



**Brighton & Hove  
City Council**

# Planning Committee

Title:	<b>Planning Committee</b>
Date:	<b>23 February 2011</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, Kemble, Kennedy, McCaffery, Simson and Steedman</p> <p><b>Co-opted Members:</b> Mr Philip Andrews (Conservation Advisory Group)</p>
Contact:	<p><b>Jane Clarke</b> Senior Democratic Services Officer 01273 291064 jane.clarke@brighton-hove.gov.uk</p>

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## AGENDA

### 221. 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.*

### 222. MINUTES OF THE PREVIOUS MEETING

1 - 20

Minutes of the meeting held on 2 February 2011(copy attached).

### 223. CHAIRMAN'S COMMUNICATIONS

### 224. PETITIONS

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

### 225. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 16 February 2011)

No public questions received by date of publication.

### 226. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 16 February 2011)

No deputations received by date of publication.

## **PLANNING COMMITTEE**

### **227. WRITTEN QUESTIONS FROM COUNCILLORS**

No written questions have been received.

### **228. LETTERS FROM COUNCILLORS**

No letters have been received.

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

No Notices of Motion have been referred.

### **230. APPEAL DECISIONS**

**21 - 42**

(copy attached).

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

**43 - 44**

(copy attached).

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

**45 - 46**

(copy attached).

### **233. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS**

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

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

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

(copy circulated separately).

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

### **237. 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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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, 15 February 2011



### BRIGHTON & HOVE CITY COUNCIL

#### PLANNING COMMITTEE

2.00pm 2 FEBRUARY 2011

#### COUNCIL CHAMBER, HOVE TOWN HALL

#### MINUTES

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

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

**Officers in attendance:**

Paul Vidler (Deputy Development Control Manager), Claire Burnett (East Area Planning Manager), Aidan Thatcher (Senior Planning Officer), Steve Walker (Senior Team Planner), Steve Reeves (Principal Transport Planner), Di Morgan (Arboriculturist), Alison Gatherer (Lawyer), Hilary Woodwood (Senior Lawyer) and Caroline De Marco (Democratic Services Officer).

#### PART ONE

#### 204. PROCEDURAL BUSINESS

##### 204A Declaration of Substitutes

204.1 Councillor Fallon Khan declared that he was substituting for Councillor Simson.

##### 204B Declarations of Interests

204.2 There were none.

##### 204C Exclusion of the Press and Public

204.3 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.

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

**205. MINUTES OF THE PREVIOUS MEETING**

205.1 **RESOLVED** – That the Chairman be authorised to sign the minutes of the meeting held on 14 January 2011 as a correct record.

**206. CHAIRMAN'S COMMUNICATIONS**

206.1 There were none.

**207. PETITIONS**

207.1 There were none.

**208. PUBLIC QUESTIONS**

208.1 There were none.

**209. DEPUTATIONS**

209.1 There were none.

**210. WRITTEN QUESTIONS FROM COUNCILLORS**

210.1 There were none.

**211. LETTERS FROM COUNCILLORS**

211.1 There were none.

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

212.1 There were none.

**213. APPEAL DECISIONS**

213.1 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.

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

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

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

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



**216. INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS**

216.1 The Committee noted the information regarding pre-application briefings and requests.

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

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

Application:	Requested by:
BH2010/03324, BH2010/03325, Bh2010/03379 & BH2010/03380 – Royal Alexandra Hospital, 57 Dyke Road, Brighton	Deputy Development Control Manager
BH2010/03744 – Open Market, Marshalls Row & Francis Street, Brighton	Deputy Development Control Manager

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

**(i) TREES**

(1) Application BH2010/03800, 13 Friar Road, Brighton – To fell 1x Ailanthus altissima (Tree of Heaven) covered by Tree Preservation Order (No 12) 1996.

218.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to grant consent subject to the conditions listed in the report.

(2) Application BH2010/03951, 21 Lansdowne Road, Hove – To fell 1x Quercus ilex (Holm Oak) covered by Tree Preservation Order (No 10) 2009.

218.2 Councillor Mrs Theobald questioned the need to fell such a fine specimen. The Arboriculturist explained that the tree was undermining the nearby block of flats where subsidence was occurring.

218.3 Councillor Fallon-Khan asked about the size of the replacement tree. The Arboriculturist explained that it would be 2 to 3 metres in height. A more suitable specimen would be chosen for the available space.

218.4 The Chairman commented that consideration should be given to planting fruit trees as replacement trees. This would be sustainable and would provide food.

218.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to grant consent subject to the conditions listed in the report.

- (3) Application BH2011/00144, 71 Dyke Road Avenue, Hove – To fell 1x Cedrus atlantica (Atlas Cedar) covered by Tree Preservation Order (No 3) 1993.
- 218.6 Councillor Kennedy asked if officers checked to ensure that replacement trees were planted. The Arboriculturist explained that when approval letters was sent out, a form was attached which the applicant was required to complete and return.
- 218.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to grant consent subject to the conditions listed in the report.
- (4) Application BH2010/03514, Curwen Place, London Road, Brighton – To fell 1x Robinia pseudoacacia (Robinia) covered by Tree Preservation Order (No 13) 1998.
- 218.8 Councillor Alford asked if it would be possible to prune this mature tree. The Arboriculturist explained that the tree had been in decline for some time.
- 218.9 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 7 of the report and resolves to grant consent subject to the conditions listed in the report.

(ii) **MINOR APPLICATIONS**

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

- (1) The East Senior Planning Officer introduced the application and presented plans, elevational drawings and photographs.
- (2) The site previously formed part of the rear garden to 25 Oaklands Avenue. The plot had now been subdivided and the scheme proposed in application BH2009/01574 although refused, had been commenced. The planning history which was particularly relevant was set out in the report. The current application related to the erection of a single storey bungalow and garage – part retrospective. One letter of objection, one letter of comment and 7 letters of support had been received.
- (3) The applicant sought the sub division of the site. The plot did not have full planning permission for sub division at this stage. It was considered that the increased size of the development was closing the gap between the properties which was important to the character of the street scene and out of character with the immediate surroundings. There would be loss of light and overshadowing of the original property at 25 Oakland Avenue. There would be direct overlooking to the bedroom of no. 25. There was a large reduction in garden space and the amenity space was low quality. There were no adverse highway issues. No information had been provided detailing how the development would seek to achieve the Code for Sustainable Homes Level 5 and minimise its reliance on energy, water, and materials, and as such failed to demonstrate compliance with SU2.

- 4) Ms Bloomfield, agent for the applicant, spoke in favour of the application and stated that the land had been lawfully sold and had already been sub-divided. The fencing had resulted in loss of light and not the bungalow. The fence did not need planning permission. The planning application gave the opportunity to improve the property. The new landscaping had been planted at the highest point. There was minimum overlooking. She asked the Committee to support the application.

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

- (5) Councillor Kemble asked if there were any issues between the applicant and the owner of the original property, no 25. Ms Bloomfield replied that there were no objections from no. 25. Councillor Kemble questioned why the planning officer had suggested that cycle parking could be secured by condition if the application was considered acceptable. Sustainable Transport had raised no objection to the scheme. The East Senior Planning Officer replied that if consent was given to the application, the cycle parking would be in the garden area.
- (6) Councillor Cobb asked for clarification about the boundary line between the two properties. The East Senior Planning Officer replied that the closest point between the two properties was 2.3m, wall to wall.
- (7) Councillor Steedman asked for clarification regarding the fencing issue raised by Ms Bloomfield. The Deputy Development Control Manager explained that the applicants were permitted to have a 2m fence without planning permission.

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

- (8) The Chairman noted that the Inspector's report had stated that the amenity space was considered to be adequate. The Inspector had also stated that such gardens were normally adapted with appropriate planting.
- (9) Councillor Kemble disputed that there was severe overlooking to the bedroom at no. 25. At the site visit he had found it impossible to see into the bedroom. Councillor Kemble could not see any problems with the application. Part of the garden space had been given up to increase light. On the whole it was a reasonable development and he would support the application.
- (10) Councillor Carden concurred. He had also been on the site visit and could not see into the bedroom window.
- (11) Councillor Mrs Theobald stated that she would not like to accept every retrospective application but with the additional piece of garden given to No. 25, she considered the application acceptable.
- (12) A vote was taken and on a vote of 2 for, 8 against and 2 abstentions the recommendation to refuse planning permission was lost.
- (13) Councillor Kemble proposed an alternative recommendation for approval and Councillor Carden seconded this.

(14) A second recorded vote was taken and on a vote of 8 for, 2 against and 2 abstentions planning permission was granted subject to conditions.

218.10 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in the report and resolves to grant planning permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawing nos. 2010/25OA/001, 002, 003A, 004, 005, 006 and 007 received on 27.09.10.

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

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alteration of the dwellinghouse other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

3. The high level windows in the south elevation of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the window/s which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.

**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.

4. The development hereby approved shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan.

5. Unless otherwise agreed in writing by the Local Planning Authority, the new dwelling hereby permitted shall be constructed to Lifetime Homes standards prior to their first occupation and shall be retained as such thereafter.

**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

6. Unless otherwise agreed in writing by the Local Planning Authority, none of the residential units hereby approved shall be occupied until a Final/Post Construction Code Certificate issued by an accreditation body confirming that each residential unit built has achieved a Code for Sustainable Homes rating of Code level 5 has been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

7. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policy SU4 of the Brighton & Hove Local Plan.

8. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

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

9. The development hereby approved shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping, which shall include hard surfacing, means of enclosure, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

10. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development is occupied.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

11. The development hereby approved shall not be occupied until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the occupation of the development hereby approved.

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

Informatives

IN04.01 Lifetime Homes

IN05.02A Code for Sustainable Homes

IN05.10 Hardsurfaces

Reasons for Granting:

The proposed development would not result in a cramped form of development which would be out of character with the surrounding area. The proposed development would not result in inadequate levels of private amenity space for the occupiers of the host and proposed dwellings. The proposed development would not result in an unacceptable degree of overlooking to neighbouring properties.

Note 1: Councillors Hyde, Alford, Carden, Cobb, Hamilton, Kemble, Fallon-Khan, and Mrs Theobald voted for the proposal to grant. Councillors Kennedy and Steedman voted against the proposal to grant. Councillors Davey and McCaffery abstained from voting.

**(B) Application BH2010/03961, Pavement Outside Hollingdean Depot opposite 13 Upper Hollingdean Road, Brighton, Brighton –** Erection of 12.5 high replica telegraph pole with 3 no antennas, a radio equipment cabinet adjacent to the pole and development works.

- (1) The East Area Planning Manager introduced the application and presented plans and elevational drawings. A further 15 letters of objection had been received. Councillor Lepper had objected to the proposal as ward councilor and her letter was attached to the report. As there would be 2m clearance between the proposed equipment and the edge of the kerb, it was considered that the siting of the cabinet in this location would not cause obstruction to the pavement or the highway. It was not considered that the proposal would result in any significant impact on residential amenity.
- (2) Many concerns had been raised from members of the public regarding health issues. The applicant had submitted a certificate stating that the proposal would meet the International Commission for Non-Ionising Radiation Protection guidelines. If the council were to refuse the application on health grounds it would be a difficult position to sustain at appeal.
- (3) The Deputy Development Control Manager reported that there was a discrepancy in a submitted drawing. The application was for a 12.5m high replica telegraph pole. The drawing indicated it would be higher. That issue needed to be resolved. The recommendation was therefore changed to Minded that Prior Approval is not Required, subject to the receipt of satisfactory amended drawings.
- (4) Councillor Lepper spoke against the application as Ward Councillor and stated that the 12.5m replica telegraph pole, 3 antennae and adjacent cabinet was ugly in appearance. Councillor Lepper displayed photographs of the location. She

explained that these showed the flint wall by the depot as highly visible from the flats and houses. Trees were right up against the tower blocks and most people lived above them, so she was not sure who would receive any screening. This part of the pavement was narrow, on a bend and on a walk to school route. Many people in the blocks of flats were wheelchair users, and Councillor Lepper expressed concern about any reduction of the pavement width. This part of the pavement was subject to bad parking and she showed a photograph of lorry up on the kerb, reducing the width of the pavement. This was a frequent occurrence. This was a walk to school route and pushing double buggies along this stretch of the road was already causing difficulty.

- (5) Councillor Lepper stated that the health concerns could not be ignored and referred to the recommendations in the Stewart Report in relation to siting telecommunication equipment near schools. Young families overlooked the site. She asked for the application to be refused.

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

- (6) Councillor McCaffery asked how near the primary school was to the direct line of the mast. Councillor Lepper replied that Downs Infant School was next to the Nettleton Flats. It would be very visible from the school playground.
- (7) Councillor Hyde asked about the width of the cabinet. The East Area Planning Manager replied that it would be 0.5m projecting across the pavement.
- (8) Councillor Mrs Theobald asked how close the equipment would be to residents in terms of metres. The East Area Planning Manager replied that it would be 15m from the nearest properties.
- (9) The East Area Planning Manager explained that the width of the pavement appeared to be 3 metres on plan. However, officers had concern about the accuracy of the plans. An officer who went out on site had said the width of the pavement was 2 metres. The Parking Officer stated that he had looked at the footway to ensure sufficient clearance. The minimum required clearance between the edge of the carriageway and the back edge of a box in this instance was 1.4m. The distance between the flint wall and the carriageway edge was 2.1m. If 15mm was reduced from the box then there was sufficient space.

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

- (10) Councillor Fallon-Khan sympathised with Councillor Lepper and members of the public but stressed that the council did not have powers of recourse against the Telecommunications Act.
- (11) Councillor Kennedy concurred and was mindful that decisions to refuse were not upheld on appeal. She would abstain from voting.
- (12) The Senior Lawyer advised that the Committee was very unlikely to be successful at appeal if the application was refused on health grounds. However, the Committee

did have the power to make a decision based on the siting and appearance of the equipment.

- (13) Councillor Davey considered that the pavement would be made too narrow by the cabinet. He thought that the applicants should have found a location further away from residents and a school.
- (14) Councillor Mrs Theobald had sympathy with the objectors and was concerned that the proposal was to be sited near to residents. She would vote against the application.
- (15) Councillor McCaffery drew attention to the siting of the equipment and the narrow width of the pavement. She was concerned about access to the pavement for pushchairs and wheelchairs. There was already evidence of vehicles mounting the pavement.
- (16) A vote was taken on whether prior approval was not required and one member voted in favour of not requiring prior approval. Accordingly a further vote was taken on an alternative recommendation that prior approval was required and on a vote of 10 for and 1 abstention the recommendation that prior approval was required was carried.
- (17) A vote was then taken on a recommendation that prior approval should be granted and on a vote of 1 for, 8 against and 3 absentions it was resolved that prior approval should not be granted.
- (18) A recorded vote was taken, proposed by Councillor Davey and seconded by Councillor McCaffery and on a vote of 8 for, 1 against and 3 abstentions, prior approval was refused.

218.11 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in the report and resolves that prior approval is required and that prior approval is refused for the following reasons:

1. The proposed development would adversely affect the visual amenity of nearby residents and further detract from the streetscene, contrary to policies QD2 and QD23 of the Brighton & Hove Local Plan.
2. The proposal would result in an inadequate pavement width for pedestrians particularly in the context of it being a pedestrian route to nearby schools, contrary to policies TR7, QD2 and QD23 of the Brighton & Hove Local Plan.

Note 1: Councillors Carden, Davey, Hamilton, Kemble, McCaffery, Fallon-Khan, Steedman and Mrs Theobald voted that prior approval is required and that prior approval is refused. Councillor Cobb voted against the proposal that prior approval is required and prior approval is refused. Councillors Hyde, Alford and Kennedy abstained from voting.



- (C) **Application BH2010/03428, Land Adjacent to 1, Warmdene Way, Brighton** – Application for removal of condition 11 of application BH2008/03475, (Demolition of existing garage and construction of a bungalow) which states that no development shall take place until details of a scheme to provide sustainable transport infrastructure to support the demand for travel generated by the development has been submitted and approved in writing by the Local Planning Authority.
- (1) The East Senior Planning Officer introduced the application and gave a brief presentation. The scheme in accordance with BH2008/03475 was currently under construction. The main considerations in the determination of this application were highways issues, specifically the need for a financial contribution towards sustainable transport measures.
- (2) The applicant sought to discharge condition no. 11 of BH2008/03475 by completing a unilateral undertaking to pay the required £2000.00 as per the original consent. They were then advised that due to and in accordance with the temporary measures to assist the development industry they should apply to have the condition removed rather than pay the financial contribution.

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

- (3) Councillor Hamilton noted that there appeared to be only one letter of objection which was signed by seven occupiers of Warmdene Way and 11 Dale Crescent. He stated that he understood that council policy stated that minor applications should only be submitted to the Committee if 5 letters of objection were received with the exception of the Rottingdean Preservation Society. This application should not have been submitted to the Committee. The Chairman concurred and thanked Councillor Hamilton for pointing this out. The Deputy Development Control Officer said he would check the policy. It was agreed that the Committee would be informed of the policy in relation to this matter in due course.
- (4) Councillor Steedman asked the Senior Lawyer for her advice about the retrospective removal of the condition. The Senior Lawyer explained that it was perfectly legal to apply for the removal of a planning condition.

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

- (5) Councillor Davey expressed concern that the Committee would see more people applying for the return of Section 106 contributions. He could not support the application. The Deputy Development Control Manager stated that there had been a number of applications submitted to remove conditions as a result of the temporary measures. The comment from a neighbour referred to another condition, relating to improvement works to the driveway. That condition was being re-imposed in the recommendation as Condition 11. Improvements to the driveway would be required.
- (6) Councillor Mrs Theobald stated that she was glad the application had been submitted to the Committee. She was concerned that it was dangerous crossing into the driveway. The drive was water logged and the applicant should make a contribution. The money was for yellow lines and a sign stating no through road. The Deputy Development Control Manager stated that these works and drainage would

be required under proposed condition 11. Councillor Mrs Theobald replied that she hoped that this would be enforced as the driveway was in a bad state.

- (7) The East Senior Planning Officer stated that officers were in negotiations with the applicant. They were re-working the scheme and there was a requirement to carry out works before they could occupy the bungalow.
- (8) A vote was taken and on a vote of 3 for, 6 against and 1 abstention the recommendation to grant planning permission was lost.
- (9) Councillor Mrs Theobald proposed an alternative recommendation for approval and Councillor Kennedy seconded this.
- (10) A second recorded vote was taken and on a vote of 8 for and 2 against planning permission was Minded to Grant the application subject to Section 106 contribution.

218.12 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in the report and resolves that it is Minded to Grant the application subject to a Section 106 to secure a contribution of £2,000.00 to provide sustainable transport infrastructure, and subject to the conditions as set out in report.

Amend Informative 1. (ii) to read:

The proposed development would have a satisfactory appearance and would have no adverse impact on the character and visual amenity of the area. There would be no material detriment to the amenities of adjoining and nearby residential occupiers. The potential increase in the intensity of use of the access road has been acknowledged, however the Sustainable Transport Team have indicated that this would be satisfactorily ameliorated by the proposed access improvement works.

Note 1: Councillors Hyde, Alford, Cobb, Davey, Kennedy, McCaffery, Steedman and Mrs Theobald voted for the proposal to be minded to approve. Councillors Carden and Hamilton voted against the proposal to be minded to approve.

Note 2: Councillors Fallon-Khan and Kemble were not present during the debate and voting on this item.

**(D) Application BH2010/03547, Flat 1, 100 St Georges Road, Brighton –**  
Replacement of existing front window with double doors to create access to flat roof incorporating installation of steel railings to form roof terrace at first floor level (Retrospective).

- (1) The East Area Planning Manager introduced the application and presented plans and elevational drawings. 21 letters of support had been received. The main consideration had been the impact of the development on the special architectural character of the area. The Conservation and Design Team stated that the significance of the East Cliff Conservation Area lies in its surviving intactness as Regency and early Victorian development. The application site was an early Victorian building, which occupied a prominent corner site. The resubmission had been amended to remove the bamboo screening positioned behind the railings along

the front of the terrace, resulting in the galvanised steel railings being even more visually prominent. Overlooking would not cause significant harm but the proposal would be out of character with the street scene and would involve the loss of an historic sash window. The use of the roof terrace would lead to clutter in the street scene.

(2) Councillor Kemble proposed a site visit.

218.13 **RESOLVED** – That the application be deferred for a site visit.

**(E) Application BH2010/03684, Kipling Cottage, The Green, Rottingdean –**  
Proposed dormer with French doors and balcony erected over part of existing glazed canopy roof.

(1) The East Area Planning Manager introduced the application and presented plans and elevational drawings. Four letters of support had been received from neighbours. An email of support was received from Councillor Smith. The main issue was the impact of the application on the character and appearance of the property, the conservation area and neighbouring properties. The property had planning consent for the enlargement of the first floor window to incorporate part of the eaves, with a gable formed above. This proposal was not implemented and had lapsed. Since the permission lapsed, the council had adopted the Brighton & Hove Local Plan. The concerns previously addressed had not been significantly addressed in the current application.

(2) The proposed French Doors and balcony were not in keeping with the style of the property or the surrounding area. A balcony and an opening of this size at first floor level were out of keeping with the domestic character of the building and the character of the conservation area. Weatherboarding above the French Doors was an inappropriate feature. Furthermore, the relationship between the proposed balcony and glazed extension below was awkward. The balcony was clearly visible in relation to the listed flint wall, and had an overbearing impact on its setting. The balcony eroded the sense of enclosure and the clear distinction between public and private space which made flint walls such a significant feature of the conservation area.

(3) Mr Harris the applicant, spoke in favour of the application and stated that he lived at the cottage. He had a small patio garden and received the sun in the late morning to late afternoon. There was a high flint wall. A balcony would receive more sunlight and he would be in a position to keep an eye on the croquet lawn where there had been problems with youths. His architect had said there were similar balconies in the area. The balcony would overlook a private space. It would not overlook gardens. The weatherboarding could be changed if necessary. The double door could be a single door. The balcony could not be seen from Dean Court Road and could just be seen from the Falmer Road. Mr Harris considered the proposal a very attractive design and asked for it to be approved.

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

- (4) Councillor Hamilton asked about the relationship between the cottage and the croquet club. The Chairman replied that the proposal overlooked the croquet club where there had been problems with vandalism.
- (5) The Chairman asked if Rottingdean Parish Council/Rottingdean Preservation Society had been informed. The East Area Planning Manager replied that Rottingdean Parish Council were consulted and had not commented.
- (6) Councillor McCaffery asked for confirmation that there were no houses facing the development and only the croquet ground. The Chairman confirmed this was so.
- (7) Councillor Kemble noted that there were no letters of objection and only letters of support. The proposal would have no adverse effect on neighbouring properties. He asked if it would be possible for the applicant to come to an agreement with the officers to accommodate the proposal in a sympathetic manner. The East Area Planning Manager explained that in terms of residential amenity it was not a matter of concern. From a Conservation and Design Team point of view it did affect the character of the conservation area and the building itself. Officers had made suggestions to the applicant about the design of the proposal.
- (8) Councillor Kennedy asked why the Conservation Advisory Group had not been consulted, as the application was in a conservation area. Mr Andrews stated that he was surprised to see the application and did not have a problem with it. The Deputy Development Control Manager stated that only significant applications would be submitted to the Conservation Advisory Group. It had been submitted to the Committee as it had received 5 letters of support.

**Debate and Decision Making Process**

- (9) Councillor Kennedy asked Mr Andrews for his thoughts on the proposal. She suggested a half dormer with an eyebrow would be acceptable.
- (10) Mr Andrews considered the proposal quite innocuous and in character. When he looked at the large scale drawings he had seen acres of space. This was a minor incident in the townscape and would not be harmful. He supported the application.
- (11) Councillor Kennedy thanked Mr Andrews for his comments. She had concerns about the details of the proposal. She suggested issues relating to weatherboarding and fenestration form part of a condition. The Deputy Development Control Manager explained that as these details were an integral part of the application they could not be amended by a condition and the application should be determined as presented.
- (12) Councillor Mrs Theobald considered the proposal an attractive design and noted it was not overlooking any properties. She would vote to support the application.
- (13) A vote was taken and on a vote of 3 for, 6 against and 2 abstentions the recommendation to refuse planning permission was lost.

- (14) Councillor Kemble proposed an alternative recommendation for approval and Councillor Mrs Theobald seconded this.
- (15) A second recorded vote was taken and on a vote of 6 for, 3 against and 2 abstentions planning permission was granted subject to conditions.
- 218.14 **RESOLVED** – That the Committee has taken into consideration and does not agree with the reasons for the recommendation set out in the report and resolves to grant planning permission subject to the following conditions:
1. The development hereby permitted shall be carried out in accordance with the approved drawing nos. 01, 02, 03, 04, 05A & 06A submitted on 25th November 2010.  
**Reason:** For the avoidance of doubt and in the interests of proper planning.
  2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
  3. No development shall take place until joinery details and samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.  
**Reason for Granting:**  
The proposed French doors and balcony are sympathetic and not incongruous features that would be out of keeping with the traditional character of the existing house and would not detract from the character and appearance of the Rottingdean Conservation Area.
- Note 1: Councillors Hyde, Alford, Cobb, Kemble, McCaffery and Mrs Theobald voted for the proposal to grant. Councillors Davey, Hamilton and Steedman voted against the proposal to grant. Councillors Carden and Kennedy abstained from voting.
- Note 2: Councillor Fallon-Khan was not present during the debate and voting on this item.
- (F) **Application BH2010/03512, Land to rear of 21 & 23 St Aubyns, Hove –**  
Demolition of existing garages and erection of 3no terraced four storey houses with amenity space at front and rear.
- (1) The officer's presentation for this application was taken together with application BH2010/03513. The additional representations list reported that a Design Stage Report and Certificate had been submitted to the satisfaction of the Sustainability Officer and Condition 14 was no longer required.

- (2) The Senior Team Planner introduced the application and presented plans and elevational drawings. The application related to a garage compound located to the rear of Nos. 21 & 23 St Aubyns, Hove, a residential building with the Old Hove Conservation Area. The compound was formed of two blocks of three garages and was accessed from Seafield Road. An older detached house lay adjacent to the north of the terrace, with more open land beyond separated from the street by a line of trees. Properties on the eastern side of Seafield Road lay within the Cliftonville Conservation Area. Application BH2010/03513 requesting Conservation Area Consent for the demolition of existing garages was also on the agenda. The demolition of garages and erection of 3 new residential units with garages was approved in 2003. This was an important factor in the determination of this application.
- (3) 17 letters of objection had been received to the application. There were no internal objections to the application on design and conservation grounds. There were no objections from Sustainable Transport. It was not considered that the building would result in any significant loss of amenity towards the occupiers of the rear of the site, within Nos 21-25 St Aubyns. The basement flats would be most impacted.
- (4) An additional condition was recommended. Downpipes and rainwater goods shall be of cast iron and painted to match the walls of the new dwellings.

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

- (5) Councillor Kennedy referred to a right of way issue that had arisen when application BH2002/02510/FP had been considered in 2003. She asked if this had been resolved. Councillor McCaffery also asked about this issue. The Senior Team Planner replied that he had been assured it had been resolved. This was not a matter that could be secured by planning permission and was an issue that the applicants should discuss with the neighbours. It was up to the people of St Aubyns to pursue access rights through common law.
- (6) Councillor Kemble referred to the 2003 application, in relation to the right of way/fire escape. The elevation showed a door on the right hand side fire exit. If it was made into a wall there would be no means of escape. He also asked about car parking space in the development. The Senior Team Planner replied that due to changed circumstances, the applicants were no longer proposing to provide parking on site. The most that could be done in relation to the right of way was to place an informative on any consent.
- (7) Councillor Mrs Theobald and Councillor Cobb asked about the distance between the development and the existing houses. The Senior Team Planner replied that the distance would be 9m to the closest point of the building, but around 12m to the substantial part of the elevation.
- (8) Councillor Fallon Khan raised concerns about overshadowing and loss of light. He asked about the aspect from the basements in St Aubyns. The Chairman also asked about loss of light. The Senior Team Planner explained that there was sufficient distance between the development and the existing buildings for there to be no appreciative loss of light to the flats in St Aubyns. The basements were the

only flats that would be affected. The removal of the garages would lessen the sense of enclosure. Within a high density area the proposals were broadly acceptable. Light would not be blocked to the basement flats but light would be reduced. The proposals would not cause a significant loss of light.

- (9) Councillor Cobb stated that she was disappointed that parking would not be included in the scheme, as there were parking places in the wider zone. She asked how far the zone extended. Councillor Kemble replied that the zone extended from Hove Street to Grand Avenue.
- (10) Councillor Kemble stated that he could see the benefit of the application but had some concerns. He asked if the Committee's concerns regarding the right of way could be raised in the recommendations, if approved. The Deputy Development Control Manager replied that Informative 4 dealt with this issue. Councillor Kemble asked if there could be a specific note of the loss of the right of way to the fire escape. The Deputy Development Control Manager replied that the wording of the Informative could be changed to express the Committee's particular concern about this issue.

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

- (11) Councillor Cobb informed the Committee that she was still not satisfied that the development would be in keeping with the area. The window linage did not match existing properties. The proposal was bulky in depth. The fence at the back would be removed and replaced by a brick wall. This could appear more evasive and solid to residents. She had concerns about parking and the right of way.
- (12) Councillor Mrs Theobald was disappointed to lose the car parking spaces. Spaces in the parking zone could be quite a long walk away. She preferred the 2003 scheme. Councillor Mrs Theobald had concerns about loss of light and considered that the proposal looked bulky and was too big a development.
- (13) A vote was taken and on a vote of 7 for, 2 against and 3 abstentions planning permission was granted subject to the conditions and informatives listed in the report as amended below.

218.15 **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 as amended below:

#### **Delete Condition 14**

#### **Add further condition:**

Notwithstanding the details of plan reference 3057/06 rev A, unless otherwise agreed in writing by the Local Planning Authority, the downpipes and rainwater goods shall be of cast iron and painted to match the walls of the new dwellings.

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

**Amend Informative 4 to read:**

The applicant is advised that consultees notified of the planning application have drawn attention to a 'right of way' across the site from a gate to the rear of 23 St. Aubyns to be used as an emergency escape in the case of fire. In granting this Permission, Members of Planning Committee strongly urge the applicant to establish the presence or otherwise of such an access, and, in the event of such an access being confirmed, to assess the safety implications of its removal, and to take appropriate alternative measures to ensure the adequate protection of neighbouring residents.

**(G) Application BH2010/03513, Land to rear of 21 & 23 St Aubyns, Hove – Conservation Area Consent for the demolition of existing garages.**

(1) This application was considered with application BH2010/03512 above.

(2) A vote was taken and on a vote of 8 for, 2 against and 2 abstentions conservation area consent was granted subject to the conditions and informatives listed in the report.

218.16 **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 conservation area consent, subject to the conditions and informatives listed in the report.

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

219.1 **RESOLVED** – That those details of applications determined by the Strategic Director of Place 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 Strategic Director of Place. 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.]

**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**

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



Application:	Requested by:
BH2010/03547 - Flat 1, 100 St Georges Road, Brighton	Councillor Kemble
BH2010/03324, BH2010/03325, Bh2010/03379 & BH2010/03380 – Royal Alexandra Hospital, 57 Dyke Road, Brighton	Deputy Development Control Manager
BH2010/03744 – Open Market, Marshalls Row & Francis Street, Brighton	Deputy Development Control Manager
BH2010/03759 & BH2010/03760 – The Astoria, 10-14 Gloucester Place, Brighton	Deputy Development Control Manager

The meeting concluded at 5.45pm

Signed

Chairman

Dated this

day of



**APPEAL DECISIONS**

	<b>Page</b>
<b>A. CENTRAL HOVE</b>	<b>23</b>
Application BH2010/02192, Flat 2, 195A Church Road, Hove – Appeal against refusal to grant planning permission for ‘Velux’ roof windows on rear elevation to form rooms in the roof. <b>APPEAL ALLOWED</b> (delegated).	
<b>B. HANGLETON &amp; KNOLL</b>	<b>25</b>
Application BH2010/02193, 179 Hangleton Valley Drive, Hove – Appeal against refusal to grant planning permission for a loft conversion with front and rear dormers to form 2 bedrooms, a dressing room and bathroom/w.c. <b>APPEAL DISMISSED</b> (delegated).	
<b>C. HANGLETON &amp; KNOLL</b>	<b>27</b>
Application BH2010/00107, The Bungalow, Hangleton Lane, Hove – Appeal against refusal to grant planning permission for a private residential dwelling consisting of a two bedroom bungalow. <b>APPEAL DISMISSED</b> (delegated).	
<b>D. ST PETERS AND NORTH LAINE</b>	<b>31</b>
Application BH2010/01710, 68 Upper Gloucester Road, Brighton – Appeal against refusal to grant planning permission for alterations to existing rear dormers and steps leading to existing roof terrace. <b>APPEAL ALLOWED</b> (delegated).	
<b>E. WISH</b>	<b>33</b>
Application BH2010/01960, 304 Portland Road, Hove – Appeal against refusal to grant planning permission for the conversion of the roof space to form a studio flat. <b>APPEAL DISMISSED</b> (delegated).	
<b>F. WITHDEAN</b>	<b>35</b>
Application BH2010/02288, 344 Dyke Road, Brighton – Appeal against refusal to grant planning permission for a first floor front extension incorporating second floor balcony, raised pitch roof and side dormer – variation to previous approval – BH2010/00666. <b>APPEAL ALLOWED</b> (delegated).	

**G. WITHDEAN**

**39**

Application BH2010/01214, Land rear of Regency Court, London Road, Brighton – Appeal against refusal to grant planning permission for erection of 1 No chalet bungalow with associated car parking. **APPEAL DISMISSED** (delegated).

**H. WITHDEAN**

**43**

Application BH2010/01329, Upper Dene Court, 4 Westdene Drive, Brighton – Appeal against refusal to grant planning permission for a roof extension to provide a single two bedroom apartment. **APPEAL DISMISSED** (delegated).



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# Appeal Decision

Site visit made on 5 January 2010

**by Simon Miles BA(Hons) MSc MRTPI**

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

**Decision date: 26 January 2011**

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## **Appeal Ref: APP/Q1445/A/10/2137076**

### **Flat 2, 195A Church Road, Hove, East Sussex BN3 2AB**

- 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 Tom Norrell against the decision of Brighton and Hove City Council.
  - The application Ref BH2010/02192, dated 12 July 2010, was refused by notice dated 8 September 2010.
  - The development proposed is 'Velux' roof windows on rear elevation to form rooms in the roof.
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### **Procedural Matter**

1. Work on the proposed development, as described above, has already commenced and I have considered the appeal accordingly.

### **Decision**

2. I allow the appeal and grant planning permission for 'Velux' roof windows on rear elevation to form rooms in the roof at Flat 2, 195A Church Road, Hove, East Sussex BN3 2AB in accordance with the terms of the application Ref BH2010/02192, dated 12 July 2010, subject to the following condition:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1206/04E, 05D, 06D and 07A.

### **Main Issue**

3. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Old Hove Conservation Area.

### **Reasons**

4. The appeal relates to a residential flat occupying the upper part of a mid-terraced property fronting onto Church Road. The site is within the Old Hove Conservation Area, which derives much of its special character from its fine stock of period properties, including the traditional terrace of which the appeal property is a part.
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5. Nevertheless, in this particular case the terrace derives its quality mainly from the front elevation, which is prominent in the street scene and finely detailed. The rear elevation is largely hidden and has a more functional appearance with variations extensions and alterations, including rooflight windows not dissimilar in design to those proposed at the appeal property. Furthermore, the proposed rooflight windows would be at a high level and completely hidden from public view by the surrounding buildings. Indeed, during the course of my visit it proved very difficult to obtain any external views of the windows at all.
6. The design of the proposed rooflight windows does follow in all respects the guidelines given in the Council's adopted Supplementary Planning Guidance Note 1: Roof Alterations and Extensions, particularly as the windows are not designed to lie completely flush with the roof tiles. However, the windows only project slightly above the roof tiles and they are set within a simple plain grey surround. Whilst not as slim as some 'conservation' style windows, they are not overly bulky or prominent in appearance and would not extend across an excessive proportion of the roof slope.
7. For these reasons I find that the character and appearance of the Old Hove Conservation Area would be preserved by the proposed development. I take this view even allowing for the fact that a number of rooflight windows would be grouped together, particularly as the development is neither visible from the public realm nor prominent in views from any other buildings. My assessment is therefore based on the particular circumstances of this appeal and, as such, there is no reason why my decision should be seen as setting an undesirable precedent.
8. It follows that there is no conflict with saved Policies QD1, QD2, QD14 and HE6 of the adopted Brighton and Hove Local Plan 2005, insofar as these policies seek to ensure that development makes a positive contribution to the visual quality and character of the parent building, environment and locality, whilst preserving or enhancing the character or appearance of conservation areas.
9. For the reasons given above, I find that the appeal should succeed. Otherwise than as set out in this decision and conditions, it is necessary that the development should be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. I will therefore impose a condition detailing the relevant plans. No other conditions are necessary as the development has already commenced and full details are contained on the approved plans. I allow the appeal and grant planning permission accordingly.

*Simon Miles*

INSPECTOR



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# Appeal Decision

Site visit made on 12 January 2011

by **Peter Bird BSc DipTP MRTPI MRICS**

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

Decision date: 20 January 2011

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## **Appeal Ref: APP/Q1445/D/10/2141238**

### **179 Hangleton Valley Drive, Hove, East Sussex BN3 8FE**

- 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 Paris against the decision of Brighton and Hove City Council.
  - The application Ref BH2010/02193, dated 14 July 2010, was refused by notice dated 6 September 2010.
  - The development proposed is a loft conversion with front and rear dormers to form 2 bedrooms, a dressing room and bathroom/w.c.
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### **Decision**

1. I dismiss the appeal.

### **Procedural Matters**

2. The appeal was lodged by Mr & Mrs J M Paris, however, the planning application was submitted by Mr John Paris as I have shown above.
3. Although the proposed development for which planning permission is sought includes a rear dormer extension, the appellant contends that planning permission is not required for this part of the proposal. Whether or not planning permission is required is not a matter for me to determine in the context of an appeal made under section 78 of the above Act. It is open to the appellant to apply for a determination under sections 191/192 of the above Act to determine this matter. My determination of this appeal under section 78 of the above Act does not affect the issuing of a determination under sections 191/192 of the same Act.

### **Main Issue**

4. The main issue is the effect of the proposal on the area's character and appearance, having regard to the appearance of the host dwelling and the pair of semi-detached properties, Nos 177 and 179, of which it is part.

### **Reasons**

5. The appeal property is one half of a pair of semi-detached bungalows that are situated in a predominantly residential part of the built-up area of Brighton and Hove. Hangleton Valley Drive is quite a long road which contains a range of
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- dwellings of different types and styles, some of which, including Nos 177 and 179, have been altered and extended in the past. Nevertheless, bungalows are a distinctive feature along this side of the road. At this point in the street scene, the road falls away to the north, such that the topography together with the single storey scale of the bungalows and the low profile of their roofs are a significant influence on the area's character and appearance. Moreover, the mainly open plan frontages of the properties along the road enhance the spaciousness of the street scene.
6. The appellant argues that careful consideration was given to the front dormer's design. This dormer would be reasonably modest in size and would be set back from the eaves of the front roof. However, even though it would be centralised over the ground floor bay window, given its close proximity to No 177 and high position on the roof, it would appear unbalanced not only in relation to the host property but also to this pair of semi-detached properties. I note that such positioning would conflict with the Council's Supplementary Planning Guidance *Roof Alterations & Extensions* (SPG). Amongst its guidance on new dormers, it advises that whilst regard should be given to the arrangement of windows below, normally a single dormer should be positioned on the centre line of the building. As proposed, the front dormer would have an awkward and jarring effect that would detract from the appearance of this pair of semi-detached properties and their context in the street scene.
  7. Turning to the proposed rear dormer, its scale would dominate the greater part of the rear roofslope and in so doing it would transform its appearance. The bulk of the bungalow's rear roof would be significantly increased, especially adding to the side elevation of the main dwelling so that it would be clearly visible in the adjacent street. As such the proposed rear dormer would detract from the form of the bungalow and be visually intrusive to the street scene.
  8. Other properties with roof alterations have been drawn to my attention and I viewed these at my visit. However, whilst there are a significant number of roof alterations in the vicinity of No 179, they are not the representative characteristic of bungalows along the greater length of this side of Hangleton Valley Drive. Furthermore, I understand that most of those referred to are likely to have been built as permitted development. Moreover, these other examples do not justify the detriment to the street scene in the vicinity of the appeal site that would result from this proposal.
  9. I find that the proposal would have a harmful effect on the area's character and appearance, having regard to the appearance of the host dwelling and the pair of semi-detached properties of which it is part. In this regard it would conflict with the Brighton & Hove Local Plan (LP) Policies QD1 and QD2, which seek to achieve a high standard of design and emphasise and enhance the positive qualities of the local neighbourhood, and more particularly LP Policy QD14 and the Council's SPG which relate to roof alterations and extensions.
  10. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Peter Bird*

INSPECTOR





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# 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: 31 January 2011**

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## **Appeal Ref: APP/Q1445/A/10/2131097**

### **The Bungalow, Hangleton Lane, Hove, East Sussex BN3 8EB**

- 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 Jerjes Philips against the decision of Brighton and Hove City Council.
  - The application Ref BH2010/00107, dated 15 January 2010, was refused by notice dated 17 March 2010.
  - The development proposed is a private residential dwelling consisting of a two bedroom bungalow.
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### **Decision**

1. I dismiss the appeal.

### **Main Issue**

2. I consider this to be whether the proposed development would preserve or enhance the character or appearance of the Hangleton Conservation Area, having particular regard to the effect on the setting of the adjacent Grade II and Grade II\* listed buildings.

### **Reasons**

3. The appeal relates to a proposal to erect a new single storey dwelling on a small parcel of garden land adjacent to an existing dwelling, known as The Bungalow, situated at the junction of Hangleton Lane with Hangleton Valley Drive. The area includes a mix of modern residential development and older buildings. The former includes the existing dwelling, whilst the latter includes two historic buildings to the south.
  4. The historic buildings are Grade II\* listed Hangleton Manor and Grade II listed Rookery Cottage, which adjoin the site to the south and southeast respectively and have distinctive flint pebble elevations and many attractive period features. The site is also within the Hangleton Conservation Area, which derives its special character mainly from the historic setting of Hangleton Manor, St Helen's Church and St Helen's Park, which lies between these two buildings.
  5. The long north elevation of Hangleton Manor faces directly towards the proposed development site, whilst Rookery Cottage is built directly abutting the eastern boundary of the existing garden. Hangleton Manor is used as a public
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house and an open area, used for car parking, lies between the listed building and the southern boundary of the proposal site. The front elevation of Rookery Cottage and that of the adjoining Grade II listed dwelling, The Cottage, faces south onto this open area. The listed buildings form a most attractive grouping, which makes a very significant positive contribution to the character and appearance of the area. As matters stand, there is sufficient space around the listed buildings to preserve their setting and the visual integrity of this important group.

6. I am therefore concerned about the small and confined character of the proposed plot and the incongruous sunken design of the proposed dwelling, which would lead to a cramped and contrived form of development, at variance with the well-spaced layout and conventional design and appearance of existing surrounding buildings. Furthermore, because of the close proximity of the site, I am concerned that the development would intrude unduly on the setting of the listed buildings, eroding their cottage garden setting and undermining the historic form and layout of the conservation area.
7. The appellant acknowledges the close proximity of the listed buildings and seeks to justify the proposal mainly on the grounds that the development would be concealed from view. It seems to me that this only underscores the contrived nature of the design, since concealment would not be necessary if the site were capable of being developed in harmony with the spatial characteristics of the area. But in any event, whilst the existing and proposed boundary treatments might screen the development from street level, there are windows in the upper floors of both Rookery Cottage and Hangleton Manor looking down onto the site. It would not be possible to prevent views of the development from many of these windows.
8. Furthermore, there is insufficient information to demonstrate that the development and associated excavation works could be carried out without causing harm to the structural integrity of Rookery Cottage. Similarly, there is insufficient information to show the extent and manner of alterations proposed to the existing flint boundary walls, which are an important feature of the site and contribute positively to both the character and appearance of the conservation area and the setting of the listed buildings.
9. For all these reasons, I consider that the proposed development would not preserve the character and appearance of the Hangleton Conservation Area. Indeed, for the reasons set out above, I find that significant harm would be caused to its character and appearance, particularly in terms of the adverse and intrusive effect of the development on the setting of the adjacent Grade II and Grade II\* listed buildings, Rookery Cottage and Hangleton Manor.
10. It follows that the proposal conflicts with saved Policies QD1, QD2, QD3, HE3 and HE6 of the adopted Brighton and Hove Local Plan 2005, insofar as these policies seek to ensure that development is appropriate to the local townscape, contributes positively to the visual quality of the environment and takes account of important local characteristics, whilst also preserving or enhancing the character or appearance of conservation areas and protecting the setting of listed buildings.

11. In other respects, I note the Council's concern about possible overlooking between the proposed dwelling and Rookery Cottage. In particular, there are various windows in the west elevation of Rookery Cottage looking down onto the site. However, because there are no windows shown to the east elevation of the proposed dwelling, any such impact would be confined to overlooking from Rookery Cottage down onto a small part of the garden area of the proposed new dwelling. Whilst this does add to my overall concern about the development, the effect of this would not be sufficiently serious for the appeal to fail solely on this basis.
12. In reaching my decision, I have had regard to the fact that the proposal would secure a small area of additional garden for Rookery Cottage. The removal of an existing garage would also open up limited views of Rookery Cottage from the north, from the vantage point of Hangleton Lane. However, I do not consider these minor alterations to be of significant benefit, particularly as the important public views of Rookery Cottage are from the south and west.
13. Overall, because of the significant harm that I have identified above, the balance in this case weighs clearly against approval. The fact that the existing garden is no longer classified as previously developed land further weighs against approval, as there is no presumption in national policy that this site should be developed to provide new housing. In view of the foregoing, the appeal does not succeed.

*Simon Miles*

INSPECTOR





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# Appeal Decision

Site visit made on 5 January 2010

**by Simon Miles BA(Hons) MSc MRTPI**

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

**Decision date: 1 February 2011**

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## **Appeal Ref: APP/Q1445/A/10/2138480**

### **68 Upper Gloucester Road, Brighton BN1 3LQ**

- 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 Dale Strachan against the decision of Brighton and Hove City Council.
  - The application Ref BH2010/01710, dated 3 June 2010, was refused by notice dated 3 August 2010.
  - The development proposed is alterations to existing rear dormers and steps leading to existing roof terrace.
- 

## **Decision**

1. I allow the appeal and grant planning permission for alterations to existing rear dormers and steps leading to existing roof terrace at 68 Upper Gloucester Road, Brighton BN1 3LQ in accordance with the terms of the application Ref BH2010/01710, dated 3 June 2010, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 034\_PL\_001, 002 and 003.

## **Main Issue**

2. The main issue is whether the proposed development would preserve or enhance the character or appearance of the West Hill Conservation Area.

## **Reasons**

3. The appeal relates to a residential flat occupying the upper part of a mid-terraced property fronting onto Upper Gloucester Road. The site is within the West Hill Conservation Area, which derives much of its special character from its fine stock of period properties, including the traditional terrace of which the appeal property is a part.
  4. Nevertheless, whilst the front elevation of the terrace is finely detailed and prominent in the street scene, the rear elevation is largely hidden and has a more functional appearance with variations extensions and alterations. Indeed,
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- I could not see the roof of the appeal property from any of the surrounding streets. Although there would be limited views of the development from the upper floor windows of some of the neighbouring properties, this must be considered in the context of existing surrounding development, which includes a considerable number of dormer windows, both front and rear. Some of these other dormers are of considerable size and are far more prominent in the street scene than would be the case with respect to the appeal scheme.
5. Furthermore, whilst the proposed dormer is quite large, it would replace two existing box-shaped dormers which together extend across a similar proportion of the roof slope. Despite its size, the new dormer would be no higher than the existing dormers and would not extend across the full width of the roof. In the context of existing surrounding development, I do not consider that the development would appear overly large or visually discordant.
  6. Whilst the use of a folding door may not be traditional, given the wide variety of fenestration types to be found to the rear of both the appeal property and neighbouring buildings, this would not be unacceptable, particularly in view of the very limited views that would be possible of the development. The Council does not object to the treatment of the railings and associated works and I consider these elements of the scheme to be acceptable in design terms.
  7. Overall, I find that the character and appearance of the West Hill Conservation Area would be preserved by the proposed development. I take this view particularly as the development would be neither visible in the street scene nor unduly prominent in views from any other buildings. In this regard my assessment is based on the particular circumstances of this appeal and, as such, there is no reason why my decision should be seen as setting an undesirable precedent.
  8. It follows that the proposal is acceptable in terms of saved Policies QD1, QD2, QD14 and HE6 of the adopted Brighton and Hove Local Plan 2005 and the Council's adopted Supplementary Planning Guidance Note 1: Roof Alterations and Extensions, insofar as these policies and guidance seek to ensure that development makes a positive contribution to the visual quality and character of the parent building, environment and locality, whilst preserving or enhancing the character or appearance of conservation areas.
  9. For the reasons given above, I find that the appeal should succeed. Otherwise than as set out in this decision and conditions, it is necessary that the development should be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. I will therefore impose a condition detailing the relevant plans, in addition to the standard time limit. No other conditions are necessary as full details are contained in the application. I allow the appeal and grant planning permission accordingly.

*Simon Miles*

INSPECTOR



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# Appeal Decision

Site visit made on 23 November 2010

**by J M Trask BSc (Hons) CEng MICE**

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

**Decision date: 21 January 2011**

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**Appeal Ref: APP/Q1445/A/10/2136325**

**304 Portland Road, Hove, East Sussex BN3 5LN**

- 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 Kitmarr Ltd against the decision of Brighton & Hove City Council.
  - The application Ref BH2010/01960, dated 22 June 2010, was refused by notice dated 18 August 2010.
  - The development proposed is the conversion of the roof space to form a studio flat.
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## Decision

1. I dismiss the appeal.

## Preliminary Matter

2. The Council did not attend at the time of my site visit and I carried out an unaccompanied external inspection.

## Main Issue

3. The main issue is whether the proposed development would provide satisfactory living conditions for future residents.

## Reasons

4. The appeal site is an end of terrace building on a corner plot. The upper 2 floors have been used as a maisonette but planning permission has recently been granted for conversion to two 2 bedroom flats and at the time of my visit building works had commenced.
5. The proposal is for the creation of a new dwelling in the loft space. The floor area of the proposed flat would be constrained by the sloping ceilings around the sides and the area with a reasonable clear head room would be limited. The living space would be small and it has not been demonstrated that there would be sufficient space for furniture as well as adequate circulation space. Although the Council has no published standards relating to the size of self contained flats there are standards for Houses in Multiple Occupation (HMO) that give some guidance. There would be no separate kitchen and the floor space proposed for the living/kitchen area would be less than the minimum required for occupation by one person in an HMO. While not directly applicable, the proposal also falls far short of the advised minimum internal space standard in the English Partnerships' Quality Guidance Standards: Delivering Quality Places.

6. The arrangement of doors would be unusual and there would be restricted headroom, particularly when using the kitchen. While the provision of a wet room rather than a traditional bathroom is not necessarily sub standard, daylight and ventilation would also be limited since there would be no conventional windows, only rooflights. The living conditions would be constrained and, while there are public open spaces and recreational facilities some distance away, there would be no mitigation through the provision of private amenity space.
7. Policy QD27 of the Brighton and Hove Local Plan advises planning permission will not be granted where the development would cause a loss of amenity, including to proposed occupiers, and the supporting text includes the aim to protect the amenity of a development's future occupiers. Given the limited floor space it has not been demonstrated that the proposed development would have sufficient living space to provide satisfactory living conditions for future residents. Therefore the proposal conflicts with the aims of Policy QD27.
8. The Council has made clear that the requirements in terms Lifetime Homes standards and the provision of private amenity space were included to amplify the shortcomings of the scheme but there is no insurmountable direct conflict with Policy HO13 or Policy HO5 in this case.
9. While I have had regard to the fact that future residents would have the opportunity to evaluate conditions before deciding whether to take up residence, the possible acceptance of poor living conditions by future residents does not justify permitting sub-standard schemes.
10. I have also taken into account all other matters raised including the need for provision of a range of dwelling types, the provisions of Policy HO3, that loft conversions are common and the need to make the most of the existing built environment. However, in this case none carry sufficient weight to alter my conclusions on the main issue.
11. For the reasons given above I conclude that the appeal should be dismissed.

*J M Trask*

INSPECTOR





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# Appeal Decision

Site visit made on 12 January 2011

by **Peter Bird BSc DipTP MRTPI MRICS**

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

Decision date: 25 January 2011

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## **Appeal Ref: APP/Q1445/D/10/2141431 344 Dyke Road, Brighton BN1 5BB**

- 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 P De Costa against the decision of Brighton and Hove City Council.
- The application Ref BH2010/02288, dated 22 July 2010, was refused by notice dated 6 September 2010.
- The development proposed is described as "First floor front extension incorporating second floor balcony, raised pitch roof and side dormer – variation to previous approval – BH2010/00666".

### **Decision**

I allow the appeal, and grant planning permission for the erection of a first floor front extension incorporating second floor balcony, raised pitch roof and side dormer – variation to previous approval – BH2010/00666, at 344 Dyke Road, Brighton BN1 5BB, in accordance with the terms of the application, Ref BH2010/02288, dated 22 July 2010, subject to the conditions set out in the schedule at the end of this decision.

### **Procedural Matters and Planning Background**

1. Planning permission, Ref BH2010/00666, has previously been granted for an earlier proposal involving alterations to provide an enlargement of the dwelling to a scale similar to that now proposed. The present scheme differs particularly in terms of the style of the front elevation and the inclusion of the balcony at second floor level. In the appellant's grounds of appeal reference is made to certain drawing numbers. However, he has since confirmed that those referred to in the Council's decision are correct and these are the ones I have taken into account in reaching my conclusion.

### **Main Issue**

2. The main issue is the effect of the proposal on the character and appearance of the area, having regard to the alterations to the original form and design of the host property.

### **Reasons**

3. Dyke Road, with Dyke Road Avenue to the north, is a significant route between the centre of Brighton and its outskirts. Along its length is a range of
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- properties of varying ages, types and styles. At this point Dyke Road passes through a predominantly residential area. Within the mix of housing in the site's locality, there are some distinctive dwellings, be they in design, scale or plot size, that add visual interest and diversity to the remainder of the properties and are a significant influence on the area's character and appearance.
4. No 344 is a detached two storey house, the design of which reflects that of the latter half of the 20<sup>th</sup> century. The adjacent dwelling, No 346, and two others on the return frontage along Tivoli Crescent North are of a similar design. The previously approved development would remodel the style of the dwelling. Its resultant appearance would be relatively modern and conventional. Amongst the approved alterations, the roofspace would be enlarged by raising the ridge and extending the front and rear roof planes into full gables. Also, a ground floor projection would be extended to first floor level with a gable above.
  5. The present proposal is a further remodelling, but it would be more contemporary and less traditional in appearance. Whilst the design reflects a different period, the basic features are nevertheless seen in other properties in the immediate and wider context. Several contemporary designs are nearby in Dyke Road and a gable ended bay of similar height and a balcony are distinctive features of the older and more traditional adjacent dwelling, No 342.
  6. The latest proposed alterations appear to relate to the host building. The door and adjacent face to the proposed balcony would be set back a sufficient distance from the front of the proposed bay so as not to be unduly prominent in relation to the alignment of the window and door openings below. Furthermore, the balcony appears to be bounded by the side wall to the bay on one side and extends across to align with the outside of the new window to the first floor bedroom below. In a similar manner, the taller side of what appears to be a glazed panel in the gable end to the second floor bedroom also relates to one side of the first floor bedroom window below. The gable ended bay would be effectively split in two as described by the Council, albeit the projection would be slightly offset beneath the ridge of the main roof. However, when seen from a southerly direction in the adjacent street scene the bay's roof would appear as part of the main roof; and from the northerly direction the projection of the bay from the main dwelling would be modest so as not to detract from the overall form and balance of the altered building.
  7. Whilst the proposal would remodel the dwelling so as to create a different style and a more contemporary design, this would complement the area's diverse range of housing. Moreover, the proposed design has regard for the dwelling altered as a whole and would not detract from the host property nor would it harm the character and appearance of the area, particularly the street scene along Dyke Road. In so doing it would not conflict with the Brighton and Hove Local Plan Policy QD14 and its considerations for extensions and alterations, particularly with regard to the design and relationship with the host property and the surroundings. For the reasons given above and having regard to all other matters raised, I conclude that, subject to the conditions set out in the schedule at the end of this decision, the appeal should be allowed.
  8. I have considered the use of conditions having regard to the advice contained in Circular 11/95 and I have amended those suggested by the Council

accordingly. The control of materials is necessary in the interests of the character and appearance of the area. Obscured glazing is required to protect the living conditions of the occupiers of the adjacent dwelling. Similarly, a restriction on permitted development is reasonable and necessary in the latter regard, and in addition so as to protect the area's character and appearance I consider it is justified to provide appropriate control of any later proposals to alter the design of the dwelling as hereby approved.

**Schedule**

- i) The development hereby permitted shall begin not later than three years from the date of this permission.
- ii) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- iii) Before the first occupation of the development hereby permitted the windows at first floor level and above in the south facing side elevation shall be fitted with obscured glazing and shall be permanently retained in that condition thereafter.
- iv) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order with or without modification), no windows, dormer windows, rooflights or doors other than those expressly authorised by this permission shall be constructed.

*Peter Bird*

INSPECTOR





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# 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: 19 January 2011**

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## **Appeal Ref: APP/Q1445/A/10/2137272**

### **Land rear of Regency Court, London Road, Brighton BN1 6XZ**

- 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 Anstone Properties Ltd against the decision of Brighton and Hove City Council.
  - The application Ref BH2010/01214, dated 22 April 2010, was refused by notice dated 5 July 2010.
  - The development proposed is the erection of 1 No chalet bungalow with associated car parking.
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### **Decision**

1. I dismiss the appeal.

### **Procedural Matter**

2. The description of the proposed development, as given above, is taken from the Council's decision notice, as this provides a more accurate description than that given on the application form.

### **Main Issue**

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

### **Reasons**

4. The appeal relates to a small parcel of land to the rear of the existing flats in Regency Court and Manhattan Court. The surrounding area comprises mainly residential development, including a number of purpose built apartment buildings. The site is accessed by means of an existing access road serving a series of garages arranged to the rear of Manhattan Court. The rear of the site adjoins a steep railway embankment. The site is tapering and overhung by trees.
  5. In my opinion the proposed chalet bungalow would not relate well to the flatted form and layout of existing surrounding development, which is built at a considerably larger scale and has clearly been designed to positively address the main street frontages. The appeal scheme would be unrelated to the
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established street pattern and, being located at the far end of a garage block, would appear as a visually incongruous and contrived form of development. Because of the small and confined character of the site, this would also lead to a cramped form of development, with little space around the building and a frontage dominated by car parking.

6. For these reasons I conclude, on the main issue, that the proposed development would cause significant harm to the character and appearance of the area. It follows that saved Policies QD1, QD2, QD3 and HO4 of the adopted Brighton and Hove Local Plan 2005 are not satisfied, insofar as these policies seek to ensure that development makes a positive contribution to the visual quality of the environment, taking account of local characteristics and the layout of streets and spaces, whilst avoiding town cramming.
7. In other respects, the Council questions the appropriateness of accessing a residential dwelling through the existing garages. I agree that this does not provide an ideal environment in terms of the outlook from the proposed dwelling. However, whilst not ideal, this matter is not sufficiently serious to cause the appeal to fail. Problems such as fly tipping, which the appellant advances as a reason to allow the appeal, could be addressed by other means, such as the provision of secure fencing or security surveillance. As the Council points out, previous proposals have been refused and dismissed at appeal. However, this scheme is of a different design and I have therefore based my assessment on the merits of the proposal now before me.
8. Overall, the harm that I have identified above is significant and over-riding. This harm is not outweighed by the need to make full and effective use of previously developed land, because this objective should be achieved without compromising the quality of the environment. Similarly, the contribution that a single dwelling would make to the local housing supply is not of sufficient benefit to outweigh the objections to the scheme. Therefore, for the reasons given, the appeal does not succeed.

*Simon Miles*

INSPECTOR



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# 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: 31 January 2011**

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## **Appeal Ref: APP/Q1445/A/10/2138146**

### **Upper Dene Court, 4 Westdene Drive, Brighton, Sussex BN1 5HF**

- 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 Anstone Properties Ltd against the decision of Brighton and Hove City Council.
  - The application Ref BH2010/01329, dated 5 May 2010, was refused by notice dated 16 July 2010.
  - The development proposed is a roof extension to provide a single two bedroom apartment.
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### **Decision**

1. I dismiss the appeal.

### **Procedural Matter**

2. Although the site address is given as 2 Westdene Drive on the appeal form, the appellant has confirmed in writing that the site is correctly identified as 4 Westdene Drive on the application form.

### **Main Issue**

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

### **Reasons**

4. The appeal relates to one of two detached apartment blocks fronting Westdene Drive, a residential road which otherwise comprises mainly single and two storey dwellings of modest size. The wider locality is likewise made up mainly of small houses and bungalows. Therefore, whilst many of these other dwellings include dormer windows to the roofs, the absence of dormer windows on the appeal building serves to minimise its bulk when read in conjunction with the predominantly smaller scale of development within which it is set.
  5. Because of this, I am concerned that the proposed rear dormer windows would add considerably to the bulk of the roof. Furthermore, the size and shape of the proposed dormers relates poorly to the treatment of existing fenestration, whilst the large number of dormers proposed would give the roof a cluttered
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and top-heavy appearance. This would harm the character and appearance of the host building and inappropriately increase the bulk of its roof, such that it would appear disproportionately large and bulky in relation to the surrounding houses and bungalows.

6. In reaching this view, I acknowledge that there would be only limited views of the proposed dormer windows from Westdene Drive, whilst the rooflight windows proposed to the front elevation would not significantly alter the shape or bulk of the roof. However, due to the steep fall of the land in an easterly direction, there are far reaching views of the rear elevation from a considerable number of the residential properties to the east. From this direction the additional bulk of the proposed dormers would be clearly seen in the context of the surrounding small houses and bungalows.
7. For these reasons I consider that the proposed development would cause significant harm to the character and appearance of the area. It follows that saved Policies QD1, QD2 and QD14 of the adopted Brighton and Hove Local Plan 2005 and the Council's adopted Supplementary Planning Note 1: Roof Alterations and Extensions are not satisfied, insofar as these policies and guidance seek to ensure that development makes a positive contribution to the visual quality of the environment, taking account of local characteristics, such as the height, scale, bulk and design of existing buildings, whilst ensuring that extensions and alterations are well designed in relation to the host property.
8. As the Council points out, a previous scheme was refused and dismissed at appeal. However, this latest scheme is of a different design and I have therefore based my assessment on the merits of the proposal now before me. Having done so, the harm that I have identified above is significant and overriding. This harm is not outweighed by the need to make full and effective use of previously developed land, because this objective should be achieved without compromising the quality of the environment. Therefore, for the reasons given, the appeal does not succeed.

*Simon Miles*

INSPECTOR



**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****HOLLINGDEAN & STANMER**

BH2010/01497

14a Upper Hollingdean Road, Brighton

Erection of a 3 bedroom dwelling (Retrospective).

APPEAL LODGED

18/01/2011

Delegated

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

BH2010/03033

Land at Junction of Fox Way &amp; Foredown Road, Portslade

Removal of existing 10 metre high monopole mast and replacement with new 10 metre high monopole mast supporting 6no antennas, an additional radio equipment cabinet and development ancillary thereto.

APPEAL LODGED

18/01/2011

Delegated

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

BH2010/02768

14 Eaton Gardens, Hove

Internal alterations. (Retrospective)

APPEAL LODGED

26/01/2011

Delegated

**WARD****APPLICATION NUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****SOUTH PORTSLADE**

BH2010/01684

Aldi Store, 2 Carlton Terrace, Portslade

Application for variation and removal of conditions to application BH2006/00834 to vary condition 5 to allow an extended delivery period at the store, vary wording of condition 4 to allow the premises to trade to the public between 8.00 and 20.00 hours and for ancillary activities to take place outside of these hours when the store is closed to the public, vary condition 16 to reduce free car parking to all visitors of the Portslade Shopping Centre from 3 hours to 1

APPEAL STATUS  
APPEAL RECEIVED DATE  
APPLICATION DECISION LEVEL

hour, removal of condition 15 in order not to provide 5 resident parking spaces.  
APPEAL LODGED  
25/01/2011  
Planning Committee

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**WARD**  
APPLICATION NUMBER  
ADDRESS  
DEVELOPMENT DESCRIPTION

**WITHDEAN**  
BH2010/02615  
10 Bavant Road, Brighton  
Outline application for the erection of 1no detached three bedroom house and 2no two bedroom semi-detached houses.

APPEAL STATUS  
APPEAL RECEIVED DATE  
APPLICATION DECISION LEVEL

APPEAL LODGED  
26/01/2011  
Delegated

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

**ROTTINGDEAN COASTAL**  
BH2010/02803  
6 Arlington Gardens, Brighton  
Creation of raised deck in area to front.  
APPEAL LODGED  
31/01/2011  
Delegated

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**Brighton & Hove  
City Council**

### INFORMATION ON HEARINGS / PUBLIC INQUIRIES 23rd February 2011

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

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#### **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 28<sup>th</sup> April 2011

Location: Brighton Town Hall

