstrate that the development would not directly or indirectly affect a species of animal or plant, or its habitat, protected under National or European legislation, therefore contrary to policy QD18 of the Brighton & Hove Local Plan.

Note 1: Councillors Hyde, Carden, Smith, Davey, Hamilton, Kennedy, Simson, Kemble and Norman voted for the proposal to refuse the application. Councillors Allen and Steedman abstained from voting.

Note 2: Councillor Alford did not take part in the debate or voting on this item.

(B) Application BH2010/02000, Stanmer House, Stanmer Park, Brighton – Proposed installation of fences to the garden area at the side of the building, replacement of fencing and walls to either side of the gates with 1.8 metre high walls, and additional landscaping (part retrospective).

(1) The officer's presentation for this application was taken together with application BH2007/01206, Stanmer House, Stanmer Park, Brighton.

(2) The Senior Team Planner, Mr Walke, introduced the 2010 application and presented plans, photos and elevational drawings. He noted that part of the lawns had already been enclosed and approval had been given for a 1.5 metres high fence. The current fence at 1.7 metres high was unauthorised and this application sought to regularise this situation as well as include brick wall sections to either side of the Italian gates. The development included a detailed landscaping scheme to address the starkest view of the fencing from the park.

The 2007 application was for 1.7 metres high fencing and would enclose a public access route across the lawns. The fences proposed were utilitarian and unattractive and there would be some adverse impact on the house and park, but would secure removal of the existing unauthorised fence. Additional landscaping was proposed to address these concerns.

Stanmer House needed to have a viable use to ensure its future and these applications would secure the lawn area for events held at the house, and enhance the security features of the house. On balance the application was acceptable in principle and whilst the brick wall and fencing was utilitarian, the Italian gates would remain and this was therefore acceptable.

Regarding ecological issues on site there was a colony of glow worms that would now not be affected as the fencing had been relocated away from the colony, and whilst some trees would be removed as part of the landscaping scheme, their removal would improve views of the house and for the main part the trees were coming near to the end of their natural lifespan.

- (3) Mrs Lyon spoke on behalf of the Stanmer Preservation Society and stated that Stanmer Park had been sold to Brighton in 1947. The park and house were unique and well used by local people. She felt it was unacceptable to enclose the second lawn for business purposes, and the viability of the house as a business was not a planning consideration.

Mrs Lyon felt that the business should adapt to the unique public use of the house and grounds, rather than the other way around. She did not feel there had been any significant security issues in the last 3 years and bunding had already been put in place to prevent cars from joyriding on the estate. Fencing had been refused previously on this site because of the open relationship between the house and park and fencing would be detrimental to the ecology of the site. Mrs Lyon did not feel that this had changed.

The flat lawns were used by families and disabled people and the footpath was in regular use on a daily basis. The proposed alternative route was steeper and longer and the footpath was an integral part of the new nature trail that was fully usable for disabled people.

- (4) Councillor Hawkes spoke against the application as Ward Councillor and stated that the area had been purchased by Brighton to ensure control of the local water table. The nature of the site was beautiful open countryside, and Councillor Hawkes felt it would be wrong to fence areas of this off with inappropriate metal fencing. The park and lawn area was heavily used by people with buggies and wheelchairs and access to this flat area should not be restricted. The needs of the business were not relevant to planning considerations and it was unreasonable to enclose the lawn area for business use. People from across the city and beyond enjoyed using the park and it should be retained for public access. The security at the site had greatly improved, and whilst there had been some difficulties in the past, this had now been largely resolved.
- (5) Mr Holland, on behalf of the applicant, spoke in favour of the application and stated that the applicant had spent a great deal of time and money restoring the house and grounds to a viable use for business and public purposes, and the applicant understood the public nature of the park. It was not correct to state there were no criminal issues associated with the park and in the last year there had been burned out cars left in the driveway, joy riders and 3 serious break-ins, one of which had nearly burned the house down. These applications were to improve the security of the house and formal grounds. When the site was leased the applicants had not expected there to be serious criminal problems, or that securing fencing would be an issue. A crime reduction advisor had recommended that a 1.8 metre high fence be erected, but the applicants had felt that 1.7 metres would be more appropriate. They wanted to retain the feature of the Italian gates, and with good fencing and conservation of the site sustainability for the house and grounds could be achieved.

Questions/Matters on Which Clarification was Sought

- (6) Councillor Kemble asked why the application for 2007 had take so long to reach committee stage. Mr Walke replied that there had been detailed issues to resolve such as the fence relocation away from the glow worm colony and the public access route.
- (7) Councillor Simson asked what the implications would be if the Committee agreed one application but not the other. Mr Walke replied that the applications were closely linked. The applicant had been advised so submit one application covering both aspects of the fencing, but they had decided not to do this.
- (8) Councillor Davey asked if the application was for fencing or walls. Mr Walke clarified that the only walled section would be around the Italian gates; the rest would be fencing.
- (9) Councillor Kennedy asked Mr Holland where the line of the lease fell on the map and Mr Holland replied that their lease covered the whole of the area within the red line.
- (10) Councillor Davey asked if there was any historical precedent for enclosure of the lawns. The Design and Conservation Team Manager, Mr Dowty, replied that there was no known historical precedent for enclosure of the park. There may have been enclosures for livestock at some time in the past, but not to prevent human access.
- (11) Councillor Simson felt that gates normally sat between some sort of enclosure, and asked if the Italian gates had fences attached to them in the past. Mr Dowty replied that he was unsure why the gates had been sited there as there was no specific historical reason. They were an ornamental feature however and did not have fences attached historically.

Debate and Decision Making Process

- (12) Councillor Steedman stated that he was unhappy with the application as the design was unacceptable. The fence was noted as being utilitarian and unattractive, and was higher than the previous permission given by the Council. He felt the enclosure was a bad idea.
- (13) A vote was taken and on a vote of 5 for, 6 against and 1 abstention, the recommendation to grant planning permission was not agreed.
- (14) Councillor Steedman proposed an alternative recommendation to refuse the application on the reasons given below, and Councillor Kennedy seconded this proposal.
- (15) A second recorded vote was taken and on a vote of 6 for, 5 against and 1 abstention planning permission was refused for the reasons given below.

200.3 **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 reason that:

1. The utilitarian design and excessive height of the proposed fencing would have an adverse impact on the adjoining listed building and the open nature of Stanmer Park contrary to policies HE3, HE6 and HE11 of the Brighton and Hove Local Plan.

Note: Councillors Carden, Davey, Hamilton, Kennedy, Allen and Steedman voted for the proposal to refuse the application. Councillors Hyde, Alford, Smith, Simson and Kemble voted against the proposal to refuse the application. Councillor K Norman abstained from voting.

(C) Application BH2007/01206, Stanmer House, Stanmer Park, Brighton – Proposed fencing to the garden area south east of Stanmer House and formation of alternative access route.

- (1) The presentation for this application was taken together with application BH2010/02000, Stanmer House, Stanmer Park, Brighton.
- (2) Mrs Lyon, on behalf of the Stanmer Preservation Society, spoke against the application and stated that the utilitarian nature of the proposed railings and the very high wall would deprive residents of beautiful views of Stanmer House. She believed the security issues experienced by the park were located mainly away from the house and the lawns and there had been no incidents reported in the last 3 years. The house and lawns were the jewel of the park and Mrs Lyon felt that this proposed enclosure would set an unwelcome precedent.
- (3) Councillor Hawkes, as Local Ward Councillor, spoke against the application and stated that the Cedar Lawns were beautiful and if the footpath was disrupted the alternative route would be up a hill and much further to travel for disabled people. Higher fences were not required and the vandalism problems were much improved recently. She wanted to see the house be a success, but did not think the business should be running the park and taking control of areas of it.
- (4) Councillor Simson raised a point of order and asked why Councillor Hawkes had approached a Member of the Committee during the recess, and asked what was said.
- (5) Councillor Hawkes replied that she was greeting another Councillor and confirmed that nothing further was spoken about and the applications were not discussed. She apologised for this action.
- (6) The Chairman stated that this was against the protocols of the Committee, and it had been noted at the start of the meeting that those attending the meeting should not approach Members of the Committee during any break or recess. She was disappointed that this protocol had not been followed and again asked those attending not to approach Members of the Committee for any reason.

- (7) Mr Holland, on behalf of the applicant, spoke in favour of the application and stated that his son was disabled. He had taken his son in a wheelchair along the proposed alternative footpath route and had not encountered any problems with accessibility. He was disappointed with the arguments being put forward against the proposals and the decision the Committee had so far taken. He had assumed fencing around this area would not be an issue.

Question/Matters on Which Clarification was Sought

- (8) Councillor Simson asked if the house had been leased with control of the lawns and Mr Holland confirmed this.
- (9) Councillor Kennedy asked if Mr Holland could confirm that the gates at both ends of the enclosure that would allow access to the footpath would be maintained by the business and Mr Holland confirmed this.

Debate and Decision Making Process

- (10) Councillor Smith noted that when he was Mayor he had held a garden party on the Cedar Lawns and had invited his disabled daughter. She had required access along the current footpath to access the lawns properly.
- (11) Councillor Simson felt that the lawns would have originally been a part of the house and felt that it was likely that they had been enclosed for use with the house at some point in the past. The lease had been agreed to include the whole area and she felt the intention had been for the lawns to be used by the house and the business that resided in it.
- (12) Councillor Steedman reiterated his concerns regarding the design of the fencing and the impact this would have on the house and park.
- (13) A vote was taken and on a vote of 6 for and 6 against the recommendation, planning permission was granted following the Chairman's casting vote in favour of the recommendation.

200.4 **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 in the report.

(D) Application BH2010/02996, 348 Ditchling Road, Brighton – Loft conversion to form a one bedroom studio flat incorporating 2no rear dormers.

- (1) Mr Walke introduced the application and presented plans, photos and elevational drawings. The roof space had been in use for a number of years and was distinct from the flats, therefore the application did not relate to policy HO9 regarding residential dwellings. There was no specific protection for this space on policy grounds, and there were not residential amenity or overlooking issues to address. The design of the dormers was not recommended in the Council's design guidance, but as they were not visible from the surrounding area it was not deemed a reason

for refusal. The space was excessively cramped and would provide poor living space however, and this was given as the reason to refuse the application.

- (2) Mr Pook, the applicant, addressed the Committee and stated that the only reason to refuse the application was the amount of floor space provided with the development. However a similarly designed studio had been allowed on appeal in 2008 in the same road. There were no adopted space standards in the Council's policy and matters such as floor space were functional matters best left to the developer and their customers to decide. Mr Pook stated he was a dependable landlord who provided high quality, low cost accommodation across the city. There was a high waiting list for studios and this development would not be considered inadequate by the many people looking to rent an affordable home. It was noted that the Council had fallen behind on housing targets and needed windfall sites such as this to make up the shortfall.

Questions/Matters on Which Clarification was Sought

- (3) Councillor Kemble asked if policy EM6 applied in this case, and whether the Council had any policies on minimum sizes. Mr Walke replied that officers did not feel that EM6 applied in this circumstance and the Council had received declarations that the space had been used for informal storage purposes for some time. It was not used in connection with the flats. There were no minimum sizes set down in policy, but the space offered only restricted headroom and officers had concerns about the overall quality of the development.
- (4) Councillor Allen noted that the application had come to Committee because of unspecified representations in favour of the application, and asked if this was allowed. Mrs Walsh replied that it was, but agreed this was an area of public engagement that needed to be looked at more closely.

Debate and Decision Making Process

- (5) Mrs Walsh addressed the Committee and informed Members that they did have a right to consider size and internal amenity as a material planning consideration.
- (6) A vote was taken and on a vote of 6 for, 2 against and 2 abstentions planning permission was refused for the reasons given in the report.

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

1. The proposed conversion would result in the creation of an unacceptably cramped residential unit, significantly deficient in usable floor space within the main living area and would provide for poor living conditions for future occupiers. The accommodation is therefore below the standard that the Local Planning Authority could reasonably expect and contrary to policy QD27 of the Brighton & Hove Local Plan.

Informative: This decision is based on an unnumbered drawing, a site plan, a lifetime homes checklist, a waste minimisation statement, a design and access statement and a sustainability checklist received on 21 September 2010, two signed affidavits received on 6 December 2010 and an unnumbered sectional drawing received on 30 November 2010.

Note: Councillor Davey and Councillor Kennedy were not present during the consideration or voting on this item.

(E) Application BH2010/03233, Mill House, Overhill Drive, Brighton – Erection of single detached bungalow.

- (1) Mr Walke introduced the application and presented plans and elevational drawings. The application now included a passing place along the access route for cars and so objectors at Grange Walk had withdrawn their objection. There had a previous refusal for three bungalows on site on the grounds of an overbearing development, negative impact on residential amenity and access/transport issues. The new application was now for only one bungalow on site. The design was in-keeping and the windows would not create overlooking issues. Mill House was around 25 metres away from the development and there were no side windows looking onto 17 Audrey Close, which was approximately 20 metres away. Issues around overbearing and overlooking had been addressed with this application. Because of the change in levels on site there were only limited views of the development.

The previous application had been appealed and the Inspector had looked closely at the access issues during the appeal process and had deemed that the access was not unsafe, nor would it harm highway safety. A passing place had now been included in the new application to enhance the access, and traffic movements would be significantly reduced with only one dwelling proposed. There would be a loss of 5 trees and 1 grouping of trees covered by a Tree Preservation Order, but this was mitigated by replacement planting and the Conservation and Design Team had not raised an objection to this. The development would achieve code level 4 for Sustainable Homes. There were a number of site constraints that would prevent the development achieving code level 5, including the heavy tree foliage cover, limiting the use of solar panels.

- (2) Mr Bell, a local resident, spoke against the application and stated that 6 other applications had been refused in the past on this site. Whilst this application was better in the fact that there was only one proposed dwelling, the proposed shared surface for the access was still a dangerous feature and vehicles access or leaving the site would potentially need to reverse some 25 metres from the entrance to the proposed lay by should they meet traffic coming from the other direction. The property, which was currently situated to the corner of the site, should be located more into the centre to overcome issues of overlooking and intrusion of privacy, and the proposals would deny sunlight to other properties. The proposed fence would be 3 metres above the current boundary level that would also affect neighbours. Mr Bell felt that this application was being sought with the intention to add more dwellings at a later date.

- (3) Councillor Pidgeon, as Local Ward Councillor, spoke against the application and did not feel there was a reason to include a shared space driveway that would put school children using the access at risk. The entrance to Overhill Drive was already difficult and cars at this site would need to reverse a long way to reach the passing point, which would have safety issues for pedestrians using the driveway. An area of the driveway needed to be demarcated for pedestrian use to ensure separation.

The development would have a significant negative impact on Audrey Close with the proposed boundary fencing being an overbearing feature. The development would also impact on light levels, and as the site was classified as greenfield, this should be given weight when coming to a decision.

- (4) Mr Pickup, agent for the applicant, spoke in favour of the application and stated that the objections could not be substantiated. The access route had been inspected and passed by independent safety auditors, Council Officers and the Inspector. The current application was the same as one of the dwellings assessed by the Planning Inspector, which had been deemed acceptable, and therefore there should be no further issues arising. The change in levels on site would mean that only part of the roof of the dwelling would be visible from 17 Audrey Close. Whilst there was some loss of trees there would be replanting to mitigate this. Lastly, it had been proposed to include a boundary hedge rather than a wall to soften this aspect.

Questions/Matters on Which Clarification was Sought

- (5) The Chairman asked what the distance was between the proposed dwelling and the boundary and Mr Walke replied it was 8 metres at its closest point.
- (6) Councillor Kemble asked if the pathway for the school children would be kept along the access route. Mr Pickup replied that this would be retained as existing for the upper part of the access, but would become a shared surface lower down.
- (7) Councillor Alford asked why the dwelling was sited to the side of the plot rather than in the centre. Mr Pickup replied that this position and dwelling had already been assessed and approved by the Inspector and the applicant had wanted to retain this to prevent any further issues being raised.
- (8) Councillor Simson asked if Mr Pickup had addressed all of the safety concerns and he replied that the concerns had been taken into account and the Planning Inspector had deemed the access as safe.

Debate and Decision Making Process

- (9) Councillor Simson remained concerned over the shared surface for the access and felt that if more dwellings were applied for in the future on this plot, the access would quickly become unsuitable.
- (10) A vote was taken and on a vote of 5 for, 3 against and 2 abstentions planning permission was granted subject to the conditions and informatives in the report.

200.6 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of the report and resolves to grant planning permission subject to the conditions and informatives listed in the report and the revised condition 18 listed in the Late List as follows:

18. The development hereby permitted shall be carried out in accordance with the approved drawing nos. 1012 1.01, 2.01 and 2.02 received 12 October 2010 and drawing nos. 1012 2.03 Rev A, 2.05 Rev A, 2.06 Rev A received 7 January 2011.

Reason: For the avoidance of doubt and in the interests of proper planning.

Note: Councillor Davey and Councillor Kennedy were not present during the consideration or voting on this item.

(F) Application BH2010/03295, Pavilion House, 14-15 Dorset Street, Brighton – Replacement of existing windows with timber units to the front elevation. Installation of rooflights to rear elevation.

(1) There was no presentation given for this application.

Debate and Decision Making Process

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

200.7 **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 listed in the report.

Note: Councillor Davey and Councillor Kennedy were not present during the consideration or voting on this item.

(G) Application BH2010/02926, 25 Oaklands Avenue, Brighton – Demolition of existing garage and erection of 1no 2 bedroom bungalow (part retrospective).

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

201. REQUEST TO VARY S106 AGREEMENT SIGNED IN CONNECTION WITH PLANNING PERMISSION BH2004/03712/FP

201.1 This item was deferred.

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

202.1 **RESOLVED** – That those details of applications determined by the Head of Planning and Public Protection 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 Head of Planning and Public Protection. The register complies with legislative requirements.]

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

203. 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

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

Application:	Requested by:
BH2010/02926, 25 Oaklands Avenue, Rottingdean	Councillor Simson

The meeting concluded at 5.00pm

Signed

Chair

Dated this

day of

APPEAL DECISIONS

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<p>Application BH2009/02421, Norton Close, Hove – Appeal against failure to give notice within the prescribed period of a decision on an application for planning permission for removal of garages and concrete base, reduce level of site by 1.2 metres and erect 2 no. new one-bedroom houses, refurbish and convert existing Coach House into one bedroom house. APPEAL DISMISSED (undecided).</p>	
B. QUEENS PARK	25
<p>Application BH2010/00477, Flat 2, 12 St George’s Terrace, Brighton – Appeal against refusal to grant planning permission for the replacement of two existing windows. APPEAL DISMISSED (delegated).</p>	
C. ST PETERS AND NORTH LAINE	27
<p>Application BH2010/00836, 48 Kensington Place, Brighton – Appeal against refusal to grant listed building consent for installation of a rooflight to the rear and internal alterations to the loft, including boarding of the loft space. APPEAL DISMISSED (delegated).</p>	
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E. HANOVER & ELM GROVE	33
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Appeal Decision

Site visit made on 8 December 2010

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

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

Decision date: 4 January 2011

Appeal Ref: APP/Q1445/A/10/2134163

Norton Close, Hove, BN3 3AP.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by JCSE Ltd. against Brighton & Hove City Council.
 - The application Ref: BH2009/02421 is dated 5 October 2009.
 - The development proposed is: remove garages and concrete base, reduce level of site by 1.2 metres and erect 2 no. new one-bedroom houses, refurbish and convert existing Coach House into one bedroom house.
-

Procedural Matters

1. A planning permission (BH/2005/01532/FP) has been implemented through internal works towards the conversion and alteration of a storage building (Coach House) to one bedroom dwelling and new front boundary wall. The appeal application follows a withdrawn application (BH/2009/00938) for a similar scheme involving four dwellings in total.
2. The appeal site is within both the Cliftonville and the Willett Estate Conservation Areas (C&WECAs) for which I have a duty under section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* to pay special attention to the desirability of preserving or enhancing their character or appearance.
3. Further to the appeal application, the Appellant produces a revised drawing no.805/PA/200 REV.C that shows the culmination of various minor amendments in response to the Council's observations. The Council confirms it accepted the revised drawing to be part of the submitted application and, similarly, I take it into consideration with the appeal.

Decision

4. I dismiss the appeal and refuse planning permission for: remove garages and concrete base, reduce level of site by 1.2 metres and erect 2no. new one-bedroom houses, refurbish and convert existing coach house into one bedroom house.
-

Main issues

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

Reasons

Character and appearance

6. The appeal site is a strip of back-land that separates the rear gardens of opposing historic terraces near a central urban area. In the Council's respective Conservation Area Character Statements it is recognised that the C&WECAs are characterised by consistent and harmonious detailing of such things as period roof design, as well as brick elevations relieved by decorative and other details. The historic assets of the appeal location are marred by the existing concrete garages and the large concrete multi-storey car park with its service road alongside. The Coach House is at the site entrance, nearest the multi-storey car park.
7. The proposed development would replace the concrete garages with a low, flat block structure occupying the full extent of the site length-wise from the Coach House and breadth-wise over the rear part. The thrust of policies QD1 and QD2 of the Brighton & Hove Local Plan 2005 is to require a high standard of design that emphasises and enhances the positive qualities of the neighbourhood. LP Policy HE6 reflects my statutory duty towards the C&WECAs and encourages, amongst other things, the removal of unsightly and inappropriate features.
8. In connection with the component of the proposed development involving an extension to the Coach House, LP Policy QD14 requires that to be well designed, sited and detailed in relation to the host building, adjoining properties (in this case, the proposed atrium dwellings) and the surrounding area.
9. Internally, the proposed development would amount to a modern design of atrium centred dwellings. Externally, its box-like form would not reflect its residential function, due to its principal façade being predominantly an unrelieved continuous brick elevation connecting the Coach House conversion through much of the middle length of the site, terminating across its breadth towards the rear. Whereas the structure would occupy ground level from the proposed pedestrian access, it would be sited essentially at lower ground or semi-basement level in relation to the prominent townscape around it.
10. For the above reasons, I find that the proposed development would bear no relation to the recognised characteristics of either conservation area. Although it would remove structures of poor appearance, it would neither emphasise nor enhance the positive qualities of the neighbourhood, because of its predominantly featureless, somewhat subterranean built form and flat profile.
11. Furthermore, due to the 'left over' shape and size of the outdoor space, the layout of the proposed development would result in pedestrian access arrangement that would not amount to a footway, a courtyard or a mews

configuration. As such it would be isolated by service roads from the street; it would not connect and complement the local layout of streets and spaces, at odds particularly with the requirement (e) of LP Policy QD2.

12. Accordingly, I share the Council's view that the proposed development would look cramped and incongruous. I am left in no doubt that it would fail to preserve or enhance the character or appearance of the C&WECAs. I conclude on the first issue that the proposed development would be harmful to the character and appearance of the area, in conflict with the requirements of policies QD1, QD2, HE6 and QD14 of the Development Plan.

Outlook

13. Much of the block structure proposed would have no outward facing windows, but would support atrium style courtyards and enclosed garden patio areas. LP Policy QD27 seeks to protect the amenity of potential occupiers, amongst others. The Council concludes that, given the size of the respective private amenity areas, there would be adequate outlook available to future occupants.
14. Outlook suffers where there is an overbearing effect. Although this is typically due to the proximity, scale and mass of development, in my experience, outlook is particularly sensitive to a significant interference or loss of an occupier's view out that leads to feelings of claustrophobia.
15. Aside from the Coach House extension, there would be no outward looking windows to speak of in the proposed development. The inward looking arrangement onto courtyards and patios would provide the source for views out and these would be upward from a depressed ground level over potentially high boundary walling. The potential occupiers would experience enclosure and, due to the short distances involved, feelings of claustrophobia. Thus, I find differently to the Council on this matter.
16. Planning Policy Statement 3 *Housing* makes clear that regard must be given to the achievement of high quality new housing. The proposed development would fail in that regard, for the above reason.
17. I conclude on the second issue that the proposed development would unacceptably affect the living conditions of the potential occupiers, in conflict with the objective of LP Policy QD27.

Other Considerations and Conclusion

18. I acknowledge that the LP encourages innovative and distinctive design, but the proposed development would not be integrated successfully into its context for the reasons I have given.
19. I note the Appellant's comment about the Council's handling of the appeal application. However, my consideration of the appeal is limited to the planning merits of the proposal. I have considered all other matters raised, including concerns by third parties about such things as noise and privacy, but none alters my conclusions on the main issues, which lead me to dismiss the appeal.

B C Scott

INSPECTOR



Appeal Decision

Site visit made on 7 December 2010

by John G Millard DipArch RIBA FCI Arb

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

Decision date: 23 December 2010

Appeal Ref: APP/Q1445/A/10/2132446

Flat 2, 12 St George's Terrace, Brighton, East Sussex BN2 1JH

- 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 Michael Hobbs against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/00477, undated but received by the Council on 18 February 2010, was refused by notice dated 2 June 2010.
 - The development proposed is the replacement of two existing windows.
-

Decision

1. I dismiss the appeal.

Main Issue

2. The main issue in this appeal is whether the proposed replacement windows would preserve the listed building and any features of special architectural or historic interest it possesses, and whether they would preserve or enhance the character or appearance of the East Cliff Conservation Area, within which the building is located.

Reasons

3. The appellant contends that the subject building is not listed but has offered no evidence in support of that view. He also suggests, again without the benefit of supporting evidence, that the rear wing, in which the replacement uPVC windows are proposed to be sited, was built in the 1980s. Whilst this may be the case, it was almost certainly in place when the building was added to the statutory list in August 1999 and is thus an integral part of the listed building. Accordingly, whilst the appeal relates to an application for planning permission, listed building consent would also be required.
 4. The street block containing the appeal property is just one building deep so that the backs of the buildings face directly onto Montague Street. The two windows to be replaced are located at the rear of the building at what appears, in relation to Montague Street, to be first floor level. One is a traditional timber sliding sash with exposed box frame and is so positioned that it is clearly seen
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- from Montague Street. The other is a small side-hung timber casement in the side of the rear wing, facing the building's private courtyard and with limited visibility from any public location.
5. The building forms part of a terrace of four substantial early 19th century dwellinghouses of consistent design, all Grade II listed and adjacent to a fifth listed house from the same period. Whilst the principal façades of these buildings retain most of their historic character and detailing, they have been altered and extended at the rear to varying degrees and in a variety of ways. I also saw a number of replacement windows, including some double glazed uPVC units.
 6. Policies HE1 and HE6 of the adopted Brighton and Hove Local Plan 2005 (LP), with the support of national Planning Policy Statement 5 – *Planning for the Historic Environment* with its associated Practice Guide (PPS5), seek to protect listed buildings and conservation areas from harmful alterations. Paragraph 152 of the PPS5 Practice Guide suggests that windows are often key to determining the character of a building and that, where their replacement is unavoidable, it should be carried out on a like for like basis. Similar principles are contained within the Council's adopted Supplementary Planning Document 09 – *Architectural Features* (SPD09).
 7. Whilst I noted that the windows concerned in this case were in relatively poor condition, I saw nothing to suggest that they were beyond economic repair or that replacement was the only possible option. In any event, SPD09 is unequivocal in stating that the use of uPVC replacement windows in listed buildings will not be permitted and there is nothing before me to suggest that the appeal property should be regarded as a special case and treated differently from any other listed building.
 8. All the existing windows in the rear of the property, visible from Montague Street, are of traditional design and timber construction and it is clear that the introduction of two uPVC replacements would disrupt the visual unity that presently exists, causing material harm to the historic character of the building and to the character or appearance of the Conservation Area. This harm would not be diminished or justified by the presence of uPVC windows elsewhere in the terrace.
 9. For these reasons it is my conclusion that the proposal would fail to preserve the special interest of the listed building and neither preserve nor enhance the character or appearance of the Conservation Area, in conflict with national and local objectives for protection of the historic environment set out in PPS5 and LP Policies HE1 and HE6.
 10. I have considered all other matters raised, including a letter of support for the proposal from the occupier of No 11 St George's Terrace, but have found nothing that changes the balance of my decision that the appeal should be dismissed.

John G Millard

INSPECTOR



Appeal Decision

Site visit made on 7 December 2010

by John G Millard DipArch RIBA FCI Arb

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

Decision date: 4 January 2011

Appeal Ref: APP/Q1445/E/10/2133084

48 Kensington Place, North Laine, Brighton, East Sussex BN1 4EJ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mrs Anne Johnson against the decision of Brighton & Hove City Council.
 - The application Ref BH2010/00836 dated 17 March 2010 was refused by notice dated 16 June 2010.
 - The work proposed is installation of a rooflight to the rear and internal alterations to the loft, including boarding of the loft space.
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Decision

1. I dismiss the appeal.

Preliminary Matters

2. I saw at the site visit that the boarding out of the loft space and the installation of a loft access trap and ladder were effectively complete. I also saw that a rooflight was in place but the appellant's written submission indicates that this is a temporary unit, to be replaced with a conservation style window following the grant of listed building consent.
3. The description of proposed works given on the original application form included the provision of solar panels but this has been struck out on my copy of the form and no further details have been provided. It appears that the application was determined by the Council on the basis that the solar panels did not form part of the proposal and I shall decide the appeal on the same basis.

Main Issue

4. The main issue in this appeal is whether the proposal would preserve the listed building and any features of special architectural or historic interest it possesses, and whether it would preserve or enhance the character or appearance of the Conservation Area.

Reasons

5. The appeal property is one of twelve modest but elegantly proportioned two storey terrace houses, with basements, built in about 1835, now listed Grade II
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and lying within the North Laine Conservation Area. As seen from Kensington Place, the properties appear to remain largely as built but at the rear I saw a wide variety of one, two and occasionally three storey extensions. No 48 has a half width two storey extension with a flat roof used as a terrace.

6. I saw at the site visit that the works which have been carried out internally comprise the installation of a wooden loft access trap and ladder and the boarding out of the whole of the loft space. It is incumbent upon those seeking listed building consent for works which would affect the character of a listed building to provide full information so that the likely impact of the proposal can be properly assessed. Whilst the submitted plans in this case provide only the most basic details of the work to the loft, I am satisfied from what I saw on site that they have been carried out sensitively and with sufficient care that they cause no material harm to the building's special architectural or historic interest. I therefore conclude that this aspect of the work is acceptable and in accordance with Policy HE1 of the adopted Brighton and Hove Local Plan 2005, which seeks to protect listed buildings from harmful internal alterations.
7. I also saw, as noted above, that an opening had been formed in the rear roof slope and a 'Velux' roof window installed. The opening is centred on the windows in the ground and first floors below but is noticeably wider than those windows, with a clear horizontal emphasis. The window is of timber construction with a somewhat 'chunky' appearance and projects above the plane of the roof tiles to which it is weathered by means of a modern flashing system.
8. Traditional roof windows from the mid 19th century would generally have been narrower than windows in the storeys below with a distinctly vertical emphasis. They would have been manufactured from slender cast iron sections (usually painted black), top hung, set flush with the roof tiling and weathered by means of traditional lead flashings. The Council suggests that such a roof window could be acceptable in this case but that the one installed causes material harm to the building's historic integrity.
9. I agree with the Council and note that the proposal before me is for a conservation style rooflight to replace the one presently installed. It is said that the unit proposed would measure 1.3 metres by 1.0 metre (with no indication as to which is the width and which the height) and that it would be constructed of timber. Apart from a somewhat diagrammatic elevation drawing at page 9 of the Appeal Statement, this is the only information before me and, in light of my observation at paragraph 5 above regarding the need to provide the fullest information when seeking listed building consent, it is not enough.
10. Even so, and notwithstanding the scant details provided, it is clear that the proposal would not accord with the Council's adopted Supplementary Planning Guidance Note 1 – *Roof Alterations and Extensions* (SPG1) which states that rooflights in Conservation Areas should be '*of traditional proportions, design and construction*' and '*normally have slim steel or cast iron frames*'. Such advice is consistent with the Government's heritage objectives set out in Planning Policy Statement 5 – *Planning for the Historic Environment* (PPS5) and is applicable to listed buildings as well as to conservation areas.
11. As the window proposed is to be of timber construction and of non-traditional size, proportions and appearance, it is not acceptable in principle. Accordingly,

this is not a situation in which consent could be granted subject to a condition requiring further details to be clarified. I am therefore led to the conclusion that, notwithstanding the acceptability of the internal alterations, the proposal as a whole would fail to preserve the listed building and would neither preserve nor enhance the character or appearance of the Conservation Area, in conflict with SPG1 advice and with national policy as set out in PPS5.

12. The appellant correctly points out that the back of the building cannot be seen from any public viewpoints but this is not sufficient to make the proposed roof window acceptable. Buildings are listed for their intrinsic qualities, and the extent to which they can be seen from any particular viewpoint, or indeed at all, carries only limited weight when considering the effect of works to them on their special architectural or historic interest.
13. The appellant has also drawn my attention to a number of properties in the surrounding area with roof windows not unlike the one presently installed at the appeal property. I have, however, no information as to the circumstances surrounding the installation of these windows and, most particularly, whether they have been granted planning permission and/or listed building consent. Each case must be considered on its merits and the existence of other roof windows in the area does not justify the grant of listed building consent for a proposal that I have found to conflict with national and local planning policy objectives and to detract from both the special interest of the listed building and the character and appearance of the Conservation Area.
14. I have considered all other matters raised but found nothing that changes the balance of my decision that the appeal should be dismissed.

John G Millard

INSPECTOR



Appeal Decision

Site visit made on 5 January 2011

by Simon Miles BA(Hons) MSC MRTPI

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

Decision date: 10 January 2011

Appeal Ref: APP/Q1445/D/10/2141071
106 Woodland Drive, Hove, East Sussex BN3 6DE

- 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 Phil Moore against the decision of Brighton and Hove City Council.
 - The application Ref BH2010/02174, dated 13 July 2010, was refused by notice dated 18 October 2010.
 - The development proposed is construction of new single dormer window to rear elevation.
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Decision

1. I dismiss the appeal.

Procedural Matter

2. The development, as described above, has already been carried out and I have considered the appeal accordingly.

Main Issue

3. The main issue is whether the development would preserve or enhance the character or appearance of the Woodland Drive Conservation Area.

Reasons

4. The appeal relates to a detached dwelling of moderate size fronting onto Woodland Drive and lying within the Woodland Drive Conservation Area. The conservation area derives much of its special character from its fine stock of mock Tudor style dwellings. The traditional pitched roofs, timbered gables and mock Tudor detailing of these buildings give the area a cohesive architectural form. The dwellings also enjoy a pleasant landscaped suburban setting by virtue of the generously sized front gardens. These qualities combine to create a most attractive and locally distinctive character.
 5. It is argued for the appellant that the appeal dwelling is of post-war construction and lacks the quality and detailing of some of the other buildings in the conservation area. However, whilst I accept the broad thrust of this argument, the traditional pitched roof form and modest proportions of the appeal dwelling nevertheless ensure that it blends unobtrusively into its surroundings.
-

6. I am therefore concerned that the rear dormer, by virtue of its size, width, bulk and box-like appearance, dominates the rear elevation and overwhelms the simple form and modest proportions of the original building. The full-height double doors within the dormer relate poorly to the size, shape and arrangement of the other windows, whilst extensive areas of lead cladding do nothing to relieve the crude box-like appearance of the dormer. For these reasons I find the dormer to be an unsympathetic addition to the dwelling and, as such, the development detracts from the character and appearance of the host building.
7. In assessing the effect of this upon the conservation area, I acknowledge that the dormer is largely hidden from the street scene. However, the corner of the dormer can be seen from the road when approached from the south and looking between the gaps between the dwellings. The development is also visible from the rear windows and rear gardens of neighbouring properties. As a consequence of this, and even though the development is not prominent in the street scene, it nevertheless has a detrimental effect on the character and appearance of the conservation area, its architectural quality and integrity.
8. I cannot therefore avoid the conclusion that the development fails to preserve the character and appearance of the Woodland Drive Conservation Area. It follows that saved Policies QD1 and QD14 of the adopted Brighton and Hove Local Plan 2005 and the Council's adopted Supplementary Planning Guidance Note 1: Roof Alterations and Extensions are not satisfied, insofar as these policies and guidance seek to ensure that development is well designed and, in the case of extensions, well related and sympathetic to the parent building and not over-dominant.
9. In other respects, I note that the appellant carried out the development believing it to be permitted development and, furthermore, that discussions with the local authority did not uncover the fact that the property is within a conservation area, where permitted development rights are more restricted. However, whilst I sympathise with the appellant's circumstances, this consideration is not sufficient to outweigh the harm that I have identified above, which is significant and over-riding. I take this view particularly because I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Therefore, for the reasons given, the appeal does not succeed.

Simon Miles

INSPECTOR



Appeal Decision

Hearing held on 20 December 2010

Site visit made on 20 December 2010

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

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

Decision date: 12 January 2011

Appeal Ref: APP/Q1445/C/10/2137498

124 Elm Grove, Brighton BN2 3DB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr R M Payne against an enforcement notice issued by Brighton & Hove City Council.
 - The Council's reference 2008/0105
 - The notice was issued on 26 August 2010.
 - The breach of planning control as alleged in the notice is the installation of residential style upvc windows and the infilling of the shop-front in brick.
 - The requirements of the notice are 1) restore the building to its former state (For the avoidance of doubt a scaled drawing numbered 2608.01 and dated April 08 showing the building before the unauthorised development was carried out, showing the 'former state' of the building, is attached to the enforcement notice as appendix EB1) and 2) the window frames shown on the drawing attached to the enforcement notice are timber framed and as such, timber framed windows identical to the dimensions, scale and joinery details shown on the plan are to be replicated.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
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Decision

1. I dismiss the appeal and uphold the enforcement notice.

Reasons

Ground (c)

2. The building is a mixed residential / retail use and therefore there is no permitted development that would cover the insertion of windows and bricking up of the shop-front.
3. Section 55 (1) of the Town and Country Planning Act 1990 notes that subject to various provisions, except where the context otherwise requires, "development," means the carrying out of building or other operations in, on, over or under land. This includes structural alteration of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder. In paragraph (2) it notes that various operations shall not be taken for the purposes of this Act to involve development of the land, which includes the carrying out of maintenance, improvement or other

alteration of any building that affect only the interior of the building, or do not materially affect the external appearance of the building.

4. In this case the works are structural alterations and additions to the building that would normally be undertaken by a person carrying out business as a builder. The changes to the appearance of the windows and removal of the shop-front have had a significant and material effect on the external appearance of the building. I therefore conclude that the operational development identified in the notice is development that requires planning permission. The appeal on ground (c) fails.

Ground (f)

5. The appellant has applied for and received planning permission for a new shop-front. This has a condition requiring that the permission must be commenced within three years of it being granted. However, planning permissions and enforcement notices are different and have different aims. While the appellant may implement the planning permission within three years, there is no mandatory requirement to do so, and the permission could expire without rectification of the harm that has been identified by the council.
6. Even if the appellant commenced the development within the 3 year period, it would be difficult under the planning permission to enforce a particular time scale for completion. The enforcement notice allows the council to ensure that the harm identified is rectified in a reasonable time, so it is necessary that the council should issue the enforcement notice and that it should run alongside the extant planning permission.
7. While I sympathise with the appellant's financial position and that his wife is ill, it is important that the harm that has been caused to the building is rectified. The council has allowed 6 months for this work and this should allow adequate time for the appellant to make suitable arrangements and take appropriate action to rectify the harm that has been caused to the building and does not indicate that the requirements are unreasonable. I conclude that the requirements are not excessive and the appeal fails on ground (f).

Graham Dudley

WARD**APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****SOUTH PORTSLADE**

BH2010/01114

Land Adjoining 1 Denmark Road, Brighton

Construction of two storey dwelling.

APPEAL LODGED

22/12/2010

Delegated

WARD**APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****GOLDSMID**

BH2010/03038

Staples, Peacock Industrial Estate, Davigdor Road, Hove

Display of 1no internally illuminated fascia sign and 2no non-illuminated fascia signs (retrospective).

APPEAL LODGED

04/01/2011

Delegated

WARD**APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****ROTTINGDEAN COASTAL**

BH2010/02750

10 Lustrells Close, Saltdean, Brighton

Erection of raised decking to rear with steps to garden (Retrospective).

APPEAL LODGED

04/01/2011

Delegated

WARD**APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****REGENCY**

BH2010/00182

92 Montpelier Road, Brighton

Replacement of two single glazed timber framed windows at first floor front elevation with the installation of two new double glazed units into identical new timber frames.

APPEAL LODGED

31/12/2010

Delegated

NEW APPEALS RECEIVED

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

QUEEN'S PARK

BH2010/02620

119 St James's Street, Brighton

Conversion of first, second and third floors and loft to form 2no bedsit/studio flat and 1no two bedroom maisonette. Installation of rooflights to front and rear, removal of external fire escape and replacement doors and windows to rear.

APPEAL LODGED

31/12/2010

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WESTBOURNE

BH2010/03023

51 Westbourne Villas, Hove

Reconversion of 3no flats back into 1no 5 bedroom dwelling and conversion of garages to rear into 1no one bedroom dwelling.

APPEAL LODGED

07/01/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

QUEEN'S PARK

BH2010/01305

17 - 19 St James Street, Brighton

Installation of shutters to entrance.

APPEAL LODGED

10/01/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

HOVE PARK

BH2010/02815

103 Goldstone Crescent, Hove

Erection of rear extension replacing existing conservatory. Alterations including installation of rooflight to side and dormers to rear and side and altered fenestration.

APPEAL LODGED

11/01/2011

Delegated

WARD

APPLICATION NUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WESTBOURNE

BH2010/02573

Rear of 69 New Church Road, Hove

Demolition of existing garage and erection of detached 2no bedroom dwelling.

APPEAL LODGED

11/01/2011

Delegated



**Brighton & Hove
City Council**

INFORMATION ON HEARINGS / PUBLIC INQUIRIES 2nd February 2011

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

41 Ladies Mile Road, Brighton

Planning application no: BH2010/01132

Description:

Change of Use from betting shop (A2) to hot food take-away (A5) with the erection of a rear extension, new shop front and extract duct.

Decision: Committee

Type of appeal: Informal Hearing

Date: 2nd February 2011

Location: Hove Town Hall

Enforcement Appeal: Block K, New England Quarter, Brighton

Enforcement no: BH2010/0494

Description: Breach of condition 4 of planning application BH2005/05142.

Decision:

Type of appeal: Public Inquiry

Date: Wednesday 27th & Thursday 28th April 2011

Location: Brighton Town Hall

Information on Pre-application Presentations and Requests

Date	Address	Ward	Proposal
17 March 2010	Former Nurses Accommodation, Brighton General Hospital	Hanover & Elm Grove	Demolition of the former nurses accommodation buildings and the construction of three residential apartment blocks comprising 95 units and a 105 square metre community facility with associated car parking and landscaping.
27 April 2010	N/A	N/A	N/A
18 May 2010	N/A	N/A	N/A
8 June 2010	N/A	N/A	N/A
29 June 2010	Former Royal Alexandra Children's Hospital, Dyke Road, Brighton	Regency	<i>A) Conversion scheme</i> Conversion of a retained main building to provide 118 units. The scheme is 100% private housing and does not include provision of a GP surgery. <i>B) New building scheme</i> Demolition of all existing buildings with a new development comprising 136 units with 54 affordable units (40%) and a GP surgery.
20 July 2010	The Keep, Wollards Field, Lewes Road, Brighton	St Peter's & North Laine	A new historical resource centre for East Sussex, Brighton & Hove.
10 August 2010	Former Sackville Hotel, Kingsway, Hove	Westbourne	Construction of 47 flats (mix of 1, 2, 3, & 4 bed units) within 6 to 9 floor building, and to incorporate basement parking of 49 spaces, and 2 spaces at ground floor level.

NOTE: The Pre Application Presentations are not public meetings and as such are not open to members of the public. All Presentations will be held in Hove Town Hall on the date given after scheduled site visits, unless otherwise stated.

Date	Address	Ward	Proposal
31 August 2010	N/A	N/A	N/A
21 September 2010	3Ts	East Brighton	3T's (teaching, tertiary & trauma). Comprehensive redevelopment of southern half of RSCH on Eastern Road to provide replacement modern clinical facilities over three phases.
12 October 2010 Did not go ahead	Astoria	St Peter's & North Laine	Demolition of existing listed building and proposed erection of part 6 and part 2 storey building. The 2 storey element will contain smaller starter units whilst the 6 storey element will provide flexible B1 office floorspace with a café on the ground floor. The scheme also proposes to make improvements to Blenheim Place.
2 November 2010	Astoria	St Peter's & North Laine	Demolition of existing listed building and proposed erection of part 6 and part 2 storey building. The 2 storey element will contain smaller starter units whilst the 6 storey element will provide flexible B1 office floorspace with a café on the ground floor. The scheme also proposes to make improvements to Blenheim Place.
2 November 2010 Will not go ahead	Park House	Hove Park Ward	Demolition of former residential language school buildings and the residential redevelopment of the site by way of flats in buildings of between 4 and 5 storeys
23 November 2010	No Presentation Planned		

Date	Address	Ward	Proposal
14 December 2010	Block J, Brighton Station	St Peters and North Laine	Proposed mixed use scheme comprising 3500 sq m B1 commercial office space, 147 residential units, 3* hotel in buildings of between 5-8 storeys, provision of civic square, Southern SNCI, and 250 sq m A1 retail/A3 café
11 January 2011	Park House	Hove Park Ward	Demolition of former residential language school buildings and the residential redevelopment of the site by way of flats in buildings of between 4 and 5 storeys
1 February 2011	N/A	N/A	N/A
22 February 2011			
15 March 2011			
26 April 2011			
17 May 2011			

